



STETSON LAW

**2016
Ninth Annual
National Pretrial Competition
Competition Problem**

This Competition will be held October 13-16, 2016
at Stetson University College of Law
Gulfport, Florida

The 2016 Stetson Law National Pretrial Competition Problem was drafted by Stetson University College of Law Alumni Brandon K. Breslow (J.D. '16) and Lara McGuire (J.D. '16) in association with the Stetson University College of Law Center for Excellence in Advocacy, Advocacy Center Director Charles Rose III, and Advocacy Center Assistant Director Erika S. McArdle (JD '12). The 2016 Competition Problem is the property of the Stetson Law Center for Excellence in Advocacy.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF STETSON

UNITED STATES OF AMERICA,

CASE NO.: 15:16-cr-02342-CHR-ESW

v.

AUSTIN APPLEBEE,
ALLISON APPLEBEE,
COLBY CRUZ,
COURTNEY CHASE,
JOEL JOHNSON,
MICHAEL MATUSEWICZ,
NOELLE NELSON,
SEBASTIAN SWANSON,
SKYLAR STEVENSON,
TANNER THOMPSON,
WESLEY WINTERS,
and CHARLIE WYATT,

Defendants.

INDICTMENT

The Grand Jury charges:

COUNT ONE

**Conspiracy to Defraud the United States (18 U.S.C. § 371)
All Defendants**

Beginning on December 1, 2015, and through May 15, 2016, in the Southern

District of Stetson, the Defendants, herein:

AUSTIN APPLEBEE, ALLISON APPLEBEE, COLBY CRUZ, COURTNEY CHASE,
JOEL JOHNSON, MICHAEL MATUSEWICZ, NOELLE NELSON, SEBASTIAN
SWANSON, SKYLAR STEVENSON, TANNER THOMPSON, WESLEY WINTERS,
CHARLIE WYATT

did unlawfully, knowingly, and willfully combine, conspire, confederate, and agree with other persons, both known and unknown to the Grand Jury, to defraud the Internal Revenue Service (IRS), an agency of the United States of America, for the purpose of obtaining and converting funds to which they were not entitled from annual federal tax refunds and effected the following overt acts in furtherance of the conspiracy:

- A) Between the dates of January 20, 2016, and April 15, 2016, Defendants AUSTIN APPLEBEE, ALLISON APPLEBEE, COLBY CRUZ, JOEL JOHNSON, MICHAEL MATUSEWICZ, NOELLE NELSON, SEBASTIAN SWANSON, and TANNER THOMPSON drafted and filed with the IRS seventy-eight federal tax returns in the names of individual taxpayers other than the Defendants, using the means of identification of those individual taxpayers without lawful authority.
- B) Between the dates of February 15, 2016, and May 15, 2016, Defendant COURTNEY CHASE knowingly used, without lawful authority, the means of identification of thirty-six persons to create thirty-six fraudulent State of Stetson identification cards or drivers' licenses and thirty-six United States Social Security Administration cards for the purpose of opening bank accounts at the United Credit Union of Stetson in the names of the thirty-six individuals.
- C) Between the dates of February 15, 2016, and May 15, 2016, Defendants SKYLAR STEVENSON and WESLEY WINTERS obstructed or affected interstate commerce and the movement of funds in interstate commerce by committing or threatening to commit physical violence against Margaret

Gordo, an employee of Bank of Stetson, a bank insured by the Federal Deposit Insurance Corporation, for the purpose of coercing Ms. Gordo into negotiating, without proper identification, forty-two fraudulently obtained United States Treasury checks.

D) Between the dates of January 1, 2016, and May 15, 2016, Defendant CHARLIE WYATT knowingly possessed and transferred, without lawful authority, the means of identification, otherwise known as Personal Identifying Information (PII), of twenty-five individual taxpayers to Defendant SEBASTIAN SWANSON for the purpose of using the means of identification to draft and file with the IRS twenty-five federal tax returns in the names of those persons without lawful authority.

COUNT TWO

Theft of Public Money (18 U.S.C. § 641)

AUSTIN APPLEBEE, ALLISON APPLEBEE, COLBY CRUZ, COURTNEY CHASE, JOEL JOHNSON, MICHAEL MATUSEWICZ, NOELLE NELSON, SEBASTIAN SWANSON, SKYLAR STEVENSON, TANNER THOMPSON, WESLEY WINTERS

Beginning on February 15, 2016, and through May 15, 2016, in the Southern District of Stetson, the Defendants, herein:

AUSTIN APPLEBEE, ALLISON APPLEBEE, COLBY CRUZ, COURTNEY CHASE, JOEL JOHNSON, MICHAEL MATUSEWICZ, NOELLE NELSON, SEBASTIAN SWANSON, SKYLAR STEVENSON, TANNER THOMPSON, WESLEY WINTERS, did embezzle, steal, purloin, or knowingly convert to his/her use or the use of another, without lawful authority, money belonging to the IRS, an agency of the United States of America, in the form of tax refund payments which were fraudulently issued in the names

of seventy-eight individual taxpayers. The Grand Jury re-alleges and incorporates the facts alleged in Count One of this indictment as though fully set forth herein.

COUNT THREE
Hobbs Act (18 U.S.C. § 1951)
SKYLAR STEVENSON and WESLEY WINTERS

Beginning on February 15, 2016, and through May 15, 2016, in the Southern District of Stetson, the Defendants, herein:

SKYLAR STEVENSON and WESLEY WINTERS

did obstruct or affect interstate commerce and the movement of funds in interstate commerce by committing or threatening to commit physical violence against Margaret Gordo, an employee of Bank of Stetson, a bank insured by the Federal Deposit Insurance Corporation, for the purpose of coercing Ms. Gordo into negotiating, without proper identification, forty-two fraudulently obtained United States Treasury checks.

COUNT FOUR
Use of Interstate Commerce Facilities in the Commission of Murder-For-Hire
(18 U.S.C. § 1958)
COLBY CRUZ and SEBASTIAN SWANSON

On or about June 1, 2016, in the Southern District of Stetson, the Defendants, herein:

COLBY CRUZ and SEBASTIAN SWANSON

used the Internet, a facility of interstate or foreign commerce, with the intent that IRS Agent Alex Avery be murdered, in violation of the laws of the State of Stetson, and the murder was consideration for the agreement to pay H.H., a confidential informant, \$100,000.00.

COUNT FIVE
Felon in Possession of a Firearm (18 U.S.C. § 922(g)(1))
SEBASTIAN SWANSON

On or about March 10, 2016, in the Southern District of Stetson, the Defendant,
herein:

SEBASTIAN SWANSON

having been convicted of Possession of Cocaine, case number 2013-CF-5489 in the
Circuit Court for the Twenty Second Judicial Circuit of Stetson, punishable by
imprisonment for a term exceeding one year, did knowingly and possess in and affecting
interstate and foreign commerce a firearm, to wit a Smith and Wesson M&P Shield 9mm.

COUNT SIX
Felon in Possession of a Firearm (18 U.S.C. § 922(g)(1))
AUSTIN APPLEBEE

On or about March 10, 2016, in the Southern District of Stetson, the Defendant,
herein:

AUSTIN APPLEBEE

having been convicted of Theft of Public Money, case number 15:08-cr-02201-CHR-
ESW in the Southern District of Stetson, punishable by imprisonment for a term
exceeding one year, did knowingly and possess in and affecting interstate and foreign
commerce a firearm, to wit a Smith and Wesson M&P Shield 9mm.

COUNT SEVEN
Felon in Possession of a Firearm (18 U.S.C. § 922(g)(1))
NOELLE NELSON

On or about March 10, 2016, in the Southern District of Stetson, the Defendant,
herein:

NOELLE NELSON

having been convicted of Burglary, case number 2003-CF-3355-A in the Circuit Court for the Twenty Second Judicial Circuit of Stetson, punishable by imprisonment for a term exceeding one year, did knowingly and possess in and affecting interstate and foreign commerce a firearm, to wit a Smith and Wesson M&P Shield 9mm.

COUNT EIGHT

Felon in Possession of a Firearm (18 U.S.C. § 922(g)(1))

SKYLAR STEVENSON

On or about March 10, 2016, in the Southern District of Stetson, the Defendant,
herein:

SKYLAR STEVENSON

having been convicted of Burglary, case number 2003-CF-3355-B in the Circuit Court for the Twenty Second Judicial Circuit of Stetson, punishable by imprisonment for a term exceeding one year, did knowingly and possess in and affecting interstate and foreign commerce a firearm, to wit a Smith and Wesson M&P Shield 9mm.

COUNTS NINE - EIGHTEEN

Identity Fraud (18 U.S.C. § 1028(a)(7))

CHARLIE WYATT

On or about January 2, 2016, in the Southern District of Stetson, the Defendant,
herein:

CHARLIE WYATT

did knowingly possess and transfer, without lawful authority, the means of identification, otherwise known as PII, of the following ten individual taxpayers for the purpose of using the means of identification to draft and file with the IRS ten federal tax returns in

the names of those persons without lawful authority in connection with Theft of Public Money, a violation of 18 U.S.C. § 641:

Count	Taxpayer Name	Date
Count Nine	Elyssa Jones	January 2, 2016
Count Ten	Randall Jones	January 2, 2016
Count Eleven	Terry Johnson	January 2, 2016
Count Twelve	Erika McAdams	January 2, 2016
Count Thirteen	Alexa Klinowitz	January 2, 2016
Count Fourteen	Katie Douglas	January 2, 2016
Count Fifteen	Christian Romo	January 2, 2016
Count Sixteen	Frank Yates	January 2, 2016
Count Seventeen	Carlos Market	January 2, 2016
Count Eighteen	Nathan Parker	January 2, 2016

A True Bill,

LAURA ROSA
Laura Rosa, Foreperson

CHARLES ROSE IV
Charles Rose IV
U.S. Attorney for the Southern District of Stetson

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF STETSON

UNITED STATES OF AMERICA,

CASE NO.: 15:16-cr-02342-CHR-ESW

v.

CHARLIE WYATT,

Defendant.

DEFENDANT'S MOTION TO SUPPRESS

Defendant, United States Representative Charlie Wyatt, respectfully moves this Court to suppress all evidence obtained from SkyHigh Computing as it was obtained in violation of Defendant's rights under the Fourth Amendment to the United States Constitution. The grounds supporting this motion are set forth in the following Memorandum.

MEMORANDUM

1. On or about March 1, 2016, the Internal Revenue Service (IRS) began investigating the filing of fraudulent tax returns in the Southern District of Stetson. The investigation was led by IRS Agents Alex Avery and Kristen Smith.
2. After an undisclosed period of time, Agents Avery and Smith suspected the MorningStar Gang of Stetson to be involved in the production and filing of the fraudulent returns.
3. On or about March 20, 2016, Agents Avery and Smith used confidential informant H.H. to infiltrate the MorningStar Gang's operation. H.H. posed as a drug

supplier who also sold stolen means of identification and other unlawfully obtained Personal Identifying Information (PII).

4. On or about April 1, 2016, H.H. relayed to Agents Avery and Smith information received from MorningStar Gang Sergeant Sebastian Swanson that a Stetson politician, in exchange for a portion of the scheme's profits, was transmitting unlawfully obtained means of identification to the MorningStar Gang for its use in filing fraudulent tax returns.

5. On or about April 5, 2016, Agents Avery and Smith sent a letter to SkyHigh Computing, a corporation whose principal place of business is located in Stetson, requesting, without a warrant, subpoena, reasonable suspicion, or probable cause, the content stored in Rep. Wyatt's account (or "Cloud"¹).

6. On or about April 8, 2016, SkyHigh delivered an external hard drive to Agents Avery and Smith containing the content of Rep. Wyatt's personal 50 GB Cloud. SkyHigh also delivered a user activity log from Rep. Wyatt's Cloud including dates and times of when the account was accessed and what content was added or removed during those times.

¹ Cloud storage refers to a system in which a user's digital data is stored in multiple storage servers, with a physical environment maintained by a hosting company. Under this model of data storage, a user's data may be accessed remotely through a cloud storage gateway, or through the host's web-based management system. SkyHigh's "SkyCloud" platform promises "a modern method of storage and security, providing users with an end-to-end security model which encrypts data at all stages of transmission." SkyHigh maintains a desktop-based management system, mobile applications, and website access to a user's documents and data.

7. On or about July 1, 2016, a Grand Jury in the Southern District of Stetson returned an Indictment against Rep. Wyatt and eleven other Defendants, charging Rep. Wyatt with ten counts of Identity Theft and one conspiracy count.

8. Any and all evidence from SkyHigh Computing was obtained in violation of Rep. Wyatt's Fourth Amendment protection from unreasonable search and seizures as Rep. Wyatt maintained an objectively reasonable expectation of privacy in the content of his/her Cloud, which the Government searched and seized without a warrant supported by probable cause.

For these reasons, Defendant respectfully moves this Court to suppress all evidence obtained from SkyHigh Computing as it was obtained in violation of Defendant's rights under the Fourth Amendment to the United States Constitution

s/ Stephanie Vaughn
Stephanie Vaughn, Esq.
THE VAUGHN LAW GROUP
1401 61st Street South
South City, Stetson 86750
Email: Svaughn@law.vaughn.com
Counsel for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 15, 2016, a true copy of the foregoing was filed utilizing the Stetson E-Filing Portal and was served via email to:

Joseph Francis
Assistant United States Attorney
jfrancis@ausa.doj.gov

/s/ Stephanie Vaughn
Stephanie Vaughn, Esq.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF STETSON

UNITED STATES OF AMERICA,

CASE NO.: 15:16-cr-02342-CHR-ESW

v.

CHARLIE WYATT,

Defendant.

_____ /

DEFENDANT'S NOTICE OF EXPERT WITNESS

Defendant, United States Representative Charlie Wyatt, provides notice to this Court and the Government that Defendant intends to call as a witness and qualify as an expert Counselor Mona Ralphio. Defendant anticipates Counselor Mona Ralphio will testify regarding the susceptibility to suggestion of the Government's witness, Sebastian Swanson, and his credibility as a witness.

/s/ Stephanie Vaughn
Stephanie Vaughn, Esq.
THE VAUGHN LAW GROUP
1401 61st Street South
South City, Stetson 86750
Email: Svaughn@law.vaughn.com
Counsel for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 1, 2016, a true copy of the foregoing was filed utilizing the Stetson E-Filing Portal and was served via email to:

Joseph Francis
Assistant United States Attorney
jfrancis@ausa.doj.gov

/s/ Stephanie Vaughn
Stephanie Vaughn, Esq.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF STETSON

UNITED STATES OF AMERICA,

CASE NO.: 15:16-cr-02342-CHR-ESW

v.

CHARLIE WYATT,

Defendant.

GOVERNMENT'S FIRST MOTION IN LIMINE –
DEFENDANT'S EXPERT WITNESS

COMES NOW the Government, which respectfully moves this Court, pursuant to Federal Rule of Evidence 702, to prohibit the testimony at trial of Defendant's expert witness, Counselor Mona Ralphio. The grounds supporting this motion are set forth in the following Memorandum.

MEMORANDUM

1. On or about July 1, 2016, a Grand Jury in the Southern District of Stetson returned an Indictment against Rep. Wyatt and eleven other Defendants, charging Rep. Wyatt with ten counts of Identity Theft and one conspiracy count.
2. On or about August 1, 2016, Defendant provided notice to this Court and the Government that Defendant intended to call as an expert witness Counselor Mona Ralphio to testify to the credibility of the Government's witness Sebastian Swanson.
3. Expert testimony is subject to Federal Rule of Evidence 702.²

² Specifically, FRE 702 adopts the model provided by the United States Supreme Court in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993). The *Daubert* test sets forth a non-exclusive checklist of facts to

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF STETSON

UNITED STATES OF AMERICA,

CASE NO.: 15:16-cr-02342-CHR-ESW

v.

CHARLIE WYATT,

Defendant.

ORDER SETTING STATUS CONFERENCE

This Court, *sua sponte*, orders the parties to appear before it for a Status Conference on Wednesday, August 10, 2016, at 2:30 p.m. to address the scheduling of a hearing regarding Defendant's Motion to Suppress and the Government's First Motion in Limine. All parties shall appear before the Court or be subject to contempt.

/s/ CHR

Judge Claire Harper Rothman
United States District Court for the
Southern District of Stetson
Courtroom 3B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,

CASE NO.: 15:16-cr-02342-CHR-ESW

v.

CHARLIE WYATT,

Defendant.

NOTICE OF HEARING
DEFENDANT'S MOTION TO SUPPRESS AND
GOVERNMENT'S FIRST MOTION IN LIMINE

This Court notices the Defendant Representative Charlie Wyatt's Motion to Suppress and the Government's First Motion in Limine for hearing in Courtroom 3B on Friday, October 14, 2016, at 9:00 a.m.

A. The parties shall address only the following two issues at the oral argument on the aforementioned motions:

- i) Whether the Government violated Defendant Rep. Wyatt's Fourth Amendment right to be free from unreasonable searches and seizures in obtaining the content of his/her Cloud storage account without a warrant supported by probable cause?
- ii) Whether Counselor Mona Ralphio may be permitted to testify as an expert witness pursuant to Federal Rule of Evidence 702?

B. Pursuant to the Status Conference held on Wednesday, August 10, 2016, the parties preliminarily agree that there are no disputes as to any material facts

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF STETSON

UNITED STATES OF AMERICA,

CASE NO.: 15:16-cr-02342-CHR-ESW

v.

CHARLIE WYATT,

Defendant.

**FACTUAL STIPULATIONS IN SUPPORT OF
DEFENDANT'S MOTION TO SUPPRESS AND
GOVERNMENT'S FIRST MOTION IN LIMINE**

COMES NOW Defendant, United States Representative Charlie Wyatt, by and through undersigned counsel, and the Government who **STIPULATE AND AGREE** to the following facts in support of Defendant's Motion to Suppress and the Government's First Motion in Limine:

1. United States Representative Charlie Wyatt is 44 years old and a member in good standing of the United States Congress.
2. Rep. Wyatt was elected Mayor of Eleazer, Stetson in 2006. In 2010, after one term as Mayor, Rep. Wyatt was elected to the United States House of Representatives. Rep. Wyatt's district includes South City and Eleazer, Stetson, maintaining a population of 700,000.
3. Rep. Wyatt is up for re-election in November 2016. Rep. Wyatt is currently on an indefinite leave from office during the pendency of the present case, but Rep.

Wyatt is not currently facing impeachment or expulsion from office and is permitted to continue his/her campaign for re-election.

4. Rep. Wyatt maintains his/her Congressional office in South City, Stetson, employing thirty staff members. Rep. Wyatt's staff includes policy and financial advisors, speech writers, administrative assistants, and paid interns.

5. In 2015, Rep. Wyatt successfully sponsored and passed the "Up and At 'Em Act", an employment program, through the United States Congress. The program allocates government funds to create jobs for senior citizens and reformed convicted felons within federal agencies. The program was signed into law on March 9, 2015, and took effect that same month.

6. On or about July 6, 2015, Rep. Wyatt hired two administrative assistants to assist senior citizens and convicted felons in his/her Congressional district secure jobs through "Up and At 'Em." The administrative assistants were Sebastian Swanson, a convicted felon, and Leslie Winters, a "senior citizen," as defined by the guidelines of "Up and At 'Em."

7. On or about September 17, 2015, Rep. Wyatt compiled a list of twenty-five senior citizens that he/she would personally assist in securing employment through "Up and At 'Em." Rep. Wyatt planned to assist the senior citizens in obtaining necessary employment and interviewing skills, as well as act as an intermediary between the senior citizens and the personnel offices of local federal agencies. This task was neither required under the "Up and At 'Em" Act, nor was it within the duties of his/her office, and Rep. Wyatt was not compensated for doing this work.

8. On or about October 3, 2015, Rep. Wyatt personally met with the twenty-five aforementioned senior citizens to have each person complete paperwork consenting to necessary background searches and to schedule a semi-monthly employment skills training course.

9. The paperwork completed on October 3 included Personal Identifying Information (PII) for each senior citizen, including his/her name, mailing address, date of birth, family members, and social security number.

10. On or about October 17, 2015, Rep. Wyatt, using his/her personal computer, compiled this information into an electronic spreadsheet titled "GetToWork," and the spreadsheet was sent to the Office of Personnel Management for the office to complete a background search on each senior citizen.

11. On or about November 8, 2015, Rep. Wyatt purchased a Premium Lapbook, a laptop that he/she would use at home for matters outside the scope his/her job as a United States Representative.

12. While the Premium Lapbook was secured with programs by his/her office's IT Department, the Premium Lapbook was not used at Rep. Wyatt's office.

13. As part of Rep. Wyatt's Premium Lapbook purchase, Rep. Wyatt received a one-year account with SkyHigh Computing's "SkyCloud," a cloud-computing storage company that allows users to remotely store their data on, and retrieve their data from, a server located in Crummer, Stetson, instead of the users' personal hard drives.

14. On or about November 8, 2015, Rep. Wyatt's SkyHigh account was activated by Rep. Wyatt. Contemporaneous with his/her account activation, Rep. Wyatt agreed to

SkyHigh's thirty-page Terms and Services Agreement, which included the following pertinent language on Page 18:

SkyHigh guarantees its users protection from intrusion by both private and governmental entities. With a HackerFree Guarantee™, SkyHigh protects users' personal and sensitive data from unauthorized access by individuals through its patent-pending firewall technology. In addition to protecting the integrity of the technology behind SkyHigh, we further ensure privacy from unwanted government intrusion. SkyHigh ensures that the release of users' data to any government agency or law enforcement official will not be permitted unless it is sought with proper legal authority.

15. Rep. Wyatt's SkyHigh "SkyCloud" included 50 GB of storage space. Rep. Wyatt secured his/her Cloud with an individual username and sixteen-digit password that he/she was required to enter anytime the Cloud was updated.

16. A SkyHigh user may only remain logged in for thirty minutes before being required to re-enter his or her username and password.

17. On or about November 10, 2015, Rep. Wyatt copied any personal folders, documents, photos, and other data from his/her prior laptop onto his/her SkyHigh SkyCloud. This data included his/her family photos, personal tax returns and financial information, music, memoirs, and documents from his/her community service programs, including the continued work with senior citizens through the "Up and At 'Em" program.

18. From November 15, 2015, through July 1, 2016, Rep. Wyatt exclusively stored all personal data on his/her SkyHigh SkyCloud. Aside from programs installed onto the hard drive of his/her Premium Lapbook, no data was kept on his/her hard drive.

19. Between the dates of January 20, 2016, and April 15, 2016, fraudulent federal tax returns were filed with the Internal Revenue Service (IRS) under the names of

the twenty-five senior citizens who participated in Rep. Wyatt's employment skills training course.

20. On or about March 1, 2016, the Internal Revenue Service (IRS) began investigating the suspected filing of fraudulent tax returns in the Southern District of Stetson. The investigation was led by IRS Agents Alex Avery and Kristen Smith.

21. After an undisclosed period of time, Agents Avery and Smith suspected the MorningStar Gang of Stetson to be involved in the production and filing of the fraudulent returns.

22. On or about March 20, 2016, Agents Avery and Smith used confidential informant H.H. to infiltrate the MorningStar Gang's operation. H.H. posed as a drug supplier who also sold stolen means of identification and other unlawfully obtained Personal Identifying Information (PII).

23. On or about April 1, 2016, H.H. relayed to Agents Avery and Smith information received from MorningStar Gang Sergeant Sebastian Swanson that a Stetson politician, in exchange for a portion of the scheme's profits, was transmitting unlawfully obtained means of identification to the MorningStar Gang for its use in filing fraudulent tax returns.

24. On or about April 5, 2016, Agents Avery and Smith sent a letter to SkyHigh Computing, a corporation whose principal place of business is located in Stetson, requesting, without a warrant, subpoena, reasonable suspicion, or probable cause, the content stored in Rep. Wyatt's account (or "SkyCloud").

25. At that time, Agents Avery and Smith did not have probable cause to access Rep. Wyatt's SkyCloud account.

26. On or about April 8, 2016, SkyHigh delivered an external hard drive to Agents Avery and Smith containing the content of Rep. Wyatt's personal 50 GB SkyCloud. SkyHigh also delivered a user activity log from Rep. Wyatt's SkyCloud including dates and times of when the account was accessed and the file name of all content that was added or removed during those times.

27. On or about April 10, 2016, Agents Avery and Smith matched all of the names on the GetToWork spreadsheet with the alleged fraudulent filing of twenty-five tax returns earlier that year.

28. On or about July 1, 2016, a Grand Jury in the Southern District of Stetson returned an Indictment against Rep. Wyatt and eleven other Defendants, charging Rep. Wyatt with ten counts of Identity Theft and one conspiracy count.

29. On or about July 15, 2016, the Government and Co-Defendant Sebastian Swanson entered into a plea agreement whereby Swanson would plead guilty to Count Two and testify against all co-defendants in exchange for the Government not pursuing any other count against Swanson. The parties arrived at the plea agreement after a six-hour meeting between IRS Agents Avery and Smith, Swanson, and Swanson's counsel. Swanson's guilty plea was accepted by the Court on July 16, 2016.

30. On or about August 1, 2016, Rep. Wyatt's counsel served notice to the Government that Rep. Wyatt intended to call Counselor Mona Ralphio as an expert witness at trial.

31. Counselor Mona Ralphio is expected to testify regarding Sebastian Swanson's susceptibility to suggestion due to his troubled youth and opine as to that susceptibility's effect on his credibility as a witness.

32. Sebastian Swanson is twenty-two years old and an alleged officer in the MorningStar Gang. Swanson dropped out of high school in the tenth grade to take care of his now deceased mother. Swanson has one prior felony conviction for Possession of Cocaine, and he was adjudicated delinquent in juvenile court seven times between the ages of twelve and seventeen. Swanson has an IQ of 80 and reads at an eighth-grade level.

33. Counselor Mona Ralphio is a Social Work Counselor for the Gordon County School District, which houses Eleazer and South City. Counselor Ralphio works with high-risk youths in Gordon County in diagnosing any learning disabilities or mental defects as well as by teaching them valuable economic and social skills. Counselor Ralphio interviewed Swanson in 2009, a month prior to Swanson dropping out of school.

34. During Counselor Ralphio's initial interview with Swanson, she diagnosed him with Attention Deficit Hyperactivity Disorder (ADHD), sociopathy, and a personality disorder that makes him susceptible to suggestion.

35. Counselor Ralphio has reviewed Swanson's disciplinary history and school records, and, if permitted to testify, will conduct another interview of Swanson.

36. Counselor Ralphio, in her professional opinion, believes that Swanson will not be a truthful witness.

37. Counselor Ralphio has a Bachelor’s Degree in Family, Youth, and Community Sciences from the University of Florida and a Master’s Degree in Social Work from the University of Stetson through an online program.

38. Counselor Ralphio has previously published an article in the University of Stetson Journal of Community Science entitled, “*Why You Always Lying: The Invisible Tie between Education, Low Socioeconomic Status and Lying.*”

39. Counselor Ralphio has previously been qualified as an expert witness four times in the State of Stetson Twenty Second Judicial Circuit Family Court regarding the competency of minors to testify in dissolution of marriage and paternity actions.

STIPULATED AND AGREED this 17th day of August, 2016.

/s/ Joseph Francis
Joseph Francis, Esq.
Assistant United States Attorney
Southern District of Stetson
1405 61st Street South
South City, Stetson 86750
Email: jfrancis@ausa.doj.gov

8/17/2016
Date

/s/ Stephanie Vaughn
Stephanie Vaughn, Esq.
THE VAUGHN LAW GROUP
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South City, Stetson 86750
Email: Svaughn@law.vaughn.com
Counsel for Defendant

8/17/2016
Date