

U.S. District Court [LIVE]
Western District of Texas (Austin)
CRIMINAL DOCKET FOR CASE #: 1:19-cr-00053-RP-1

Case title: USA v. Calabrese

Date Filed: 03/07/2019

Assigned to: Judge Robert Pitman

Defendant (1)**Denis Calabrese**

represented by **Richard B. Kuniansky**
Law Offices of Richard Kuniansky
440 Louisiana, Ste 1440
Houston, TX 77002
(713) 622-8333
Email: rkuniansky@gmail.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Pending Counts

26:7201.F ATTEMPT TO EVADE OR
DEFEAT TAX
(1)

Disposition**Highest Offense Level (Opening)**

Felony

Terminated Counts

None

Disposition**Highest Offense Level (Terminated)**

None

Complaints

None

Disposition**Plaintiff****USA**

represented by **Alan M. Buie**
United States Attorney's Office
816 Congress Ave - Ste 1000
Austin, TX 78701
(512) 916-5858
Fax: 512/916-5854
Email: alan.buie@usdoj.gov

LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
03/07/2019	<u>1</u>	INFORMATION as to Denis Calabrese (1) count(s) 1. (Attachments: # <u>1</u> Personal Data Sheet) (klw) (Entered: 03/08/2019)
03/07/2019	<u>2</u>	Personal Data Sheet (SEALED) as to Denis Calabrese. (klw) (Entered: 03/08/2019)
03/07/2019	<u>3</u>	PLEA AGREEMENT as to Denis Calabrese (Plea agreement documents are not available electronically.) (klw) (Entered: 03/08/2019)
03/08/2019	<u>4</u>	ORDER setting Initial Appearance / Arraignment / Plea set for 3/18/2019 02:30 PM before Judge Andrew W. Austin as to Denis Calabrese. Signed by Judge Andrew W. Austin. (klw) (Entered: 03/08/2019)
03/08/2019	<u>5</u>	NOTICE OF ATTORNEY APPEARANCE: Richard B. Kuniansky appearing for Denis Calabrese (Kuniansky, Richard) (Entered: 03/08/2019)
03/08/2019	<u>6</u>	Letter Requesting Issuance of Summons as to Denis Calabrese (Summons documents are not available electronically.) (klw) (Entered: 03/08/2019)
03/08/2019	<u>7</u>	Summons Issued by Judge Andrew W. Austin as to Denis Calabrese (Summons is not available electronically.) (klw) (Entered: 03/08/2019)
03/11/2019	<u>8</u>	Summons Returned Executed on 03/11/19 as to Denis Calabrese (Summons documents are not available electronically.) (klw) (Entered: 03/11/2019)
03/18/2019		Arrest of Denis Calabrese. (klw) (Entered: 03/19/2019)
03/18/2019	<u>9</u>	Minute Entry for proceedings held before Judge Andrew W. Austin: Initial Appearance as to Denis Calabrese held on 3/18/2019 (Minute entry documents are not available electronically.) (Court Reporter ERO.) (klw) (Entered: 03/19/2019)
03/18/2019	<u>10</u>	WAIVER OF INDICTMENT by Denis Calabrese signed by Judge Andrew W. Austin. (klw) (Entered: 03/19/2019)
03/18/2019	<u>11</u>	Consent to administration of guilty plea and Rule 11 Allocution by a United States Magistrate Judge by Denis Calabrese. (klw) (Entered: 03/19/2019)
03/18/2019	<u>12</u>	Order of Referral to U.S. Magistrate on felony guilty plea as to Denis Calabrese. Signed by Judge Robert Pitman. (klw) (Entered: 03/19/2019)
03/18/2019	<u>13</u>	Minute Entry for proceedings held before Judge Andrew W. Austin: Arraignment as to Denis Calabrese (1) Count 1. Plea of guilty entered on 3/18/2019 (Minute entry documents are not available electronically.) Plea agreement disclosed in open court, Referred to Probation for Pre-Sentence Report as to Denis Calabrese. (Court Reporter ERO.) (klw) (Entered: 03/19/2019)
03/18/2019	<u>14</u>	WAIVER of Rule 32 Time Limits by Denis Calabrese. (klw) (Entered: 03/19/2019)
03/18/2019	<u>15</u>	ORDER Setting Conditions of Release as to Denis Calabrese (1) \$100,000 Unsecured. Signed by Judge Andrew W. Austin. (klw) (Entered: 03/19/2019)
03/18/2019	<u>16</u>	Unsecured Bond Filed as to Denis Calabrese in amount of \$ 100,000. (klw) (Entered: 03/19/2019)
03/18/2019	<u>17</u>	FINDINGS OF FACT AND RECOMMENDATION on felony guilty plea before the United States Magistrate Judge as to Denis Calabrese. Signed by Judge Andrew W. Austin.

		(klw) (Entered: 03/19/2019)
03/19/2019	18	ORDER Setting Sentencing as to Denis Calabrese. Sentencing set for 5/30/2019 09:30 AM before Judge Robert Pitman. Signed by Judge Robert Pitman. (klw) (Entered: 03/19/2019)
03/19/2019	19	Summons Returned Executed on 03/11/19 as to Denis Calabrese (Summons documents are not available electronically.) (klw) (Entered: 03/19/2019)
03/25/2019	20	Unopposed MOTION to Continue <i>Sentencing</i> by Denis Calabrese. (Kuniansky, Richard) (Entered: 03/25/2019)
03/26/2019	21	ORDER GRANTING 20 Motion to Continue as to Denis Calabrese (1). Sentencing reset for 7/25/2019 10:00 AM before Judge Robert Pitman. Signed by Judge Robert Pitman. (klw) (Entered: 03/26/2019)
04/22/2019	22	Unopposed MOTION to Continue (<i>Reset</i>) <i>Sentencing</i> by Denis Calabrese. (Kuniansky, Richard) (Entered: 04/22/2019)

PACER Service Center			
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04/25/2019 10:24:16			
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Billable Pages:	2	Cost:	0.20

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

2019 MAR -7 PM 3:21

CLERK OF COURT
WESTERN DISTRICT OF TEXAS

BY: 

UNITED STATES OF AMERICA,

Plaintiff

vs.

DENIS CALABRESE,

Defendant

§
§
§
§
§
§
§
§
§

No.

A19CR0053 RP

[Violations: Attempt to Evade and
Defeat Tax, 26 U.S.C. § 7201]

FELONY INFORMATION

THE UNITED STATES ATTORNEY CHARGES:

COUNT ONE

Attempt to Evade and Defeat Tax
(Violation of 26 U.S.C. § 7201)

From in or about 2007 until in or about 2012, in the Western District of Texas and
elsewhere, the Defendant,

DENIS CALABRESE

("the Defendant"), a resident of Houston, Texas, willfully attempted to evade and defeat income
tax due and owing by him and his spouse to the United States of America, for the calendar year
2011, by committing the following affirmative acts, among others:

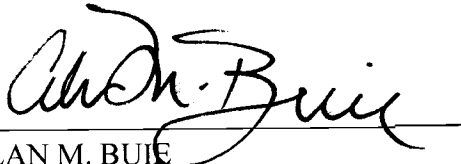
- (a) preparing and causing to be prepared, and filing and causing to be filed at the IRS
Austin Service Center in the Western District of Texas, a U.S. Individual Income
Tax Return, Form 1040 for 2011 that was false and fraudulent in that, as the
Defendant then and there well knew, it reported an amount of income for 2011
that was substantially less than the true amount of income that the Defendant and
his spouse actually received during 2011;

- (b) creating a business entity called Kettone Corp. in the Cayman Islands and establishing a bank account for Kettone Corp. in the Cayman Islands;
- (c) arranging for one or more businesses to pay to Kettone Corp., via its Cayman Islands bank account, income that the Defendant had earned for consulting services;
- (d) failing to advise the accountants who prepared his and his spouse's tax returns about the Kettone Corp. bank account in the Cayman Islands;
- (e) failing to file with the Financial Crimes Enforcement Network ("FINCEN") a form that the law required, called a Report of Foreign Bank and Financial Accounts;
- (f) failing to disclose Kettone Corp.'s Cayman Islands bank account on income tax returns; and
- (g) misleading the accountants who prepared his tax returns about the amount of income he received during 2011, including but not limited to income that was paid to Kettone Corp,

in violation of Section 7201 of Title 26 of the United States Code.

JOHN F. BASH
United States Attorney

By:


ALAN M. BUIE
Assistant United States Attorney

A19CR0053 RP

Sealed _____

Unsealed X
 Personal Data Sheet
 UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF TEXAS
USAO# 2014R17551
 RELATED CASE YES X NO
 CASE NO.
County: TRAVIS AUSTIN Division Judge: _____
 Date: 3/7/2019 Mag Ct.# none SSN: REDACTED FBI#: _____
Case No.: _____ Assistant U. S. Attorney: Alan M. Buie
 Defendant: DENIS CALABRESE Date of Birth: REDACTED

Address: _____

Citizenship: United States Mexican Other

Interpreter Needed: _____ Language _____

Defense Attorney: _____ Employed _____

 Richard B. Kuniansky

Address of Attorney: _____ Appointed _____

Defendant is: In Jail _____ Where: _____

On Bond _____ Amt. of Bond _____ Where: _____

Date of Arrest: _____ Bench Warrant Needed _____

Prosecution By: Information X Indictment _____Offense (Code & Description): 26 U.S.C. 7201 – Tax Evasion Offense Is: Felony X Misdemeanor _____Maximum Sentence: 5 years imprisonment; \$250,000 fine; 3 year TSR; \$100 SA Penalty is Mandatory: Special Assessment only Yes X No _____

Remarks: _____

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

United States of America

vs.

(1) Denis Calabrese

§
§
§
§
§

NO: AU:19-CR-00053(1)-RP

**REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

TO: THE HONORABLE ROBERT PITMAN
UNITED STATES DISTRICT JUDGE

The Magistrate Judge submits this Report and Recommendation to the District Court pursuant to 28 U.S.C. § 636(b)(3). The District Court referred this case to the United States Magistrate Judge for the taking of the defendant's felony guilty plea and for his allocution pursuant to Federal Rule of Criminal Procedure 11.

On March 18, 2019, the defendant and counsel appeared before the Magistrate Judge. The undersigned addressed the defendant personally in open court, informed him of the admonishments under Rule 11 of the Federal Rules of Criminal Procedure, and determined that he understood those admonishments.

Pursuant to a plea agreement, the defendant pled guilty to: Attempt to Evade or Defeat Tax, in violation of 26 U.S.C. § 7201.

The Magistrate Judge finds the following:

1. The defendant, with the advice of his attorney, consented to enter this guilty plea before the Magistrate Judge, subject to final approval and sentencing by the District Judge;

2. The defendant fully understands the nature of the charge against him and possible penalties;
3. The defendant understands his constitutional and statutory rights, understands that his constitutional and statutory rights can be waived, and understands the meaning and effect of the waiver of his constitutional and statutory rights;
4. The defendant's plea was made freely and voluntarily;
5. The defendant is competent to enter this plea of guilty; and
6. There is a factual basis for this plea.

RECOMMENDATION

The Magistrate Judge **RECOMMENDS** the District Court accept the defendant's guilty plea and, after reviewing the presentence investigation report, enter a Final Judgment of guilt against him.

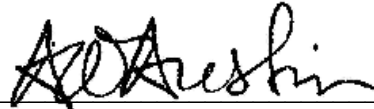
WARNING

The parties may file objections to this Report and Recommendation. A party filing objections must specifically identify those findings or recommendations to which objections are being made. The District Court need not consider frivolous, conclusive, or general objections. See *Battle v. United States Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987).

A party's failure to file written objections to the proposed findings and recommendations contained within this Report within fourteen (14) days after being served with a copy of the Report shall bar that party from de novo review by the District Court of the proposed findings and recommendations and, except upon grounds of plain error, shall bar the

party from appellate review of proposed factual findings and legal conclusions accepted by the District Court to which no objections were filed. See 28 U.S.C. § 636(b)(1)(C); *Thomas v. Arn*, 474 U.S. 140, 150-53, 106 S. Ct. 466, 472-74 (1985); *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc).

SIGNED this 18th day of March, 2019.

A handwritten signature in black ink, appearing to read "A. Austin", written over a horizontal line.

ANDREW W. AUSTIN
UNITED STATES MAGISTRATE JUDGE