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Southern District of New York

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JENKENS & GILCHRIST ATTORNEYS, BDO SEIDMAN ACCOUNTANTS, AND BANKERS CHARGED IN CRIMINAL TAX FRAUD RELATED TO TAX SHELTERS GENERATING OVER SEVEN BILLION DOLLARS OF FRAUDULENT TAX LOSSES

LEV L. DASSIN, the Acting United States Attorney for the Southern District of New York, DOUG SHULMAN, the Commissioner of the Internal Revenue Service ("IRS"), and JOHN A. DiCICCO, the Acting Assistant Attorney General for the Tax Division of the Department of Justice, announced today the filing of an Indictment charging seven individuals -- three former shareholders of the Jenkens & Gilchrist law firm ("J&G"), the former Chief Executive Officer and a former tax partner from the BDO Seidman accounting firm ("BDO"), and two former bankers from a foreign bank with headquarters in New York ("Bank A") -- with tax fraud conspiracy and related crimes arising out of tax shelters promoted by J&G, BDO, and the bank. According to the Indictment filed today in Manhattan federal court, the defendants and their co-conspirators designed, marketed, and implemented fraudulent tax shelters used by wealthy individuals with multimillion-dollar taxable income in order to eliminate or reduce the taxes they would have to pay the IRS.

The Indictment charges the seven individuals in 27 separate counts, including conspiracy to defraud the IRS, tax evasion, and impeding and impairing the lawful functioning of the IRS.

The seven individuals charged in the Indictment are:

- PAUL M. DAUGERDAS, 58, of Wilmette, Illinois, a lawyer, was the former head of J&G's Chicago office and its tax practice. DAUGERDAS is a certified public accountant who previously served as a tax partner at Arthur Andersen LLP and head of the tax department at the Chicago law firm Altheimer & Gray ("A&G").

- ERWIN MAYER, 45, of Winnetka, Illinois, a lawyer, was a shareholder at J&G's Chicago office in its tax practice. MAYER is an accountant who previously served as a tax partner in A&G's Chicago office.

- DONNA GUERIN, 48, of Elmhurst, Illinois, a lawyer, was a shareholder at J&G's Chicago office in its tax practice. GUERIN is a certified public accountant who previously served as a tax partner in A&G's Chicago office.

- DENIS FIELD, 51, of Naples, Florida, is the former Chief Executive Officer and Chairman of the Board of BDO Seidman, former head of its national tax practice, and one of three heads of BDO's "Tax Solutions Group," which handled all aspects of BDO's tax shelter practice. FIELD is a certified public accountant and an attorney, with an LLM in taxation.

- ROBERT GREISMAN, 48, of Deerfield, Illinois, was a tax partner in BDO's Chicago office and a member of BDO's Tax Solutions Group. GREISMAN is a certified public accountant and an attorney.

- RAYMOND CRAIG BRUBAKER, 53, of Plano, Texas, is a former investment representative at Bank A's Dallas office. BRUBAKER, who is a certified public accountant and an attorney, previously served as a tax partner in Arthur Andersen's Dallas office.

- DAVID PARSE, 47, of Elmhurst, Illinois, is a former investment representative at Bank A's Chicago office. PARSE is a certified public accountant.

As alleged in the Indictment:

From 1994 through 2004, the seven defendants and others participated in a scheme to defraud the IRS by designing, marketing, implementing and defending fraudulent tax shelters.

The conspirators sought to deceive the IRS about the bona fides of those shelters and the circumstances under which the shelters were marketed and implemented.

The defendants and their co-conspirators understood that if the IRS were to detect their clients' use of these tax shelters and learn the true facts and circumstances surrounding the design, marketing, and implementation of the shelters, the IRS would aggressively challenge the claimed tax benefits. In that event, the IRS would seek to collect the unpaid taxes plus interest, and might also seek to impose substantial penalties upon the clients. Accordingly, the conspirators undertook to prevent the IRS from: (i) detecting their clients' use of these shelters; (ii) understanding how the transactions operated to produce the tax results reported by the clients; (iii) learning that the shelters were marketed as cookie-cutter products that would eliminate or reduce large tax liabilities; (iv) learning that the clients were not seeking profit-making investment opportunities, but were instead seeking huge tax benefits for which they paid fees based on a percentage of the desired tax loss; and (v) learning that, from the outset, all the clients intended to complete a pre-planned series of steps that had been designed by the conspirators to lead to the specific tax benefits sought by the clients.

In order to maximize the appearance that the tax shelters were investments undertaken to generate profits, and to minimize the likelihood that the IRS would learn the transactions were actually designed to create tax losses and deductions, the defendants and their co-conspirators created and assisted in creating transactional documents and other materials that falsely and fraudulently described the clients' motivations for entering into the tax shelters and for taking the various steps that would yield the tax benefits.

In order to encourage clients to participate in the shelters, and to shield the clients from substantial penalties that could be imposed if the IRS disallowed the claimed tax benefits, the defendants conspired to provide J&G's clients with opinion letters which claimed the tax shelter losses or deductions would "more likely than not" survive IRS challenge. The defendants knew those opinions were based on false and fraudulent statements, and omitted material facts. By helping their clients obtain false and fraudulent opinion letters, with the understanding and intent that those opinion letters would be presented to the IRS if and when the clients were audited, the defendants sought to undermine the ability of the IRS to ascertain the clients' tax liabilities and determine whether penalties should be imposed.

Among the alleged fraudulent tax shelter designed, marketed, and implemented by the defendants and their co-conspirators were "Short Sales," "Short Options Strategy" ("SOS"), "Swaps," and "HOMER." The Short Sale tax shelter was marketed and sold from at least 1994 through at least 1999 to at least 290 wealthy individuals and generated at least $2.6 billion in false and fraudulent tax losses. The SOS tax shelter was marketed and sold from at least 1998 through at least 2000 to at least 550 wealthy individuals, and generated at least $3.9 billion in false and fraudulent tax losses. The Swaps tax shelter was marketed and sold in 2001 and 2002 to at least 55 wealthy individuals, and generated more than $420 million in false and fraudulent tax losses. The HOMER tax shelter was marketed and sold in 2001 to at least 36 wealthy individuals, and generated more than $400 million in false and fraudulent tax losses.

Defendants DAUGERDAS, MAYER, BRUBAKER, PARSE, FIELD, and GREISMAN also developed and utilized tax shelters for themselves in order to evade personal tax liabilities on the substantial income they were receiving from their design, marketing, and implementation of fraudulent tax shelters. In addition, J&G provided BRUBAKER and PARSE with free opinion letters for their personal tax shelters, and provided discounted tax shelter opinion letters to other Bank A personnel.

Count One of the Indictment charges all defendants with conspiracy to defraud the IRS and to evade taxes. In addition, each defendant except PARSE is charged with multiple counts of tax evasion relating to the use of various tax shelters for specified clients. Each defendant is also charged with one count of corruptly endeavoring to obstruct and impede the internal revenue laws. The Indictment also charges DAUGERDAS and MAYER with tax evasion based on their use of fraudulent tax shelters to eliminate or reduce their personal income tax liabilities between 1999 and 2001.

On the conspiracy charge, each defendant faces a maximum penalty of 5 years in prison; 3 years' supervised release; a fine of the greatest of $250,000 or twice the gross gain to the defendant or twice the gross loss to the IRS; and restitution. Each count of tax evasion carries a maximum penalty of 5 years in prison; 3 years' supervised release; a fine of the greatest of $250,000 or twice the gross gain to the defendant or twice the gross loss to the IRS; and costs of prosecution. Each defendant also faces a maximum penalty of 3 years in prison; 1 year's supervised release; and a fine of the greatest of $250,000 or twice the gross gain to the defendant or twice the gross loss to the IRS on the charge of corruptly endeavoring to obstruct and impede the internal revenue laws.

Former BDO Seidman Vice Chairman and board member CHARLES W. BEE, JR., pleaded guilty on June 3, 2009, to related charges of conspiracy to defraud the IRS, tax evasion, and perjury. MICHAEL KEREKES, another principal of BDO Seidman and also a former member of BDO's TSG and Tax Opinion Committee, pleaded guilty on February 13, 2009, to related conspiracy and tax evasion charges. ADRIAN DICKER, a former Vice Chairman of BDO Seidman and TSG member, also pleaded guilty on March 17, 2009, to related conspiracy and tax evasion charges.

"We are dedicated to holding accountable tax and financial professionals whose deceit and fraud cost this country millions in tax revenues," said LEV L. DASSIN, the Acting United States Attorney for the Southern District of New York. "The allegations contained in the Indictment reflect a brazen disregard for the law."

"In today's economic environment, it's more important than ever that the American people feel confident that everyone is playing by the rules and paying the taxes they owe," said Internal Revenue Service Commissioner DOUG SHULMAN. "Taxpayers deserve our vigilance in the investigation and prosecution of allegations of fraud by unscrupulous tax and financial professionals who assist others in hiding income and evading the payment of their fair share of taxes."

"Dishonest and fraudulent tax professionals, including accountants, attorneys, and bankers, should stand up and take note of today's indictment," said JOHN A. DiCICCO, the Acting Assistant Attorney General of the Justice Department's Tax Division. "Professionals who sell and promote fraudulent tax shelters that help wealthy clients illegally evade taxes face serious felony charges and substantial prison time."

Mr. DASSIN thanked the IRS and the Department of Justice Tax Division for their efforts in this case.

Southern District of New York Assistant United States Attorney STANLEY OKULA and Department of Justice Tax Division Assistant Section Chief NANETTE L. DAVIS are in charge of the prosecution.

The charges contained in the Indictment are merely accusations, and the defendants are presumed innocent unless and until proven guilty.

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