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# Permanent Subcommittee on Investigations Hearing: "Tax Haven Abuses: The Enablers, The Tools & Secrecy"

**AUGUST 1, 2006**

## OPENING STATEMENT

**AS PREPARED:**

Thank you for attending today's hearing. I want to thank this Subcommittee's Ranking member, Senator Levin, for initiating this investigation and I want to commend his tenacity in identifying tax shelter abuse by those willing to exploit loopholes in the system and engage in questionable conduct for the sole purpose of avoiding legitimate taxes.

Today's hearing continues this effort by examining the extent to which U.S. individuals are abusing offshore jurisdictions to circumvent compliance with U.S. tax, securities, and anti-money laundering laws. The offshore problem has become one of staggering proportions. Offshore tax havens and financial secrecy jurisdictions hold an estimated $1.5 trillion in U.S. assets, resulting in an annual drain on the U.S. Treasury of $50-$70 billion in lost taxes.

While these jurisdictions claim to offer limited financial disclosures, light regulation, enhanced asset protection, and financial privacy, in reality they have become the Wild West of the financial world, havens for fraud and evasion. U.S. citizens have found ways to utilize these offshore tax and secrecy havens to conceal ownership of assets and obscure the economic reality underlying financial transactions, while staying one step ahead of U.S. law enforcement.

All taxpayers are victimized by this behavior. Not only do these actions shift the burden to taxpayers who are in full compliance with our laws, but they also create a revenue shortfall depriving the Treasury of funds that could be used to finance education for our children, additional funding for healthcare, investment in alternative fuels and renewable energy, and our fight against terrorism. Our tax and securities laws must be strengthened to provide greater transparency in this secretive offshore world, and to bring those who seek to avoid our laws offshore into full compliance.

Equally important offshore jurisdictions that have tailored their laws to become havens for tax evasion and financial fraud must be prevented from receiving U.S. tax benefits afforded other countries that provide adequate disclosures of financial information.

The nature of offshore abuse today ranges from the clearly criminal to the questionable. Most US taxpayers do not go offshore alone. Those that do are supported by an industry of domestic and offshore service professionals and asset protection specialists who encourage and assist them in moving their assets offshore. These professionals claim to offer their clients asset protection and financial privacy, but in reality they are offering asset protection with a wink and a nod. The real objective is to shelter assets from U.S. law enforcement, especially the IRS. This objective is accomplished through the establishment

of offshore trusts and corporations that in reality are owned and controlled by the U.S. client, but on paper are owned by nominee officers and directors in the offshore jurisdictions.

I am concerned about the conduct of these professionals and question whether an entire industry that purports to use creative but legal solutions to help their clients, has in too many cases become architects of strategies designed to avoid and abuse U.S. law. We need the professional community to be pillars of commerce rather than pillars for circumvention.

Over the course of the year-long investigation, the Subcommittee explored many of the various ways U.S. citizens hide assets, avoid taxes, and use offshore structures to avoid or circumvent U.S. laws. A number of these cases involve fraud and criminal conspiracy and resulted in indictments and convictions.

For example, the Subcommittee examined how promoter Lawrence Turpen provided Robert Holliday various shell corporations and trusts offshore. Mr. Turpen selected numerous offshore service providers to provide nominee directors and trustees for these newly created entities.

According to Mr. Holliday, he was the "puppet master" to a team of offshore service providers to shelter and hide assets, allowing him to use assets to pay his expenses onshore. Mr. Holliday and Mr. Turpen pled guilty to tax-related conspiracy charges.

The story of Mr. Greaves is another example of moving hundreds of thousands of dollars offshore and retaining the ability to control and use the assets. Under the guidance of offshore promoter Terry Neal, Mr. Greaves became a "business consultant" for an offshore structure he set up, he was able to communicate instructions to his companies offshore. He created mortgages and insurance policies to take deductions for payments never made. In 2004, both men pled guilty to charges related to federal tax evasion.

While these cases present clear cases of criminal tax evasion and fraud, others are more complex and not as clear.

The complex cases that the Subcommittee reviewed are eye-opening in revealing the extent to which an entire industry of onshore and offshore professionals, including attorneys, accountants, bankers, brokers, and corporate and trust service providers, are helping U.S. individuals undermine our tax, securities, and anti-money laundering laws. While complicated, these strategies still raise the same issues. All work on the same theme, obscuring the economic reality behind transactions and hiding U.S. ownership of offshore assets. Should U.S. citizens be allowed to use offshore secrecy laws to produce too good to be true tax results by hiding their activities from U.S. law enforcement? I also question at what point reliance on counsel, simply becomes a convenient excuse, a way to cover one's tracks. The issue is simply one of where the line should be drawn.

For more than a year, the Subcommittee examined the activities of Sam and Charles Wyly, high-net-worth individuals from Texas, who sheltered at least $190 million in stock option compensation in a complex network of 58 tax exempt offshore trusts and shell corporations established to benefit their families. To shield these offshore assets from the IRS, SEC, and potential creditors, the Wylys disavowed ownership and control. The evidence reviewed by the Subcommittee tells a different story. The evidence shows that the Wylys and their representatives initiated and planned virtually every transaction that the offshore entities entered, and used quirks in offshore trust law and financial secrecy to direct the investment and use of the offshore assets for their own benefit and enjoyment. Indeed, during the thirteen year period [1992-2004] reviewed by the Subcommittee, the offshore entities transferred approximately $600 million in untaxed, offshore assets to support the Wylys in their business and personal interest. In many cases, offshore funds that the Wylys claimed not to control were used to purchase real estate and

personal property (including art and jewelry) used by the Wylys and their families, and even to loan offshore funds to the Wylys personally, on favorable, unsecured terms.

For example:

- More than $140 million dollars in loans were authorized by offshore trusts set up by the Wylys to advance Sam and Charles Wyly's personal and business interests.

- $85 million dollars was authorized by an offshore trust set up by the Wylys to purchase real estate in the United States that the Wylys were able to use, live in, and enjoy.

- Nearly $30 million dollars was authorized by an offshore trust to purchase artwork, furnishings, and jewelry that members of the Wyly family were able to use and wear as their own.

These Wyly facts are illustrative of the scope, breadth, and complexity of the efforts taken by U.S. individuals to utilize offshore jurisdictions to circumvent U.S. regulation and hide their assets, but they are also indicative of the extent to which U.S. taxpayers are assisted in their efforts by attorneys and other professional advisors.

At some point, however, the line is crossed, and reliance on counsel becomes just a convenient excuse. With respect to the Wylys, it strains credulity to believe that the Wylys did not have reason to know that their ability to direct and use the offshore assets contradicted their representation that they did not own or control these assets for U.S. tax and securities purposes.

Another strategy investigated by the Subcommittee was designed and marketed by Quellos Group, LLC, a Seattle based investment management firm, to a handful of its extremely high-net-worth U.S. clients. Known as POINT (Personally Optimized Investment Transaction), this complex strategy was designed to delay and eliminate taxes owed on capital gains, and relied in part on offshore secrecy in the Isle of Man to obscure the true nature of the transaction from U.S. law enforcement. Quellos sold this strategy to five high net worth taxpayers, who together sheltered $2 billion dollars in investment gains, depriving the Treasury of an estimated $300 million in tax revenue.

Quellos was assisted in its activities by prominent U.S. law firms, who provided advice on structuring the transactions and opinion letters validating them, U.S. financial institutions, who provided financing and technical assistance, and offshore investment advisors, who through the use of two Isle of Man shell corporations claim to have created a paper portfolio of over $9.6 billion in securities, including more than $1 billion in paper losses available for purchase by U.S. taxpayers who needed to offset their capital gains.

Whether clearly criminal or complex and less clear, all of the cases examined by the Subcommittee demonstrate the need for greater transparency in this secretive offshore world. The bi-partisan report issued in connection with today's hearing makes several recommendations that light behind the dark shroud of offshore secrecy. Our recommendations would accomplish this by:

- Tightening SEC and IRS disclosure requirements on offshore trusts and shell corporations in tax and secrecy havens;

- Creating a presumption in U.S. tax, securities, and anti-money laundering laws that these entities are controlled by any U.S. individuals who have contributed or direct the offshore assets;

- Extending anti-money laundering laws and the requirement to report suspicious transactions to law enforcement to foreign based hedge funds that are affiliated with U.S. hedge funds and invest in the United States;

- And perhaps most important, by sanctioning tax and secrecy havens that do not cooperate with U.S. tax enforcement.

I look forward to the testimony we will hear at today's hearing. It is imperative that Congress continue to ensure the efficiency and operation of the government and to ensure that honest taxpayers are not asked to carry an unfair and disproportionate burden.

After today's hearing and assessing the testimony, I intend to discuss with Senator Levin what follow-up action we need to take in order to address the problems exposed by this investigation. Stated simply, the abuse of offshore tax havens by U.S. individuals is shifting the tax burden to all of us. I intend to fix this problem.

Lastly, I want to thank both the Majority and Minority Subcommittee staffs for all their hard work and collaboration over the course of this investigation.

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