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Northern District of Texas

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FORMER NURSING HOME EXECUTIVE/LAWYER PLEADS GUILTY TO CONSPIRACY AND TAX EVASION CHARGES

FORT WORTH, Texas — Gary R. Trebert, 57, pled guilty this morning before U.S. Magistrate Judge Charles Bleil to two counts of an indictment that charged him with various offenses related to his operation of nursing homes in Texas and elsewhere, announced U.S. Attorney Richard B. Roper of the Northern District of Texas. Co-defendant Larry Gordon May pled guilty to his role in the conspiracy in October 2007 and is scheduled to be sentenced on April 28, 2008. Co-defendant Stephen Michael Ewing, a/k/a “Stephen Michaels,” is scheduled to go on trial March 3, 2008.

Trebert pled guilty to conspiracy to defraud the government by obstructing and impeding lawful government functions of the Internal Revenue Service (IRS) and the Department of Health and Human Services (HHS) and tax evasion and aiding and abetting. He faces a maximum statutory sentence of 10 years in prison, a \$500,000 fine and restitution that will be determined by the Court based on all of his criminal conduct relating to the offenses charged in the indictment, including, but not limited to, unpaid taxes and unlawfully obtained healthcare payments. The government will, however, as per the plea agreement, make a non-binding recommendation that the Court sentence Trebert to a term of eight years in the custody of the Bureau of Prisons. Trebert is scheduled to be sentenced by U.S. District Judge Terry R. Means on July 14, 2008.

U.S. Attorney Roper said, “This case is the one of the largest payroll tax fraud cases ever prosecuted in the U.S. Mr. Trebert admitted evading more than \$34 million in payroll taxes - this is nothing short of egregious. Nursing homes should be safe havens for the elderly and vulnerable, not vehicles for criminals to commit fraud.”

“Any time false statements and documents are used to obtain control of healthcare entities, especially as in this case nursing homes, the nation's health insurance programs suffer, and our most vulnerable citizens are imperiled,” said Special Agent in Charge Mike Fields of the HHS Office of the Inspector General's (OIG) Dallas Regional Office. “Our HHS OIG investigators will continue to work closely with our law enforcement partners to identify providers who deliberately manipulate the system to obtain crucial Medicare or Medicaid dollars.”

“Evading employment taxes can have serious consequences for employers and their employees. Today’s guilty plea demonstrates that those who willfully attempt to undermine our tax system by playing fast and loose with the rules will be held accountable, regardless of how complicated a scheme they devise,” said

Erick Martinez, IRS Special Agent in Charge for the Dallas Field Office.

Robert E. Casey Jr., Special Agent in Charge, Dallas FBI stated, "Health Care Fraud remains a top investigative priority for the FBI. This conviction is an excellent example of how the FBI, partnering with other law enforcement agencies, will aggressively investigate and bring to justice those who abuse the system which is relied upon by every American, and in this case, those who are most at risk, our nation's elderly."

"The funds allotted to the Medicaid program are supposed to provide health care to needy Texans, not support a fraudulent tax evasion scheme," Texas Attorney General Greg Abbott said. "This wasteful scam has been shut down thanks to an outstanding joint effort by state and federal agencies. We look forward to continuing joint state-federal efforts to root out waste, fraud, and abuse in the Medicaid system."

"People that use for their own financial benefit the elderly and their systems of care take advantage of one of the most vulnerable sections of society," said Fort Worth Division Inspector in Charge Randall C. Till. "The U.S. Postal Inspection Service is committed to protecting American consumers from financial predators such as Gary Trebert by enforcing to its maximum effect the Mail Fraud statute, the nation's oldest consumer protection law."

Trebert admitted that beginning in August 1999 and continuing through mid-May 2004, he, Stephen Michael Ewing and Larry May conspired together, and with others, to defraud the U.S. by impeding, impairing, obstructing, and defeating the lawful government functions of the IRS in the ascertainment, computation, assessment, and collection of the revenue, that is, nursing facility employees' withheld income taxes, social security taxes and medicare taxes, and HHS in the administration of the Social Security Act and the Medicare and Medicaid programs.

As part of the conspiracy, Trebert and his coconspirators, using the names of sham corporate entities, obtained control of 70 licensed nursing facilities with thousands of patient beds and thousands of employees. In order to acquire control of these facilities, Trebert, Ewing and May used false statements and false and fraudulent documents including Applications for Nursing Facility License and Medicaid Contracts, Medicare Federal Provider Enrollment applications, ownership documents, IRS Employer Identification Number applications, Health Insurance Benefit Agreements, and Electronic Fund Transfer forms. Their falsifications included falsely identifying relatives as owners, operators, and managers of the nursing homes on the applications; failing to disclose staffing/payroll companies on nursing home applications; failing to disclose Ewing and May as the true owner/operators of nursing homes; and forging names of individuals on filed documents to divert responsibility away from the three defendants. Trebert and his coconspirators used the false statements and documents to hide from HHS, state licensing and Medicaid agencies, and the IRS, the true control and management of the nursing facilities, their responsibility for more than \$200 million in money derived from the nursing homes, and their responsibility for the nursing facilities' residents.

More than 150 sham staffing/payroll entities, many with foreign business addresses at drop boxes in England and Austria, were created to file Form 941 employer withholding tax returns with the IRS, preventing the IRS from assessing and attempting to collect more than \$34 million of unpaid payroll tax liabilities from Trebert, Ewing and May, and creating the appearance that these sham staffing/payroll entities employed more than 4500 nursing facility employees, when they did not. From time to time Trebert caused his coconspirator to fly to London in order to mail to the IRS the sham payroll/staffing companies' false withholding tax returns.

Trebert admitted that he and his coconspirators diverted to themselves and their personal activities substantial sums of money derived from their nursing home operations and from the non-payment of employees' withheld payroll taxes. Trebert also admitted that in April 2004, he attempted to evade and defeat the assessment and payment of more than \$4,113,000 in withholding taxes taken out of employees' pay at 42 nursing homes he and his coconspirators controlled.

U.S. Attorney Roper praised the investigative efforts by federal and state agencies including, Internal Revenue Service - Criminal Investigation, U.S. Department of Health and Human Services Office of Inspector General, Federal Bureau of Investigation, U.S. Postal Inspection Service, Texas Office of the Attorney General - Medicaid Fraud Control Unit, and state agencies from Kansas, Iowa, Oklahoma and Virginia. The case is being prosecuted by Assistant U.S. Attorneys Ron Eddins and Alan Buie.

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