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ACCOUNTING FIRM ATTORNEY PLEADS GUILTY TO TAX FRAUD RELATED TO TAX SHELTERS CLAIMING OVER ONE BILLION DOLLARS OF FRAUDULENT TAX LOSSES

LEV L. DASSIN, the Acting United States Attorney for the Southern District of New York, and PATRICIA J. HAYNES, the Special Agent-in-Charge of the New York Field Office of the Internal Revenue Service ("IRS"), Criminal Investigation Division, announced that MICHAEL KEREKES, an attorney at a major international accounting firm, pleaded guilty earlier today to conspiring with certain tax shelter promoters to defraud the United States in connection with tax shelter transactions involving clients of the accounting firm and the law firm Jenkens & Gilchrist ("J&G"). KEREKES also pleaded guilty to tax evasion in connection with a multimillion-dollar tax shelter transaction of a client of the accounting firm, at whose IRS audit KEREKES gave false and misleading testimony. According to the two-count felony Information to which KEREKES pleaded guilty, and statements made during his guilty plea proceeding in Manhattan federal court before United Stated District Judge HAROLD BAER, JR.:

Between 1998 and 2008, KEREKES was an attorney and a principal at the accounting firm (which he identified during his guilty plea as BDO Seidman) and which maintained Offices in among other places, Chicago, New York, and Los Angeles. Beginning in 1998 until 2003 KEREKES was a member of the firm's "Tax Solutions Group," ("TSG") a group formed by the firm's leadership and devoted to designing, marketing and implementing high-fee tax strategies for wealthy clients, including tax shelter transactions.

TSG management utilized a bonus structure that handsomely rewarded the accounting firm personnel involved in the design, marketing, and implementation of the TSG's transactions. In addition, the CEO of the firm doled out additional bonuses from the profits earned as a result of the sale of the tax shelter products. Moreover, the firm made the sale of the tax shelter products a focal point of its aggressive "value added" product promotion activities, using a "Tax $ells" logo and other marketing hype to induce employees to generate additional tax shelter sales.

While serving as a member of the TSG, KEREKES, along with other TSG partners, engaged in the design, sale, and implementation of two different tax shelter transactions with the Chicago office of the law firm of Jenkens & Gilchrist, as well as an international bank with its U.S. headquarters in New York. As an attorney, KEREKES knew that the tax shelter transactions he helped devise and sell would be respected and allowed by the IRS only if the client had a substantial non-tax business purpose for entering the transaction, and the client had a reasonable possibility of making a profit through the transaction. KEREKES and his co-conspirators knew and understood that the clients entering into the tax shelter transactions being marketed and sold with Jenkens and Gilchrist had neither a substantial non-tax business purpose or a reasonable possibility of earning a profit, given the large amount of fees being charged by the accounting firm and Jenkens & Gilchrist to enter the transaction. Those fees were set by the co-conspirators as a percentage of the tax loss being sought by the tax shelter clients.

In order to make it appear that the tax shelter clients of KEREKES, other TSG members, and Jenkens & Gilchrist had the requisite business purpose and possibility of profit, KEREKES and his co-conspirators reviewed and approved the use of a legal opinion letter issued by Jenkens & Gilchrist law firm that contained false and fraudulent representations purportedly made by the clients about their motivations for entering into the transactions. In addition, KEREKES and his co-conspirators created and used other documents in the transactions that were false, fraudulent, and misleading in order to paint a picture for the IRS that was patently untrue — that is, that the clients had a legitimate non-tax business purpose for entering the transaction, and executing the preplanned steps of the transaction. KEREKES and his co-conspirators caused the clients to file false and fraudulent tax returns reporting the tax benefits flowing from the shelter transactions. In total, the fraudulent tax shelter transactions implemented by KEREKES, his accounting firm, Jenkens & Gilchrist, and the financial institution that assisted them, caused clients to report over $1,000,000,000 in false and fraudulent tax losses, resulting in the evasion of over $200,000,000 of taxes due to the IRS.

KEREKES admitted during the plea proceeding that, on or about August 9, 2002, he made false and misleading statements to the IRS regarding the tax shelter transaction of one of his clients, whom KEREKES had pitched a tax shelter transaction as a way for the client to eliminate the taxes he was facing from the sale of his company. KEREKES assisted the client in implementing the transaction, which was known as the "short option" transaction, for which the client was charged approximately $145,000 by both the accounting firm and Jenkens & Gilchrist, in order to produce losses to offset the taxes due to the IRS on the $5,000,000 the client received for the sale of his business. The short option transaction of the client, however, had the reasonable possibility only to double the $50,000 additional fee the client was required to pay to the bank on the options transaction. Thus, KEREKES knew that there could be no profit to the client.

As part of his implementation of the Client's transaction, KEREKES sent false and misleading documents to the client and included those documents in the accounting firm's client file to bolster an argument down the road to the IRS that the client had a substantial non tax business purpose for implementing the transaction. The client ultimately filed tax returns with the IRS reporting the false and fraudulent losses purportedly generated from the short options shelter, thus evading a substantial amount of taxes that he would otherwise have had to pay. During a later audit by the IRS of the client's short option transaction, KEREKES gave false and misleading testimony to the IRS, in an attempt to deceive the IRS about the legitimacy of the client's transaction and the client's intent in implementing it.

KEREKES, 46, who resides in Santa Monica, California, pleaded guilty to one count of conspiracy to defraud the IRS and one count of tax evasion. He faces a maximum sentence of five years in prison on the conspiracy charge and five years in prison on the tax evasion charge. On each count, the maximum fine is the greatest of $250,000 or twice the gross gain or gross loss from the offense. Restitution to the IRS can be imposed on all the charges.

KEREKES is scheduled to be sentenced on March 4, 2010, by Judge BAER.

Mr. DASSIN thanked the IRS and the Department of Justice Tax Division for their efforts in this case. Mr. DASSIN added that the investigation is continuing.

Assistant United States Attorney STANLEY OKULA and Trial Attorney NANETTE L. DAVIS from the Department of Justice Tax Division are in charge of the prosecution.

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