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## Former BDO Chief, Ex-Lawyer Indicted Over Shelters (Update2)

By David Voreacos and David Glovin - Jun 10, 2009

June 10 (Bloomberg) -- BDO Seidman LLP's ex-chief executive officer and a former tax-shelter promoter at the defunct law firm Jenkins & Gilchrist are among seven defendants set to appear in federal court on June 23 to answer charges that they marketed phony tax shelters.

Denis Field, 51, the former CEO at accounting firm BDO Seidman, and Paul Daugerdas, 58, a former Jenkins attorney in Chicago, were charged by a federal grand jury in New York with conspiracy and tax evasion for allegedly marketing fraudulent tax shelters from 1994 through 2004.

The indictment also charged Robert Greisman, 48, a former partner at BDO; two other ex-Jenkins lawyers and accountants, Erwin Mayer, 45, and Donna Guerin, 48; and two certified public accountants who formerly worked as client advisers at Deutsche Bank AG, Raymond Craig Brubaker, 53, and David Parse, 47.

"Dishonest and fraudulent tax professionals, including accountants, attorneys and bankers, should stand up and take note" of yesterday's indictment, said John DiCicco, acting assistant attorney general in the Justice Department's Tax Division, in a statement.

The indictment stems from a wider U.S. probe of illegal tax shelters. The defendants used shelters named Short Sales, Short Options Strategy, Swaps and Homer to generate more than \$7.32 billion in fraudulent tax losses for at least 931 wealthy individuals, prosecutors alleged.

### Tax Losses

The Short Sales, SOS and Swaps shelters were "designed to produce tax losses" through "contrived, preplanned and preordained" steps that lacked "economic substance and business purpose," according to the indictment. There was "no reasonable possibility" that clients would make a profit, the indictment said.

The defendants are scheduled to make a preliminary appearance in Manhattan federal court on June 23 and then enter a formal plea to the charges on June 24.

Yusill Scribner, a spokeswoman for Acting U.S. Attorney Lev Dassin, declined to comment on whether the wealthy investors would be prosecuted.

From 1998 to 2002, prosecutors alleged, Daugerdas was paid \$95.7 million for work on the shelters; Mayer received \$28.7 million; Field got \$24.6 million; Guerin was paid \$17.5 million; Parse received \$6 million; Greisman got \$4.2 million; and Brubaker got \$3.3 million. All except Guerin used the shelters to “evade personal tax liabilities,” prosecutors claimed.

Jenkins & Gilchrist avoided prosecution in March 2007 by admitting it developed and marketed tax shelters that generated more than \$1 billion in phony losses. In January 2005, Jenkins agreed to pay \$81.6 million to clients who had sued over its tax-shelter advice.

#### Chicago Office

Jenkins shut down after reaching the non-prosecution agreement, which didn't apply to lawyers at the Dallas-based firm. The firm blamed its demise on its lawyers in Chicago, where Daugerdas ran the office.

“Paul Daugerdas firmly believes that the tax advice provided to his clients was well within the scope of then- existing federal tax law,” Margarite Wypychowski, a spokeswoman, said in a statement. “He categorically denies any participation in or approval of any wrongdoing in connection with his rendering of professional legal services.”

Field attorney Caroline Rule of Kostelanetz & Fink in New York said: “We're very disappointed that the government decided to indict this case. Mr. Field always believed that the transactions were legitimate tax planning.”

#### 'Limited Roles'

Brubaker's attorney, Barry Berke, said his client “is no different than the countless other professionals in the financial sector, who innocently played limited roles in these types of transactions.”

Parse's lawyer, Susan Brune, said he “was not a tax expert. He was an investment broker. He should not be a part of this case.”

Mayer is “saddened and disappointed by the charges,” said his attorney, Daniel Reidy. “Mr. Mayer acted in good faith in providing tax advice to his clients.”

Mark Rotert, a lawyer for Guerin, said she “certainly is not guilty of any charge contained in the indictment.” Sheldon Zenner, a lawyer for Greisman, declined to comment.

A spokesman for Deutsche Bank, Ted Meyer, said it is cooperating fully with the Justice Department investigation.

All seven defendants were charged with conspiracy, tax evasion and a corrupt endeavor to impede the internal revenue laws. The conspiracy and tax evasion counts carry maximum prison terms of five years.

#### Ernst & Young

On May 8, four current and former executives of Ernst & Young LLP were found guilty by a federal jury in New York of selling illegal shelters to wealthy clients. On June 3, former BDO Seidman Vice Chairman Charles Bee pleaded guilty to federal charges that he helped clients evade more than \$200 million in taxes through illegal shelters.

In a trial in December, two former KPMG LLP executives were convicted and one was acquitted of selling illegal shelters that helped clients evade hundreds of millions of dollars in taxes. A lawyer also was convicted. That case was initially brought against 17 ex-KPMG executives. A judge dismissed charges against many of them after saying prosecutors violated their rights.

KPMG, after earning about \$115 million from sales of the shelters, agreed to pay \$456 million in 2005. KPMG promised to cooperate with prosecutors, who dismissed criminal charges against the New York-based firm in January 2007.

Bee's plea in Manhattan federal court follows that of two other BDO Seidman officials, former Vice Chairman Adrian Dicker and ex-principal Michael Kerekes. Bee, 63, agreed to forfeit \$20 million and homes in Boca Raton, Florida, and Saddle Brook, New Jersey, and faces a maximum of 15 years in prison on three fraud counts, prosecutors said.

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