

Former Chief Financial Officer of Catholic Diocese of Cleveland Sentenced for Tax Crimes

On December 11, 2008, in Cleveland, Ohio, Joseph H. Smith, a CPA and attorney, was sentenced to 12 months and a day in prison for his participation in a scheme to defraud the Internal Revenue Service (IRS). Following a six-week trial, a jury in Cleveland convicted Smith of one count of conspiracy to defraud the United States and IRS, four counts of filing false tax returns, and one count of corruptly endeavoring to impede the IRS. According to court documents and evidence presented at trial, Smith was the treasurer, chief financial officer, and eventually the financial and legal secretary for the Catholic Diocese of Cleveland. Co-conspirator Anton Zgoznic, a former diocese employee, owned and operated several corporations that provided accounting, tax, financial and computer technology services for the diocese on an outsourced basis.

During trial, it was shown that Smith and Zgoznic entered into a scheme to defraud the IRS. Entities that Zgoznic owned and controlled paid Smith more than \$784,000 from 1997 to 2003. Smith and Zgoznic disguised these payments as compensation earned for "consulting" or "legal" services that Smith purportedly provided for the Zgoznic entities. Smith failed to report, and improperly reported, a portion of the payments on his income tax returns. In addition, Smith received \$270,000 of unreported income from the diocese by means of two checks in 1996 and 1997, which were deposited into a brokerage account he controlled in the name and tax identification number of the diocese. Evidence at trial established that Smith also failed to report dividends and capital gains he earned on the investments in that account. Zgoznic was convicted, in October 2007, in a separate trial on counts of conspiracy to commit mail fraud and mail fraud (related to a scheme to defraud the Diocese of Cleveland), the corrupt endeavor charge described above, and four counts of aiding and assisting in the preparation of a false return. A sentencing date for Zgoznic has not yet been set.

Birmingham Pastor Sentenced for Under-Reporting Income

On December 18, 2007, in Birmingham, Ala., Gregory Louis Clarke was sentenced to 21 months in prison and ordered to pay \$35,684 in restitution. Clarke was convicted by a federal jury in July 2007 of filing false income tax returns for the 2000, 2001 and 2002 tax years. At trial, evidence revealed that Clarke had under-reported his income by approximately \$110,000 for the three tax years. Also at trial, the jury found that the unreported income was compensation to Clarke from the New Hope Baptist Church, the New Hope Christian School, the New Hope Federal Credit Union, and other sources. Specifically, Clarke attempted to conceal receipt of funds by directing payment from New Hope Baptist Church directly to his creditors. Court filings showed that some of those unreported funds included a "bonus" in the amount of \$51,125 from New Hope Baptist Church, or payment in that approximate amount, went directly from the church bank account to Clarke's creditors. Funds in the amount of \$16,090 were paid to Clarke's housing allowance account for his service as interim manager of New Hope Federal Credit Union. Other amounts of income not reported by Clarke included \$14,906.67 as a car allowance, more than \$15,000 in life insurance and disability premiums, and more than \$11,000 in payments to Clarke from other sources.

Senior Pastor of Macedonia Baptist Church in Charlotte Sentenced to 63 Months in Prison

On August 31, 2007, in Charlotte, NC, Dr. John Henry Walker, senior pastor of Macedonia Baptist Church in Charlotte, was sentenced to 63 months in prison, to be followed by five years of supervised release, and ordered to pay approximately \$274,000 in restitution to the Internal Revenue Service (IRS) plus any interest and penalties, and a special assessment of \$900 (representing \$100 per criminal count). In November 2006, Walker pleaded guilty to nine federal criminal counts which charged false statements in connection with bank loans, tax evasion, and false statements to federal agents. According to statements made in open court and court documents, Walker began his employment with Macedonia Baptist Church in 1992. During the 15 years of his employment as senior pastor at Macedonia Baptist Church, Walker received numerous forms of compensation, including rent-free accommodations in a residence owned by the church, a base salary, a housing allowance, annual bonuses, Christmas bonuses, honorariums, paid vacations, and other payments constituting reimbursements for various costs he incurred. The court's records reflect that from 1998 through 2003, Walker received over \$900,000 in payments and reimbursements from Macedonia Baptist Church, and that when funds in the church's general account were insufficient to make the payments to Walker, transfers were made from or checks were drawn on Macedonia Baptist Church's building fund account. In addition, Walker received a number of payments from an account set up for Macedonia Baptist Church's summer youth program. During the years charged in the indictment (1999-2003), the defendant personally earned nearly \$600,000 in taxable income from Church and other sources; however, Walker reported taxable income of less than \$55,000 of this sum and attempted to evade federal income taxes of more than \$400,000 for those years. In addition, according to statements made in open court in January 2007, Walker had committed new tax-related law violations (violations not contained in the bill of indictment) and the court gave him three days to pay his outstanding taxes for 2004 and 2005 or be taken into custody. At his sentencing hearing, it was discovered that Walker had a history of willful non-compliance with the Internal Revenue Code, going back to 1991.

Judge Sentences Family Members Who Defrauded Churches, Ministries and Religious Organizations of Approximately \$62 Million

On January 31, 2007, in Dallas, TX, Gregory Earl Setser was sentenced to 40 years in prison and ordered to pay \$62 million in restitution for conspiracy, securities fraud and money laundering. Setser was the president, CEO and chairman of International Product (IPIC), a Canton, Texas import/export company. As a self-proclaimed former minister, Setser exploited connections to highly visible members of the evangelical Christian community to find investors, legitimize IPIC's operations and sell IPIC securities, ultimately defrauding investors in an elaborate Ponzi scheme. Gregory Setser's sister, Deborah Setser, of Rancho Cucamonga, CA, who was convicted along with Setser was sentenced to 15 years in prison. Deborah Setser was an IPIC officer and was involved in the offer and sale of investments in programs with IPIC and Home Recovery Network (HRN), a companion fraudulent scheme run by the defendants. Cynthia Faye Setser, Gregory Setser's wife, did not appear for her sentencing date and remains a fugitive. Setser's son, Joshua, was sentenced to 24 months in prison. The government contended that IPIC and HRN had no legitimate operations and that its fraudulent operation funded the family's lavish lifestyle and helped maintain the companies' facade. Evidence showed that the Setsers used their ill-gotten gains to buy a \$2.3 million yacht, a helicopter, family residences, two small airplanes and several luxury vehicles. As part of their scheme, they established a website to solicit investors. They falsely promised investors that their money was at minimal risk and that they would earn a 25 to 50 percent return on their investment in a three to six-month period. Joshua Setser testified that his father admitted to him that IPIC's ventures were a sham and that the representations both he and his father made to investors were false.

Former Pastor Sentenced on Charges of Tax Evasion, Bank Fraud, and Filing False Documents for Tax Exemption

On August 4, 2009, in Baltimore, Md., Otis Ray Hope, of Aiken, South Carolina, was sentenced to 37 months in prison, followed by three years of supervised release, and ordered to pay \$2,422,320 in restitution. Hope pleaded guilty in June 2009 to tax evasion, subscribing to a false document in connection with the filing of a federal tax exemption, and conspiracy to commit bank fraud. According to his plea agreement, in 1996 Hope was the senior pastor for Montrose Baptist Church located in Rockville, Maryland. He supervised the Montrose Christian School and the "English as a Second Language" (ESL) Program. In 2001, Hope formed his own company called the Maryland International Student Association (MISA), to take over the management of the ESL program. MISA had no general business ledgers and it never filed a federal or state tax return. Upon taking over the management of the ESL program, MISA substantially increased the price of tuition from approximately \$7,400 to \$12,500. From approximately June 2001 to December 2003, foreign students who were admitted into the ESL program wired approximately \$1.35 million in tuition payments into MISA bank accounts, which Hope controlled. Hope diverted much of the tuition payments to cover his personal expenses, including investments in Shiloh Ministries of Hagerstown, Inc. Hope filed joint tax returns in 2001, 2002 and 2003, in which he failed to report approximately \$958,236 of MISA tuition receipts he used, resulting in the evasion of \$287,131 in taxes. Then from August 2006 through March 2007, Hope was one of the trustees of the Shiloh Company which operated the Shiloh Conference and Retreat Center in Hagerstown, Maryland. In September 2006, Hope and a co-conspirator applied for a commercial loan on behalf of the Shiloh Company, in the amount of \$1.75 million to refinance the mortgage on the Conference and Retreat Center and to release \$108,835 being held in escrow by the previous lender. In order to obtain approval of the loan, the bank required submission of the company's financial statements, minutes from annual meetings, and a corporate resolution authorizing the company to borrow the money. Hope and his co-conspirator made false representations to the bank, including fraudulent financial statements overstating the company's assets and monthly cash flow. The bank granted the \$1.75 million loan and \$108,835 was released from the previous lender's escrow accounts. After paying off the outstanding loan balance and fees owed to the previous lender, the settlement company wired \$77,640, the net proceeds of the closing, to a bank account controlled by Hope. Finally, Hope subscribed to a false application for exemption from federal taxes for Shiloh Ministries, in which Hope claimed that the recipients did not pay for services provided by Shiloh Ministries; that the company's financial support was derived from donations; and that the company conducted worship services. In fact, the company charged recipients for its services; the company's financial support was derived from rental fees and other charges; and the company did not conduct worship services.

Las Vegas Minister and Conspirator Sentenced in Tax Evasion Scheme

On February 6, 2009, in Las Vegas, Nev., Minister Michael Haynes and David Jett were sentenced to 37 months in prison and five years probation, respectively. Haynes and Jett were also ordered to pay restitution of \$834,000 and \$150,000, respectively, to the U.S. Treasury. In September 2008, a jury convicted Haynes for conspiring to evade taxes through a scheme involving the fraudulent sale of One Voice Technologies, Inc. stock. Jett pleaded guilty to conspiracy in March 2008. According to the indictment and evidence presented at trial, Haynes and Jett orchestrated the fraudulent sale of \$7 million in One Voice stock. Haynes and Jett used at least 10 stock certificates to generate the \$7 million in gross proceeds; all of these stock certificates were in different nominee names. As part of the scheme, new stock certificates in the name of One Voice were issued to at least five nominees, two of whom testified at trial. With the assistance of the transfer agent for One Voice, Haynes had the nominees sign documents that stated they had lost their original stock certificates and assigned their rights to the stock. According to court documents and evidence presented at trial, Haynes directed the \$7 million in stock proceeds to be deposited in a nominee bank account at the Bank of Nova Scotia. At Haynes' instruction, the proceeds were transferred via checks and wire transfers to U.S. bank accounts in his and Jett's control. Jett and Haynes then used funds obtained from the sale of One Voice stock for their personal benefit. Haynes failed to report the proceeds of the stock sale on his personal income taxes.

2009 Kent Hovind to remain in prison; wife to serve sentence

An appeals court upheld the federal prison sentences of creationist minister Kent Hovind and his wife, Jo Hovind, who were convicted of a host of tax-fraud charges. Kent Hovind, 55, is serving a 10-year sentence at the Federal Correctional Institution in Edgefield S.C. He was found guilty in November 2006 of failing to collect and pay \$473,818 in employee-related taxes, obstructing tax laws and structuring transactions to avoid financial reporting laws. Jo Hovind, 53, was sentenced to one year and a day in prison on 45 counts structuring transactions to avoid financial reporting laws. She has remained free pending the outcome of the appeal. U.S. District Judge Casey Rodgers will decide at an unscheduled hearing when Jo Hovind will begin serving her sentence. The 18-page page opinion from the 11th District Court of Appeal released last week says that the Hovinds now must pay more than \$600,000 in restitution. Forfeiture proceedings against the Hovinds' property, including their creationism theme park Dinosaur Adventure Land on Old Palafox Highway, are ongoing.