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Conservation Easement Tax Shelter Promoters Get 23 And 25 Years Prison



It is no secret that the IRS does *not* like syndicated conservation easement tax deductions. The government audits and litigates them, and some promoters even end up with criminal charges. The DOJ has confirmed that two men were sentenced for crimes arising from their organization, promotion and sale of abusive syndicated conservation easement tax shelters. Jack Fisher, a certified public accountant who began selling units in his abusive tax shelters at least as early as 2008, was sentenced to 25 years in prison.

James Sinnott, an attorney who joined Fisher's scheme in 2013 and oversaw the massive expansion of the tax shelters' fraudulent deduction amounts claimed from the IRS, was sentenced to 23 years in prison. Victor Smith and William Tomasello, both Atlanta-area CPAs, also pleaded guilty to conspiracy to defraud the United States.

According to court documents and evidence presented at trial, Fisher, Sinnott and their co-conspirators sold more than \$1.3 billion in fraudulent tax deductions, leading to a tax loss to the IRS of more than \$450 million. Five other tax professionals involved in Fisher's scheme previously pleaded guilty. Fisher was a pioneer in the conservation easement industry, and one of its biggest promoters. Fisher and Sinnott each made millions promoting and selling their tax shelters to wealthy taxpayers. The two men also used fraudulent deductions generated by their tax shelters on their own personal income tax returns to reduce the taxes they owed on the millions earned.

A federal jury in Atlanta convicted Fisher and Sinnott on Sept. 22, 2023, of conspiracy to defraud the United States, conspiracy to commit wire fraud, aiding and assisting the filing of false tax returns and subscribing to false tax returns arising out of their fraudulent tax shelter scheme involving syndicated conservation easements dating back nearly two decades. Fisher was also separately found guilty of money laundering. One of the appraisers who was

charged with Fisher and Sinnott pleaded guilty and was sentenced in November 2023. Fisher's primary assistant, Kate Joy, who was also indicted, remains a fugitive.

The evidence proved that Fisher and Sinnott designed, marketed and sold to high-income clients abusive syndicated conservation easement tax shelters based on fraudulently inflated charitable contribution tax deductions, promising them deductions 4.5 times the amount the taxpayer clients paid to buy the deductions.

Fisher and Sinnott used the funds raised from their taxpayer clients to buy land through their property holding companies and then had the tax shelters cause those companies to donate the land or a conservation easement over the land — often within days or weeks of the land's purchase. To reach the inflated fair market value of the donations, Fisher and Sinnott primarily used appraisals of the conservation easements and fee simple land donations at valuations often more than 10 times higher than the price Fisher and Sinnott actually paid to acquire the property.

The evidence further showed that Fisher and Sinnott backdated and instructed others to falsely backdate documents to be presented to the IRS, including subscription agreements, payment documents, engagement letters and other records. Fisher's accountant, a partner at the accounting firm Fisher started, testified at trial and previously pleaded guilty for his role in the scheme. Along with Fisher and Sinnott, he oversaw the preparation of false tax returns, which claimed charitable contribution tax deductions based upon the false appraisals.

The evidence demonstrated that Fisher, Sinnott and others received more than \$41 million in payments from the sale of units in these tax shelters that

involved backdated documents or untimely payments, which were paid to claim fraudulent and inflated tax deductions. The government proved that Fisher and Sinnott personally made millions from their scheme. Fisher, specifically, used the illegal proceeds to purchase luxury items, including a Mercedes-Benz car, a Recreational Vehicle and trailer and a private jet.

Fisher also used proceeds of the scheme to purchase homes and condos in the United States and on the Caribbean Island of Bonaire, which the jury found to be forfeitable. In total, the defendants sold more than \$1.3 billion in fraudulent tax deductions to wealthy taxpayers through this scheme. In addition to the terms of imprisonment, U.S. District Chief Judge Timothy C. Batten for the Northern District of Georgia ordered both Fisher and Sinnott to serve three years of supervised release. He also ordered Fisher to pay approximately \$457,855,755 in restitution to the United States and Sinnott to pay approximately \$443,760,035 in restitution to the United States.

Victor Smith and William Tomasello. According to court documents and statements made in court, Smith served as a CPA and founding partner of an Atlanta-based accounting firm. Beginning at least in 2014 and through at least 2019, Smith promoted and sold tax deductions to his wealthy clients in the forms of units in illegal syndicated conservation easement tax shelters organized and created by co-defendants Fisher, Sinnott and Joy. For his part, beginning at least in 2015 and through at least 2019, Tomasello also promoted and sold units in the Jack Fisher syndicated conservation easement tax shelters to his wealthy clients at another firm.

Tomasello earned approximately \$525,072 in commissions from Fisher and Sinnott for his role in promoting and selling the illegal tax shelters to clients, and his accounting firm received approximately \$2,430,301 in commissions.

Smith earned approximately \$491,400 in commissions from Fisher and Sinnott for his role in promoting and selling the illegal tax shelters to clients.

Smith and Tomasello each face a maximum sentence of five years in prison. They also face a period of supervised release, restitution and monetary penalties. A federal district court judge will determine any sentence after considering the U.S. Sentencing Guidelines and other statutory factors.

To date, in addition to the convictions of Fisher and Sinnott and today's guilty pleas of Smith and Tomasello, six additional defendants have pleaded guilty to criminal conduct related to Fisher and Sinnott's syndicated conservation easement tax shelters, including appraiser Walter Douglas "Terry" Roberts, CPAs Stein and Corey Agee, CPA Ralph Anderson, CPA James Benkoil and CPA and Attorney Randall Lenz.

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