



UNITED STATES ATTORNEY'S OFFICE
Southern District of New York

U.S. ATTORNEY PREET BHARARA

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<http://www.justice.gov/usao/nys>

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**FORMER JENKENS & GILCHRIST ATTORNEY SENTENCED IN
MANHATTAN FEDERAL COURT TO EIGHT YEARS IN PRISON FOR
PROMOTING ILLEGAL TAX SHELTERS THAT GENERATED
BILLIONS OF DOLLARS IN FRAUDULENT TAX LOSSES**

Preet Bharara, the United States Attorney for the Southern District of New York, announced that DONNA GUERIN, an attorney, was sentenced today to eight years in prison on conspiracy and tax evasion charges stemming from her work on the design, marketing, and implementation of fraudulent tax shelters that allowed her clients to claim billions of dollars in fraudulent tax losses. GUERIN pled guilty in September 2012 and was sentenced by U.S. District Judge William H. Pauley III.

Manhattan U.S. Attorney Preet Bharara said: "Donna Guerin abused her position as an attorney to help clients flout the law she swore to uphold, which contributed to the loss of billions of dollars in tax revenue. With her sentence today, she joins the other professionals who built and perpetrated this fraud, but did not find shelter from justice."

According to the Indictment previously filed in Manhattan federal court and statements made during GUERIN's guilty plea and sentencing proceedings:

GUERIN was a partner at Altheimer & Gray ("A&G"), a Chicago law firm, between 1994 and 1998, and later moved with a small group of A&G attorneys to the newly-formed Chicago office of Jenkens & Gilchrist ("J&G"), a Texas-based law firm with offices throughout the United States. At different times between 1999 and 2005, GUERIN was a shareholder or partner at J&G.

Between 1996 and 2004, GUERIN and other attorneys at J&G worked on the design, marketing and implementation of high-fee tax strategies for individual clients. Those strategies, or "tax shelters," were designed to allow high-net-worth clients to eliminate, reduce, or defer taxes on significant income or gains. GUERIN and other J&G attorneys worked together with brokers from a financial institution, partners and employees of the accounting firm BDO Seidman, and other entities, in marketing and implementing the tax shelters.

Among the fraudulent tax shelters designed, marketed, and implemented by GUERIN and her co-conspirators were "Short Sales," "Short Options Strategy" ("SOS"), "Swaps," and

“HOMER.” The Short Sale tax shelter was marketed and sold from 1994 through 1999 to at least 290 wealthy individuals, and generated at least \$2.6 billion in false and fraudulent tax losses. The SOS tax shelter was marketed and sold from 1998 through 2000 to at least 550 wealthy individuals, and generated at least \$3.9 billion in false and fraudulent tax losses. The Swaps tax shelter was marketed and sold in 2001 and 2002 to at least 55 wealthy individuals, and generated more than \$420 million in false and fraudulent tax losses.

In return for receiving a fee from tax shelter clients based on a percentage of their purported tax losses – usually 5% for ordinary losses and 4% for capital losses – GUERIN and others at J&G assisted clients in implementing all of the stages of the fraudulent tax shelters, including setting up bank accounts and entities such as corporations and partnerships. GUERIN and others at J&G also provided the tax shelter clients a “more likely than not” legal opinion from J&G.

In addition to her involvement in the marketing and implementation of the fraudulent tax shelters, GUERIN also took part in the illegal back-dating of certain tax shelter transactions when attorneys at Jenkens & Gilchrist realized, after the close of certain tax years, that certain steps of the tax shelter transaction had been done improperly. GUERIN and others helped create documents after the close of the tax year and back-dated them using “as of” dates --- effectively treating the documents as if they had been signed prior to the close of the tax year, in violation of tax accounting rules.

GUERIN was paid in excess of \$17 million from 1998 to 2002 as a result of her involvement in the tax shelter conspiracy.

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In addition to her prison term, GUERIN, 52, of Scottsdale, Arizona, was sentenced to three years of supervised release and ordered to pay restitution in the amount of \$190 million.

GUERIN and co-defendants Paul Daugerdas, Denis Field, and David Parse were convicted of various tax fraud charges in May 2011 after an 11-week jury trial. GUERIN, Daugerdas, and Field were granted a new trial as a result of certain juror misconduct. David Parse is scheduled to be sentenced on March 22, 2013. The retrial of Daugerdas and Field is scheduled to begin on September 9, 2013. The charges against these two defendants are merely accusations, and they are presumed innocent unless and until proven guilty.

Former J&G partner Erwin Mayer pled guilty to related charges of conspiracy and personal tax evasion in October 2010. Former BDO Seidman Vice Chairman and board member Charles W. Bee, Jr., pled guilty in June 2009 to related charges of conspiracy to defraud the Internal Revenue Service (“IRS”), tax evasion, and perjury. Michael Kerekes, another principal of BDO Seidman and also a former member of BDO's TSG and Tax Opinion Committee, pled guilty in February 2009 to related conspiracy and tax evasion charges. Adrian Dicker, a former Vice Chairman of BDO Seidman and TSG member, pled guilty in March 2009 to related conspiracy and tax evasion charges. BDO partner Robert Greisman pled guilty in July 2009 to

related conspiracy, tax evasion, and IRS obstruction charges. BDO partner Mark Bloom pled guilty in July 2009 to a related IRS obstruction charge.

Mr. Bharara thanked the IRS and the Tax Division of the Department of Justice for their work on this case.

This case is being prosecuted by the Office's Complex Frauds Unit. Assistant U.S. Attorneys Stanley J. Okula, Jr., and Jason P. Hernandez, and DOJ Tax Division Assistant Chief Nanette L. Davis, are in charge of the prosecution.

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