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Southern District of New York

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PROMOTER OF ERNST & YOUNG TAX SHELTERS PLEADS GUILTY

LEV L. DASSIN, Acting United States Attorney for the Southern District of New York, announced that CHARLES BOLTON, a Memphis-based financial services provider, pleaded guilty earlier today to a one-count Information charging him with conspiracy to defraud the Internal Revenue Service ("IRS") in connection with tax shelters marketed by the accounting firm Ernst & Young ("E&Y").

According to the Information filed in Manhattan federal court and statements made during BOLTON's guilty plea:

From approximately 1998 through 2002, E&Y had a group, known initially as "VIPER" for "Value Ideas Produce Extraordinary Results," and later as "SISG" for "Strategic Individual Solutions Group," that designed, marketed and implemented high-fee tax strategies, including tax shelters that purported to eliminate, reduce or defer taxes on significant income or gains. BOLTON owned a group of companies ("the Bolton companies") involved in implementing two E&Y tax shelters during the period 1999 through 2002. In brief, the shelters purported to allow wealthy individuals to pay a percentage of their income in fees to E&Y, the Bolton companies, and other participants in the transactions, rather than paying taxes to the IRS.

The two shelters the Bolton companies implemented, known as Contingent Deferred Swap ("CDS") and CDS Add-On, involved financial trades that were implemented and overseen by the Bolton companies and other entities. CDS, marketed from 1999 to 2001, was described as a means to convert a client's ordinary income into capital gains (thereby reducing the applicable tax rate from approximately 40% to approximately 20%), and to then defer for one year the tax on the capital gains. CDS Add-On was marketed briefly in mid-2000 as a means to defer indefinitely the income tax liability on capital gains, including capital gains purportedly generated in the second year of the CDS strategy. E&Y and the Bolton companies implemented dozens of CDS and CDS Add-On transactions involving in total billions of dollars in taxable income and gains. BOLTON himself made millions of dollars from his involvement in the shelter transactions and ownership of the Bolton companies. BOLTON also implemented CDS transactions for approximately $15 million of his own personal income in 2000 and $25 million of his own income in 2001.

BOLTON and individuals at E&Y knew that the validity of the purported tax benefits of CDS and CDS Add-On would be undermined if the IRS were to learn the true facts and circumstances surrounding the transactions. Accordingly, from 1999 until 2006, BOLTON conspired with others, including individuals at E&Y, to mislead the IRS regarding the nature of the transactions and the ways in which they were designed, marketed, sold to clients and implemented. Among other things, BOLTON and his co-conspirators undertook to prevent the IRS from understanding how the shelters operated to produce the tax results reported by the clients; learning that the shelters were marketed as cookie-cutter products that would eliminate, reduce or defer large tax liabilities; learning that clients were not seeking profit-making investment opportunities, but were instead seeking huge tax benefits; and learning that, from the outset, clients intended to complete a pre-planned series of steps that had been designed by the conspirators to lead to the specific tax benefits sought by the clients.

Appearing this afternoon before United States District Judge SIDNEY H. STEIN, BOLTON acknowledged that he agreed with others to deliberately mislead the IRS about the CDS and CDS Add-On shelters with respect to facts that he understood could be relevant to the IRS's evaluation of the transactions. BOLTON acknowledged telling his employees to remove from CDS economic models references to "early termination" of a swap transaction that was part of the CDS shelter. He also admitted to giving misleading testimony during a sworn IRS deposition about the reasons the CDS swaps were terminated "early." In addition, BOLTON acknowledged participating with others in concocting a story regarding the origin of the CDS Add-On shelter that omitted the transaction's tax motivation and falsely described an economic justification for the transaction. BOLTON explained that this story was incorporated into, among other documents, a letter he signed that was sent to prospective clients of the CDS Add-On shelter. BOLTON also admitted to submitting a sworn statement to the IRS regarding his own CDS transaction in which he falsely stated that his decision to participate in the transaction was "primarily profit driven," and that "tax avoidance" was not a "significant purpose."

Mr. DASSIN praised the investigative work of the IRS and thanked the Department of Justice Tax Division.

BOLTON, 46, who lives in Memphis, Tennessee, faces a maximum sentence of five years in jail on the conspiracy charge to which he pleaded guilty. Judge STEIN set a sentencing date of April 24, 2009.

Assistant United States Attorneys LAUREN GOLDBERG and MARSHALL CAMP and Special Assistant United States Attorney JOHN SULLIVAN, on detail from the Department of Justice Tax Division, are in charge of the prosecution.

09-008 ###