

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x

UNITED STATES OF AMERICA :

-v- :

**INDICTMENT**

RICHARD JOSEPHBERG, :

18 Cr.

Defendant.

**18 CRIM 650**

-----x

**COUNT ONE**  
**(Tax Evasion - 2011 Tax Year)**

The Grand Jury charges:

**Introduction**

1. Pursuant to the Internal Revenue Code and attendant regulations, individual U.S. citizens and residents are generally required to report accurately their income, tax obligations, and, where appropriate, any claim for a refund annually on a United States Individual Income Tax Return, Form 1040 ("Form 1040"), which must be filed with the Internal Revenue Service ("IRS").

2. Pursuant to the Internal Revenue Code and attendant regulations, partnerships are required annually to file partnership tax returns (Forms 1065) with the IRS, but are not required to pay income taxes in their own right. The income or loss from their operation, by law, flows through to the partners, who are required to declare such income or loss on

their personal income tax returns and, when required, pay any personal income taxes owed based upon that partnership income. The precise amount of each partner's distributive share of income or loss from a partnership is reported on an IRS Schedule K-1 ("Partner's Share of Income, Credits, Deductions, etc."), which partnerships are required to provide to each partner and file with the IRS together with the partnership's Form 1065.

**The Defendant's Receipt of Commission Income in 2011**

3. At all times relevant to this Indictment, RICHARD JOSEPHBERG, the defendant, was a citizen of the United States and resided in the Southern District of New York.

4. In or about late 2010, RICHARD JOSEPHBERG, the defendant, began working for an investor relations firm ("Firm-1") in New York, New York, and earned an annual salary of approximately \$35,000. Firm-1 was operated by an individual ("Individual-1") with whom JOSEPHBERG had a prior business relationship.

5. Through Individual-1, RICHARD JOSEPHBERG, the defendant, secured a commission-based arrangement with another firm ("Firm-2"), an investment firm that, among other things, provided financing to companies in exchange for shares of the companies' stock. Firm-2 agreed to pay JOSEPHBERG a commission of approximately fifteen percent of the profit generated by

Firm-2 on financing deals originated by JOSEPHBERG. Firm-2 did not employ JOSEPHBERG in any other capacity.

6. In or about the fall of 2010, RICHARD JOSEPHBERG, the defendant, made an introduction that ultimately resulted in a financing deal between Firm-2 and a third-party company ("Company-1"). Based on its profit from this deal, Firm-2 issued commission payments to JOSEPHBERG totaling approximately \$1.57 million, as further described below.

7. RICHARD JOSEPHBERG, the defendant, began receiving commission payments from Firm-2 in or about January 2011. In or about late January 2011, JOSEPHBERG received a check from Firm-2 in the approximate amount of \$16,987.35, which JOSEPHBERG caused to be deposited into a bank account in the name of JOSEPHBERG's wife. On or about February 11, 2011, JOSEPHBERG received a second check from Firm-2 in the approximate amount of \$18,738.60, which JOSEPHBERG deposited into JOSEPHBERG's personal bank account. While JOSEPHBERG was entitled to larger commission payments in early 2011, JOSEPHBERG requested that Firm-2 wait before issuing larger payments.

8. On or about February 14, 2011, RICHARD JOSEPHBERG, the defendant, formed a corporate entity named "Almorli Advisors Inc." with a business address of JOSEPHBERG's residence in Port Chester, New York. JOSEPHBERG also obtained

an employer identification number ("EIN") for Almorli Advisors Inc.

9. On or about February 24, 2011, in the Southern District of New York, RICHARD JOSEPHBERG, the defendant, opened a bank account at Capital One Bank in the name of Almorli Advisors Inc. with a listed address in New York, New York ("Almorli Bank Account-1"). At all relevant times, JOSEPHBERG was the sole signatory on and controlled Almorli Bank Account-1.

10. After forming Almorli Advisors Inc., RICHARD JOSEPHBERG, the defendant, directed Firm-2 to issue additional commission payments to Almorli Advisors Inc., not to JOSEPHBERG personally. On or about February 25 and March 25, 2011, Firm-2 issued to Almorli Advisors Inc. two checks totaling approximately \$1.53 million, representing the remainder of the commission due to JOSEPHBERG on the financing deal with Company-1. On or about April 8, 2011, Firm-2 issued to Almorli Advisors Inc. a fifth check in the approximate amount of \$4216, representing a commission due to JOSEPHBERG on another financing deal. JOSEPHBERG deposited the said checks into Almorli Bank Account-1.

#### **The 2011 Tax Returns**

11. In or about early 2012, Firm-2 issued a Form 1099-MISC to RICHARD JOSEPHBERG, the defendant, reporting

approximately \$35,725.95 in non-employee compensation. In or about early 2012, Firm-2 issued a Form 1099-MISC to Almorli Advisors Inc., reporting approximately \$1,539,196.12 in non-employee compensation.

12. In or about March 2012, while preparing to file federal income tax returns for the 2011 calendar year, RICHARD JOSEPHBERG, the defendant, took affirmative steps to evade paying hundreds of thousands of dollars in federal income taxes by disguising and concealing the type of income that JOSEPHBERG had received from Firm-2, as further described below.

13. On or about March 27, 2012, RICHARD JOSEPHBERG, the defendant, formed a second entity named "Almorli Advisors NY LLC," a limited liability company with a business address of JOSEPHBERG's residence in Port Chester, New York. After forming Almorli Advisors NY LLC, JOSEPHBERG caused his accountant (the "Accountant") to prepare a false 2011 partnership income tax return, Form 1065, for Almorli Advisors NY LLC (the "2011 Form 1065"), listing JOSEPHBERG as a 99 percent partner and JOSEPHBERG's son as a 1 percent partner. The 2011 Form 1065 falsely listed "2/1/2011" under the field "Date business started," even though, in actuality, Almorli Advisors NY LLC was not formed until in or about March 2012.

14. To evade a substantial part of the income taxes due and owing on the commission income received from Firm-2 in 2011, RICHARD JOSEPHBERG, the defendant, caused the commission payments from Firm-2, totaling approximately \$1,574,922, to be falsely reported as a long-term capital gain, rather than ordinary income, on the 2011 Form 1065. JOSEPHBERG's purported 99 percent share of this false long-term capital gain flowed through to JOSEPHBERG's 2011 individual income tax return, Form 1040 (the "2011 Form 1040"). JOSEPHBERG's fraudulent misclassification of this income resulted in a reported tax liability that was hundreds of thousands of dollars lower than the true tax liability because individual long-term capital gains were taxed at a significantly lower rate than ordinary income.

15. RICHARD JOSEPHBERG, the defendant, caused the 2011 Form 1065 and the 2011 Form 1040, which were materially false and which JOSEPHBERG willfully made and subscribed under penalty of perjury, to be filed with the IRS.

16. Through this scheme, RICHARD JOSEPHBERG, the defendant, evaded a substantial amount of federal income taxes due and owing for the calendar year 2011.

#### **Statutory Allegation**

17. From in or about January 2011 through in or about

April 2012, in the Southern District of New York and elsewhere, RICHARD JOSEPHBERG, the defendant, willfully and knowingly did attempt to evade and defeat a substantial part of the income tax due and owing by JOSEPHBERG to the United States of America for calendar year 2011 by various means, including, among others:

(a) forming a nominee corporate entity, Almorli Advisors Inc., to receive over \$1.5 million in commission income in 2011; (b) forming a second nominee entity, Almorli Advisors NY LLC, in or about March 2012; and (c) preparing and causing to be prepared, signing and causing to be signed, and filing and causing to be filed with the IRS, false and fraudulent 2011 U.S. Return of Partnership Income, Form 1065, for Almorli Advisors NY LLC, and 2011 U.S. Individual Income Tax Return, Form 1040, for JOSEPHBERG, which returns, among other things, falsely and fraudulently reported over \$1.5 million in commission income as a long-term capital gain, which falsity caused JOSEPHBERG substantially to understate the tax due and owing for calendar year 2011, whereas, as JOSEPHBERG then and there well knew and believed, in the said calendar year he had substantial taxable income, upon which taxable income there was a substantial amount of tax due and owing to the United States of America.

(Title 26, United States Code, Section 7201.)

**COUNTS TWO THROUGH FIVE**  
**(Tax Evasion - 2013-2016 Tax Years)**

The Grand Jury further charges:

18. The allegations set forth in paragraphs 1 through 16 are incorporated by reference as though fully set forth herein.

19. From in or about 2013 through in or about 2016, RICHARD JOSEPHBERG, the defendant, received substantial income from performing consulting and other professional services.

20. Despite earning substantial income, RICHARD JOSEPHBERG, the defendant, failed timely to file any corporate or personal federal income tax returns for calendar years 2013 through 2016. JOSEPHBERG did not file any federal income tax returns for the said years, and did not pay any taxes due and owing on the income JOSEPHBERG received for the said years, until at least in or about June 2017, as further described below.

21. RICHARD JOSEPHBERG, the defendant, took various affirmative steps to evade the assessment of taxes on the income that JOSEPHBERG received in calendar years 2013 through 2016. To conceal JOSEPHBERG's income, and avoid paying federal income tax thereon, JOSEPHBERG routed substantial amounts of income through Almorli Bank Account-1, which JOSEPHBERG controlled and



used as JOSEPHBERG's personal bank account. JOSEPHBERG took affirmative steps to conceal Almorli Bank Account-1 from the IRS, including by using "starter" checks, which concealed the name on the account, when issuing checks to the IRS. In addition, JOSEPHBERG directed that some of JOSEPHBERG's compensation for services rendered, in the form of shares of stock, be issued in JOSEPHBERG's wife's name, in order to conceal the said income and avoid paying federal income taxes thereon.

22. In or about October 2016, RICHARD JOSEPHBERG, the defendant, opened another bank account at Capital One Bank in the name of Almorli Advisors Inc. ("Almorli Bank Account-2"). JOSEPHBERG initially funded Almorli Bank Account-2 with wire transfers from Almorli Bank Account-1 and subsequently routed substantial amounts of income through Almorli Bank Account-2. JOSEPHBERG was the sole signatory on and controlled Almorli Bank Account-2. JOSEPHBERG used Almorli Bank Account-2 to pay various personal expenses.

23. In or about early May 2017, federal IRS agents (the "IRS Agents") contacted RICHARD JOSEPHBERG, the defendant, in connection with the IRS's criminal investigation of JOSEPHBERG. The IRS Agents served JOSEPHBERG with subpoenas and requested to conduct an interview. Following this contact from

the IRS Agents, JOSEPHBERG contacted the Accountant in order to prepare JOSEPHBERG's corporate and personal tax returns for 2013 through 2016. In or about June 2017, JOSEPHBERG submitted to the IRS federal corporate tax returns, Forms 1120S, in the name of Almorli Advisors Inc., and federal individual tax returns, Forms 1040, for the calendar years 2013 through 2016.

#### **Statutory Allegations**

24. From on or about January 1 of each of the calendar years set forth below, through in or about June 2017, in the Southern District of New York and elsewhere, RICHARD JOSEPHBERG, the defendant, willfully and knowingly did attempt to evade and defeat a substantial part of the income tax due and owing by JOSEPHBERG to the United States of America, by various means, including, among others: (a) by failing to make an individual income tax return, Form 1040, for the said calendar year on or about the date required by law to any proper official of the IRS, stating specifically the items of his gross income and any deductions and credits to which he was entitled; (b) routing substantial amounts of income through Almorli Bank Account-1 and Almorli Bank Account-2, which JOSEPHBERG controlled; (c) concealing Almorli Bank Account-1 from the IRS; (d) dispersing business funds from Almorli Bank Account-1 and Almorli Bank Account-2 to pay JOSEPHBERG's personal expenses and

otherwise using said accounts as JOSEPHBERG's personal accounts; and (e) directing that some of JOSEPHBERG's compensation for services rendered, in the form of shares of stock, be issued in JOSEPHBERG's wife's name, whereas, as JOSEPHBERG then and there well knew and believed, in the calendar years set forth below, he had substantial taxable income, upon which taxable income there was a substantial amount of tax due and owing to the United States of America:

COUNT	TAX YEAR
2	2013
3	2014
4	2015
5	2016

(Title 26, United States Code, Section 7201.)

**COUNTS SIX THROUGH NINE**  
**(Failure to File Individual Income Tax**  
**Returns - 2013-2016 Tax Years)**

The Grand Jury further charges:

25. The allegations set forth in paragraphs 1 through 16 and 19 through 23 are incorporated by reference as though fully set forth herein.

26. On or about the return due dates set forth below, in the Southern District of New York, RICHARD JOSEPHBERG, the

defendant, willfully and knowingly did fail to make an income tax return for the calendar years stated below, to the Internal Revenue Service or to the Director, Internal Revenue Service Center, Kansas City, Missouri, or to any other proper officer of the United States, stating specifically the items of his gross income and any deductions and credits to which he was entitled, whereas, as JOSEPHBERG then and there well knew and believed, he had gross income requiring the filing of a return for each of such years, and, by reason of such income, he was required by law following the close of each calendar year, and on or before each of the return due dates stated below, to make said income tax returns to the Internal Revenue Service, to the Director of the Internal Revenue Service, or to any proper officer of the United States:

COUNT	TAX YEAR	APPROXIMATE DUE DATE OF INCOME TAX RETURN
6	2013	10/15/14
7	2014	4/15/15
8	2015	4/15/16
9	2016	4/15/17

(Title 26, United States Code, Section 7203.)



FOREPERSON

9/12/18

*Geoffrey S. Berman*

GEOFFREY S. BERMAN *DSN*  
United States Attorney

---

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

---

UNITED STATES OF AMERICA

- v. -

RICHARD JOSEPHBERG,

Defendant.

---

SEALED INDICTMENT

18 Cr.

(26 U.S.C. § 7201;  
26 U.S.C. § 7203)

 GEOFFREY S. BERMAN  
Foreperson. United States Attorney.

---