



*United States Attorney  
Southern District of New York*

FOR IMMEDIATE RELEASE  
April 17, 2008

CONTACT: U.S. ATTORNEY'S OFFICE  
YUSILL SCRIBNER,  
REBEKAH CARMICHAEL  
PUBLIC INFORMATION OFFICE  
(212) 637-2600

**FORMER IRS REVENUE AGENT SENTENCED  
TO JAIL FOR TAX FRAUD SCHEME**

MICHAEL J. GARCIA, the United States Attorney for the Southern District of New York, announced that HARRY WILLNER -- a former Internal Revenue Service ("IRS") Revenue Agent -- was sentenced today in Manhattan federal court to a year in jail for carrying out a scheme to obstruct the IRS by fraudulently attempting to sell to other taxpayers, and fraudulently using on his own personal income tax returns, tax losses belonging to a separate company he controlled. According to the Indictment and statements made in court during Willner's guilty plea and today's sentencing proceeding before United States District Judge GERARD E. LYNCH:

WILLNER was employed by the IRS as a Revenue Agent assigned to the Large and Mid-Size Business ("LMSB") Unit of the IRS in the Southern District of New York. As an LMSB Revenue Agent, WILLNER was responsible for audits of large financial institutions and served as a Team Coordinator of other Revenue Agents.

At various times, WILLNER was also an officer of a corporation known as NIA Advertising, Inc. ("NIA"), which was purportedly in the advertising business. According to certain NIA records, NIA's address was the same as WILLNER's home address in New Jersey. WILLNER did not request approval from the IRS to serve as an officer of NIA, as was required by IRS regulations. WILLNER did, however, request approval for outside, part-time employment as an instructor with schools located in Manhattan and to hold an unspecified position with a company known as Royal Magazine, Inc. ("Royal").

According to NIA's books and records, from 1998 through 2001, NIA purportedly loaned Royal approximately \$849,000, a "loan" which was not evidenced by any written contracts or agreements. Beginning in 2002, WILLNER reported a "bad debt" deduction on NIA's corporate tax return, associated with the purported loan to Royal, which resulted in a "net operating loss," or "NOL," for NIA's 2002 return of more than \$758,000. The Internal Revenue Code and associated regulations generally define an NOL as an amount by which allowable deductions and exclusions for the year in question exceed gross income for that same tax year. The Code and Regulations also provide that NOLs can be carried back or forward to offset net income in other tax years.

From January 2002 through March 2006, WILLNER endeavored in two principal ways to make fraudulent use of the NOLs purportedly generated by NIA in 2002. First, between 2003 and 2004, WILLNER attempted to, in effect, sell NIA's NOLs to other taxpayers, which would enable those other taxpayers to use the NOLs to offset the income on their own tax returns and thereby to fraudulently reduce their tax liabilities. WILLNER proposed to accomplish this fraud by having other taxpayers, who were owed income, direct the fee payment to NIA, which would report it as income. NIA would not pay tax on the payment because the income would be offset by the NOL. WILLNER would then remit the money, less a fee for himself, to the other taxpayer disguised as a loan repayment.

WILLNER explained the fraudulent steps attendant to the sale of the NOLs in a tape-recorded conversation made by the IRS during its investigation. During the conversation, between WILLNER and an accountant from whom WILLNER was attempting to recruit participants in the scheme, WILLNER stated that he had "about \$700,000 dollars' worth of losses" in NIA and explained that the accountant's clients could use the NOL if they diverted their income from their own tax returns to WILLNER at NIA. WILLNER further explained the scheme as follows:

NIA Advertising would report the income. So there wouldn't be a question of it not being reported . . . . I would take the money net of my fee and remit it back to the client . . . . So let's assume that there's a twenty percent fee. So the person sends a hundred thousand to NIA. NIA reports the hundred thousand and then I write a check for eighty thousand back to, let's say, your client. Your client gets it free, because we could

say that it's a loan, or repayment of a loan from, from him to me, so he doesn't have to pay the income tax, he just pays the fee.

WILLNER also stated to the accountant that he had engaged in the scheme "[o]nce before" with "somebody with forty thousand." WILLNER further explained the financial benefits that would be enjoyed by himself and the people who agreed to participate in the fraud: "So, I mean, in this case everybody is gonna make out. Certainly, your ... client'll make out 'cause he'll be saving, and NIA makes out because .... they don't have to, well, they're reporting the income but there's no tax, federal state or local tax 'cause of the big NOL and ... I get a little fee for it."

The second aspect of the scheme occurred between March 2002 and March 2006, when WILLNER used NIA's NOLs to offset his own individual income tax liability by having fee income, earned by WILLNER in his individual capacity as an instructor at two Manhattan-based schools, paid or assigned to NIA. WILLNER directed the two schools at which he earned off-duty teaching income to issue Form 1099s to NIA. WILLNER thereafter fraudulently reported the fee income on NIA's corporate income tax returns as receipts of NIA. Because NIA carried the sizeable NOL deduction from 2002 through 2005, the taxability of the teaching income was offset. As a consequence of this latter scheme, WILLNER evaded a total of approximately \$20,957 in United States income taxes.

In addition to the prison term, Judge LYNCH sentenced WILLNER, 59, of Fair Lawn, New Jersey, to one year of supervised release, ordered him to pay a \$10,000 fine, and required WILLNER to pay any taxes, interest, and penalties owed to the IRS.

Mr. GARCIA praised the investigative efforts of the IRS, Criminal Investigation Division, and the United States Department of the Treasury, Treasury Inspector General for Tax Administration.

This case is being handled by the Office's Public Corruption Unit. Assistant United States Attorneys PABLO QUIÑONES and STANLEY J. OKULA, JR., are in charge of the prosecution.

08-093

###