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LOCAL BUSINESSMAN SENTENCED TO 7 YEARS IN FEDERAL PRISON

Richard Michael Simkanin Convicted Earlier This Year on 29 Tax Charges

United States Attorney Jane J. Boyle announced that Richard Michael Simkanin, a local business owner who has not withheld taxes from his employees' checks for three years, was sentenced today in Fort Worth, Texas, by The Honorable John McBryde, United States District Judge, to 84 months imprisonment, following his conviction in January by a federal jury on 29 counts of a 31-count superseding indictment that charged him with various tax violations. Simkanin was also ordered to pay \$302,076.33 in restitution. Simkanin has been in federal custody since his arraignment on June 27, 2003, when evidence was presented to Judge McBryde that Simkanin did not accept the authority of the federal courts.

Simkanin, age 59, was the owner of Arrow Custom Plastics in Bedford, Texas. Specifically, the jury found Simkanin guilty of ten counts of wilful failure to collect, account for and pay over taxes due in connection with the operation of his business; 15 counts of making false claims against the United States; and four counts of failure to file individual income tax returns. The jury could not reach a verdict on two counts of wilful failure to collect, account for and pay over taxes due and Judge McBryde declared a mistrial on these two counts. On the government's motion, Judge McBryde dismissed these two counts against Simkanin in February.

"This case should serve as a warning to anyone who is tempted to violate the tax laws," said Assistant Attorney General Eileen J. O'Connor. "Employers who ignore their obligations to withhold and pay federal taxes on their payrolls will be caught, prosecuted and punished."

At today's sentencing hearing, Judge McBryde departed upward from the United States Sentencing Guidelines finding that the criminal history represented in the pre-sentence investigation report under-represented Simkanin's criminal conduct. As a basis for his upward departure, Judge McBryde noted that Simkanin has shown contempt and disrespect for laws and that Simkanin, and others with similar views, have a cult-like belief that the law does not apply to them and question the power and jurisdiction of government over them. Judge McBryde concluded that based on Simkanin's radical beliefs, it is likely that he will continue to violate the federal tax laws.

During trial, government witnesses testified that Simkanin's bookkeeper and two members of the accounting firm who prepared company tax returns for Arrow Custom Plastics, all told Simkanin that it was unlawful to refuse to collect taxes from the wages of his employees. Simkanin was also given sections of Internal Revenue Code that mandated the collection of these taxes. Simkanin told one of his accountants that as a "Free Man," he was not obligated to pay taxes or collect the taxes of his employees. In March 2000, his accounting firm quit after it was unsuccessful in persuading Simkanin to reconsider and collect the employee taxes.

Evidence presented at trial also showed that Simkanin was warned by the senior partner of the accounting firm that he would get into "criminal trouble" if he refused to withhold taxes on the wages of his employees. By refusing to withhold taxes during the period 2000-2002, Simkanin was able to retain over \$175,000 in taxes lawfully due to the IRS.

The false claim counts of the superseding indictment were based upon false claims resulting from Simkanin filing a \$235,000 claim for refund in taxes already collected for 1997-99. Testimony at trial showed that when his claim was denied, Simkanin was told that federal courts had repeatedly rejected his position that "wages are not taxable income." In March 2001, following an exchange of several letters between Simkanin and Congressman Joe Barton, the Congressman informed Simkanin that wages are taxable income.

At trial, Simkanin testified that he was aware of the IRS website that listed court cases that had rejected his position. He discounted these court cases because he "did not trust the IRS." Simkanin also admitted that he filed several documents in 2000-2002 which stated that he was not within the jurisdiction of the United States. Several of these documents and newspaper ads challenged the validity and the constitutionality of federal tax laws. In fact, Simkanin is one of five small business owners who published a full page ad in *USA Today* on March 2, 2001, claiming that there was no law requiring taxes to be withheld from employees' wages. This ad and others like it, were sponsored by an anti-government, tax protest organization known as We The People. In the documents, Simkanin claimed he was a "stranger to the laws of the United States" and that the federal government was the "present insurgent government that was in rebellion to the Texas Republic." As part of his rejection of state jurisdiction, Simkanin also admitted that he surrendered his Texas driver's license in 1996 and operated a motor vehicle without a valid driver's license.

Government witnesses at trial included Simkanin's former CPA's, an IRS Revenue Agent who reviewed Simkanin's claims, and his sister-in-law who worked as his office manager at Arrow but resigned after Simkanin's decision to stop withholding. Based upon the evidence presented, the jury concluded that Simkanin clearly understood the requirements of the law but simply disagreed with and refused to obey the tax laws. They did not find that he had a "good faith misunderstanding" of the law, as presented by his defense.

On March 11, 2004, in a separate civil proceeding, Judge McBryde issued a final judgment for permanent injunction finding that Simkanin "is interfering with the administration of the internal revenue laws," and enjoined Simkanin from violating the Internal Revenue Service Tax Code and from failing to withhold and pay over to the Internal Revenue Service all employment taxes, including federal income, FICA, and FUTA taxes required by law. That order further ordered Simkanin and the purported "new owner" of Arrow Customs Plastics, to file delinquent Arrow Customs Plastics employment tax returns for 2002 - 2004 with the IRS within 30 days, or allow IRS agents to visit the business and obtain copies of Arrow's books and records so that statutory substitute employment tax returns could be prepared.

Mike Lacenski, Special Agent In Charge, Internal Revenue Service, Criminal Investigation said "The prosecution of individuals who intentionally evade taxes is a vital element in maintaining public confidence in our tax system. Mr. Simkanin's sentencing today reminds us that fulfilling tax obligations is a legal requirement. Those who flaunt the system will go to jail."

U.S. Attorney Boyle said, "The message is simple: defy the tax laws and go to jail."

Ms. Boyle praised the IRS-CI for their outstanding work in this case. The case was prosecuted by Assistant United States Attorney David Jarvis and Trial Attorney Robert Kemins of the Department of Justice, Tax Division.