

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA) No.
)
) Violation: Title 26, United States Code
) Sections 7206(1) and 7201
v.)
)
DAVID R. FALOR) **UNDER SEAL**
)

COUNT ONE
(Filing a False Income Tax Return)

The SPECIAL FEBRUARY 2011-1 GRAND JURY charges:

1. At times material to this indictment:
 - a. Defendant DAVID FALOR was a principal in The Falor Companies, Inc. (“TFC”);
 - b. TFC, through various related business entities, acquired and managed hotel properties in Chicago, Miami Beach, and elsewhere, and attempted to convert certain of those hotels to condominium-hotel (“condo-hotel”) properties. As condo-hotel properties, individual guest rooms would be sold to investors as separately titled condominium units and rented by a TFC-related hotel management company to guests when the owner was not in residence, with the owner receiving a percentage of the rental fee; and
 - c. Defendant DAVID FALOR controlled a bank account held in the name of The Falor Companies, LLC, that was opened in or about May 2003 (“TFC Account”), an account that was not used for TFC business purposes, and was used by defendant to pay personal expenses.

2. In 2003, Investment Company A paid \$700,000 to a TFC-related entity to acquire TFC's interest in a transaction to purchase the Ritz Carlton Hotel located in Palm Beach, Florida ("Investment Company A funds").

3. On or about November 23, 2003, defendant DAVID FALOR knowingly received at least approximately \$160,000 of the Investment Company A funds by wire transfer into his TFC Account, which funds defendant used to pay personal expenses.

4. Defendant DAVID FALOR willfully failed to report the \$160,000 of the Investment Company A funds he received for his interest in the Palm Beach Ritz Carlton on his 2003 United States Individual Income Tax Return, Form 1040, which was filed on June 7, 2007.

5. On or about May 30, 2006, in the Northern District of Illinois and elsewhere,
DAVID FALOR,
defendant herein, wilfully made and subscribed, and caused to be made and subscribed the filing of a United States Individual Income Tax Return (Form 1040) for the calendar year 2003, which return was verified by a written declaration that it was made under the penalty of perjury, and filed with the Internal Revenue Service, which return defendant did not believe to be true and correct as to every material matter in that the return reported total income of -\$157,585 on line 22, when defendant knew in fact that his total income was substantially in excess of the amount reported and that the return did not report \$160,000 of taxable income received by defendant for his share of the Palm Beach Ritz Carlton;

In violation of Title 26, United States Code, Sections 7206(1).

COUNT TWO
(Income Tax Evasion)

The SPECIAL FEBRUARY 2011-1 GRAND JURY further charges:

1. At times material to this indictment:
 - a. The allegations contained paragraph 1 of Count One of this indictment are incorporated by reference as if fully set forth herein;
 - b. Defendant DAVID FALOR controlled a bank account held in the name BRFLMF, LLC that was opened in or about November 2005 (“BRFLMF Account”) and used by defendant to pay personal expenses, among other uses; and
 - c. Defendant DAVID FALOR held ownership interests in multiple entities including limited liability corporations (the “LLCs”) that defendant and others established to own and to manage the affairs of various TFC condo-hotel properties.

Sources of Unreported Income

W-2 wage income

2. During the calendar year 2005, defendant DAVID FALOR knowingly received at least approximately \$100,000 in W-2 wage income from TFC, which funds were deposited into defendant’s TFC Account and BRFLMF Account and withdrawn by defendant to pay his personal expenses.

Sales of LLC interests

3. During the calendar year 2005, defendant DAVID FALOR engaged in two transactions to sell certain of his interests in two of the LLCs for a total taxable capital gain

of approximately \$318,155.

Income Tax Owed

4. Defendant DAVID FALOR was required by law to include the income and capital gains on an income tax return and to pay income tax due and owing thereon.

5. During the calendar year 2005, defendant DAVID FALOR had taxable income of approximately \$340,285.

6. Upon his taxable income, defendant DAVID FALOR owed to the United States of America income tax of approximately \$75,258.

7. By reason of his income, defendant DAVID FALOR was required by law, following the close of calendar year 2005 and on or before the due date of April 17, 2006, to file a United States Individual Income Tax Return, Form 1040, with the Internal Revenue Service, and to pay the income tax owed.

8. Defendant DAVID FALOR failed to file a United States Individual Income Tax Return, Form 1040, and failed to pay income tax owed for the calendar year 2005.

9. During calendar year 2005, continuing to no earlier than April 17, 2006, in the Northern District of Illinois, Eastern Division, and elsewhere,

DAVID R. FALOR,

defendant herein, well knowing all of the foregoing facts, willfully attempted to evade and defeat the income tax due and owing by him to the United States of America for the 2005 calendar year by committing one or more of the following affirmative acts of evasion:

- a. knowingly receiving at least approximately \$100,000 into his TFC Account and his BRFLMF Account during calendar year 2005;
- b. withdrawing at least approximately \$7,500 by check from his TFC Account on or about September 7, 2005;
- c. withdrawing at least approximately \$7,500 by check from his TFC Account on or about October 21, 2005;
- d. withdrawing at least approximately \$7,500 by check from his BRFLMF Account on or about December 19, 2005;
- e. withdrawing at least approximately \$3,000 by check from his BRFLMF Account on or about December 27, 2005; and
- f. failing to pay income tax of approximately \$75,258 due and owing to the Internal Revenue Service;

In violation of Title 26, United States Code, Section 7201.

COUNT THREE
(Income Tax Evasion)

The SPECIAL FEBRUARY 2011-1 GRAND JURY further charges:

1. The allegations contained in paragraphs 1(a) and 1(b) of Count Two of this indictment are incorporated by reference as if fully set forth herein.

Sources of Unreported Income

W-2 wage income

2. During the calendar year 2006, defendant DAVID FALOR knowingly received at least approximately \$19,024 in W-2 wage income from TFC, which funds were deposited into defendant's BRFLMF Account and withdrawn by defendant to pay his personal expenses.

TFC "loans"

3. Beginning in about 2003, defendant DAVID FALOR directed employees of TFC to pay defendant's personal expenses with TFC company funds and to record the payments as loans from TFC to defendant. TFC employees paid defendant's personal expenses with TFC company funds until 2006 when TFC ceased business operations.

4. When TFC ceased business operations in 2006, defendant DAVID FALOR owed TFC approximately \$779,096 in loans, which became taxable income to defendant in calendar year 2006 because defendant had failed to repay those loans.

Other income

5. During the calendar year 2006, defendant DAVID FALOR caused a total of approximately \$218,318 to be withdrawn from bank accounts controlled by a family member,

which funds either were used to pay defendant DAVID FALOR's personal expenses directly or were deposited into defendant DAVID FALOR's BRFLMF Account and then used by defendant to pay personal expenses.

Income Tax Owed

6. Defendant DAVID FALOR was required by law to include the income on an income tax return and to pay income tax due and owing thereon.

7. During the calendar year 2006, defendant DAVID FALOR had taxable income of approximately \$1,048,802.

8. Upon his taxable income, defendant DAVID FALOR owed to the United States of America income tax of approximately \$341,093.

9. By reason of his income, defendant DAVID FALOR was required by law, following the close of calendar year 2006 and on or before the due date of April 16, 2007, to file a United States Individual Income Tax Return, Form 1040, with the Internal Revenue Service, and to pay the income tax owed.

10. Defendant DAVID FALOR failed to file a United States Individual Income Tax Return, Form 1040, and failed to pay income tax owed for the calendar year 2006.

11. During calendar year 2006, continuing to no earlier than April 16, 2007, in the Northern District of Illinois, Eastern Division, and elsewhere,

DAVID R. FALOR,

defendant herein, well knowing all of the foregoing facts, willfully attempted to evade and defeat the income tax due and owing by him to the United States of America for the 2006

calendar year by committing one or more of the following affirmative acts of evasion:

- a. causing a total of at least approximately \$72,000 to be paid from bank accounts controlled by a family member to defendant DAVID FALOR's ex-wife for alimony payments defendant owed in 2006;
- b. causing at least approximately \$66,400 to be paid from a bank account controlled by a family member to defendant DAVID FALOR's girlfriend for personal expenses including rent payments for defendant's Florida residence in 2006;
- c. withdrawing at least approximately \$7,500 by check from his BRFLMF Account on or about April 13, 2006;
- d. withdrawing at least approximately \$7,500 by check from his BRFLMF Account on or about July 14, 2006;
- e. failing to pay income tax of approximately \$341,093 due and owing to the Internal Revenue Service;

In violation of Title 26, United States Code, Section 7201.

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY