



Department of Justice

United States Attorney David E. Nahmias
Northern District of Georgia

FOR IMMEDIATE RELEASE

06/20/08

<http://www.usdoj.gov/usao/gan/>

CONTACT: Patrick Crosby

(404)581-6016

FAX (404)581-6160

**OWNERS AND FORMER BOOKKEEPER OF COMMERCIAL
CONSTRUCTION FIRM SENTENCED IN MULTI-MILLION DOLLAR TAX
FRAUD SCHEME**

*Gerald Marchelletta, Jr., and Gerald Marchelletta, Sr.,
Fraudulently Skimmed Millions Out Of Alpharetta-based Circle Industries*

ATLANTA, GA - GERALD MARCHELLETTA, JR., 42, GERALD MARCHELLETTA, SR., 73, and THERESA KOTTWITZ, 50, all of Alpharetta, Georgia, were sentenced today on charges of committing and conspiring to commit tax fraud. The defendants, associated with "Circle Industries, Inc.," a leading commercial construction firm based in Alpharetta, were convicted of these charges after a two week jury trial in September 2007.

United States Attorney David E. Nahmias said of today's verdict, "Corporate officers who skim money from their companies – and the employees who facilitate those frauds – will continue to face vigorous prosecution and substantial prison sentences. These lies, deceptions, and bogus accounting schemes undermine the tax system, and victimize all innocent taxpayers who pay their fair share."

IRS Criminal Investigation Special Agent in Charge Reginael D. McDaniel said, "There is a price to pay for making the willful decision to violate our tax laws. The sentences imposed on the defendants in this case send the message that trying to escape one's tax obligations is just not worth it."

United States District Judge Timothy C. Batten imposed the following sentences: 3 years in prison, followed by 3 years of supervised release, and a fine of \$50,000 for MARCHELLETTA, JR; 2 years, 9 months in prison, followed by 3 years of supervised release, and a fine of \$50,000 for MARCHELLETTA, SR; and 2 years in prison, to be followed by 1 year of supervised release for KOTTWITZ.

After the investigation began, the defendants paid a substantial portion of the taxes owed, and today the sentencing judge ordered the MARCHELLETTAs to cooperate with the IRS in paying back the remainder, approximately \$200,000, as a condition of their

supervised release following their prison term.

According to United States Attorney Nahmias and the information presented in court: The MARCHELLETTAs are the owners of “Circle Industries,” a multi-million dollar international commercial construction firm based in Alpharetta. Circle has been the principal construction firm on many prominent Atlanta area projects, including the construction of the Olympic Village in downtown Atlanta in 1996 and the Atlantis hotel and casino on Paradise Island in the Bahamas. KOTTWITZ served as the bookkeeper of the firm during the relevant period.

The evidence at trial revealed that the MARCHELLETTAs paid millions in company money – using company checks and credit cards – for their own personal benefit. The biggest items were luxury estates constructed by both of the owners, each of which cost Circle over \$1 million. Between the two MARCHELLETTAs, they also caused Circle to pay over ten thousand dollars for each of the following personal items: luxury custom clothing, trips to the now-defunct Gold Club, a rental apartment in Alpharetta, and landscaping costs at a house one of them was maintaining in New York. None of these personal payments were recorded on Circle’s books as income or loans to the MARCHELLETTAs, or as having anything to do with them personally. Instead, with the assistance of THERESA KOTTWITZ, the expenses were booked falsely as purported job-related or other business expenses.

The jury found MARCHELLETTA, JR. guilty of two counts of willfully subscribing to false personal tax returns, MARCHELETTA, SR. guilty of one count of willfully subscribing to a false personal tax return and one count of tax evasion, KOTTWITZ guilty of two counts of aiding and assisting in the filing of false personal tax returns, and all defendants guilty of aiding and assisting in the filing of false corporate returns and of conspiracy to commit all of these crimes.

This case was investigated by Special Agents of the Internal Revenue Service-Criminal Investigation (IRS-CI), with assistance from Special Agents of U.S. Immigration and Customs Enforcement (ICE).

Assistant United States Attorney Justin S. Anand prosecuted the case.

For further information please contact David E. Nahmias (pronounced NAH-me-us), United States Attorney, or Charysse L. Alexander, Executive Assistant United States Attorney, through Patrick Crosby, Public Affairs Officer, U.S. Attorney's Office, at (404) 581-6016. The Internet address for the HomePage for the U.S. Attorney's Office for the Northern District of Georgia is www.usdoj.gov/usao/gan.