



***United States Attorney
Southern District of New York***

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**CONTACT: U.S. ATTORNEY'S OFFICE
YUSILL SCRIBNER,
JANICE OH
PUBLIC INFORMATION OFFICE
(212) 637-2600**

**UNITED STATES COLLECTS \$15 MILLION IN TAX LIABILITIES
IN DISPUTED TAX SHELTER CASE**

PREET BHARARA, the United States Attorney for the Southern District of New York, announced today that LOUIS P. KREISBERG and Bodega Investments, LLC ("Bodega"), have agreed to pay over \$15 million to the United States to resolve a lawsuit relating to KREISBERG's use of a tax shelter which the Internal Revenue Service ("IRS") deemed abusive and misused to substantially offset his income. The settlement results in a recovery of 100 percent of KREISBERG's tax obligations as well as penalties.

Under the tax shelter, which the IRS categorizes as a variant of shelters commonly referred to as "Son of BOSS," a partnership is used to create an artificial tax loss in order to offset a taxable gain of one of its partners. According to positions taken by the United States in the federal litigation, in and around December 2001, KREISBERG, with the assistance of others engaged in a pre-planned transaction involving the purchase and sale of foreign currency options. According to the United States, KREISBERG claimed that this transaction resulted in an ordinary loss of more than \$25 million, notwithstanding that KREISBERG's actual out-of-pocket expenditures on the foreign currency options that he relied on to generate the claimed tax loss was only approximately \$500,000. The United States further contended that KREISBERG used the claimed losses to offset his 2001 income, with the effect that his tax liability for that year was reduced by nearly \$10 million. The IRS disallowed the claimed tax treatment, determining that the transaction at issue lacked economic substance and that Bodega was a sham.

After the IRS disallowed the claimed loss, KREISBERG and Bodega paid a deposit and sued seeking a refund. The United States in turn sought to uphold the IRS's tax adjustments, including the assessment of penalties and interest. Under the Settlement Agreement approved Friday by U.S. District Judge RICHARD M. BERMAN, KREISBERG is required to pay a total of over \$15 million to settle his outstanding tax liability. Under the

settlement, KREISBERG and Bodega do not concede the Government's allegations.

U.S. Attorney PREET BHARARA stated: "Abusive tax shelters cost the United States billions of dollars in lost tax revenue. While the vast majority of Americans pay their fair share, those who exploit abusive tax shelters unlawfully shift their tax burden to the rest of the American people. Our Office, working with the IRS, is committed to ensuring that such schemes do not succeed, and that the tax laws are rigorously and evenhandedly applied."

This case is being handled by the Office's Civil Division. Assistant United States Attorneys DANIEL P. FILOR, LAWRENCE H. FOGELMAN, and DAVID S. JONES are in charge of the case.

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