



*United States Attorney  
Southern District of New York*

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**INVESTMENT ADVISOR PLEADS GUILTY TO CONSPIRACY TO  
COMMIT TAX EVASION ARISING FROM  
TAX SHELTER TRANSACTIONS**

MICHAEL J. GARCIA, the United States Attorney for the Southern District of New York, announced that DAVID AMIR MAKOV, an investment advisor previously affiliated with Presidio Growth LLC ("Presidio"), pled guilty in Manhattan federal court earlier today to participating in a conspiracy to defraud the United States Treasury, evade taxes and file false tax returns. MAKOV is a defendant in the pending criminal case of *United States v. Stein*, 05 Cr. 888 (LAK). The allegations in the underlying indictment as to the remaining defendants are merely allegations and the defendants are presumed innocent. According to the one-count Superseding Information to which MAKOV pleaded and statements in court during his plea:

From at least 1999 through at least 2005, MAKOV participated in a conspiracy with other defendants in *United States v. Stein* -- along with various representatives of the accounting firm KPMG and of several banks -- to defraud the United States and evade taxes by devising, marketing, and implementing fraudulent tax shelters, by preparing and filing (or causing to be prepared and filed) false and fraudulent U.S. individual income tax returns claiming the fraudulent tax shelter losses, and by fraudulently concealing those tax shelters from the Internal Revenue Service (the "IRS").

The fraudulent tax shelters described in the Superseding Information were collectively known as "BLIPS" tax shelters, for "Bond Linked Issue Premium Structure." As described in the Superseding Information, the conspirators marketed and sold the BLIPS tax shelters to wealthy clients for the purpose of evading those clients' U.S. personal income taxes; rather than paying the taxes that were legally owed, the clients could choose the amount of tax loss desired and pay certain of

the conspirators an "all-in" cost generally equal to approximately 7% of the desired tax loss. In order to conceal the true nature of the BLIPS tax shelters from the IRS, attempt to evade the clients' taxes, and shield the clients from IRS penalties for underpayment of taxes, certain of the conspirators provided the client with opinion letters containing false and fraudulent representations and statements and claiming that the tax shelter losses were "more likely than not" to survive IRS challenge. In the opinion letters BLIPS was falsely and misleadingly described as an investment program utilizing a large loan, when in truth and in fact, as MAKOV stated today, BLIPS was designed, marketed, and implemented to generate phony tax losses in order to eliminate income taxes for wealthy clients and generate substantial fees and income for KPMG, Presidio and related entities, and the individual conspirators.

An integral part of the BLIPS transaction was the very large loan, which was used only to generate the tax loss. As MAKOV explained, it was expressly agreed among the parties that the funds from the purported loans would not be used in the purported investment program and would not be put at risk. The conspirators drafted the loan documents so as to make it look like the purported "loan" could be used in a range of investment options, when in truth and in fact those documents as drafted and executed gave the bank a veto over any possible investments using the purported loan and thus gave the bank effective control over the purported loan proceeds. The opinion letters also falsely stated that BLIPS was based on a 7-year investment program in foreign currency and that the loan would be used to fund the currency investments, when in truth, as MAKOV admitted, the loan money was not used for currency trading and the taxpayers planned in advance to exit the transaction in 60 days to secure the tax benefit.

In a sworn deposition about BLIPS in 2005, MAKOV provided false and misleading testimony under oath to attorneys from the Civil Enforcement Section of the Tax Division of the United States Department of Justice, in an effort to mislead them into believing that there were legitimate business and economic purposes for structuring the BLIPS transaction in the manner in which it was structured, when (as MAKOV admitted today he knew full well all along) there were no such legitimate business or economic purposes for that structure and that the true reason for that structure was to generate a tax loss.

Finally, MAKOV evaded his own U.S. income taxes in 2000 by falsely and fraudulently deducting BLIPS tax shelter losses on his personal tax returns, thereby substantially understating his

income and the tax due and owing by him for those years.

Mr. GARCIA praised the investigative efforts of the IRS Criminal Investigation Division.

MAKOV faces a maximum sentence of five years in prison on the charge to which he pleaded guilty. He agreed in his plea agreement agreed to forfeit \$10 million to the United States. United States District Judge LEWIS A. KAPLAN set a sentencing date of June 20, 2008.

Assistant United States Attorneys JOHN M. HILLEBRECHT and MARGARET GARNETT, and Special Assistant United States Attorney KEVIN M. DOWNING (who is also a Senior Trial Attorney in the Tax Division of the United States Department of Justice), are in charge of the prosecution.

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