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District of Arizona*

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Public Affairs
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TUCSON RESTAURANT OWNER GUILTY OF FILING FALSE TAX RETURN

TUCSON, Ariz. -- Mary Brooke Martino, 61, of Tucson, pleaded guilty on Thursday in federal district court to willfully subscribing and filing a false 2004 Individual Income Tax Return. Martino was charged on Thursday with willful subscription and filing of a false tax return prior to her plea.

Mary Brooke Martino is married to Anthony Martino, 63, also of Tucson. They are the owners and operators of Anthony's in the Catalinas, a restaurant which is a C corporation and incorporated under the name A.M. Restaurant Corporation. Mary Martino was primarily responsible for office operations of the restaurant. Anthony Martino was primarily responsible for restaurant and catering operations. From 2002 through 2006, the Martinos diverted at least \$100,000 from the financial accounts maintained by the restaurant for their personal use during each year. On the books and records of the corporation, the diverted monies were classified as either business expenses or loans to shareholders. The couple had federal corporate income tax returns, Forms 1120, prepared for 2002 through 2005, but did not file the 2003 return. The other returns were filed late. The defendant and her spouse did not timely file federal individual income tax returns for 2002 through 2006 until after being contacted by Special Agents of the Internal Revenue Service, Criminal Investigation, on February 22, 2008. On March 3, 2008, the defendant and her spouse then filed hand-written Forms 1040EZ which only reported gambling winnings, and no other income for either the defendant or her spouse for any of the five tax years, whether from the operation of Anthony's in the Catalina's or other sources. The government contends that the tax loss is more than \$200,000 but not more than \$400,000. The defendant contended that the applicable tax loss is more than \$80,000 but not more than \$200,000.

A conviction for willful subscription and filing of a false tax return carries a maximum penalty of three years in prison, a \$250,000 fine or both. Sentencing is set before Judge David C. Bury on October 19, 2011.

The investigation in this case was conducted by the Internal Revenue Service, Criminal Investigation. The prosecution is being handled by Department of Justice Tax Division Attorneys

Sonia M. Owens and Danny N. Roetzel, and Assistant U.S. Attorney, Munish Sharda, District of Arizona, Tucson.

CASE NUMBER: CR-11-WI-63-DCB

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