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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

UNITED STATES OF AMERICA	**3:19-cr-**00528-IM
v.	**INDICTMENT**
JAMES W. MILLEGAN,	**15 U.S.C. § 78j(b)** **26 U.S.C. § 7201**
Defendant.	

THE GRAND JURY CHARGES:

<u>Introduction</u>

At all times relevant to this indictment:

1. Defendant **JAMES W. MILLEGAN** was a licensed securities broker. Defendant **MILLEGAN** resided at various times in Gleneden Beach, Oregon, McMinnville, Oregon, and Lake Oswego, Oregon.

2. J.W. Millegan, Inc. (JWMI) was an investment advisory business defendant **JAMES W. MILLEGAN** solely owned and operated in Oregon. JWMI was completely commissioned-based, and did not charge its clients fees for the services JWMI provided.

3. Defendant **JAMES W. MILLEGAN** used JWMI to maintain investment accounts for clients. Defendant **JAMES W. MILLEGAN** authorized all trades for JWMI client accounts. These trades typically involved the buying of securities (stocks) for the clients' accounts or the selling of securities (stocks) in the clients' accounts.

4. Defendant **JAMES W. MILLEGAN** usually contacted his clients by telephone to seek their permission to make trades in their accounts. During these telephone conversations with clients, defendant **MILLEGAN** directly or impliedly represented the trades would benefit the clients. These direct or implied representations were false because defendant **MILLEGAN** conducted these trades to benefit himself, not his clients. Defendant **MILLEGAN** also caused the clients to receive periodic account statements by mail.

5. Defendant **JAMES W. MILLEGAN** charged the clients of JWMI commissions for buying or selling the securities in the clients' accounts. The more trades defendant **JAMES W. MILLEGAN** made in the clients' accounts, the more commissions he took in from the clients of JWMI.

6. Investment account churning (churning) occurs when a securities broker engages in excessive buying and selling of securities in a client's account chiefly to generate commissions that benefit the securities broker, and with no reasonable expectation the client will benefit from the trading. Churning financially harms clients because the clients pay excessive commissions and because the amount of excessive commissions is not available in the clients' accounts to earn investment profits.

7. A Standard & Poor's 500 Index fund is an investment fund that invests in the stocks of the 500 largest companies in the United States.

8. The Internal Revenue Service (IRS) is an agency within the Treasury Department of the United States. The IRS administers the Internal Revenue Code.

9. When a person files a federal income tax return but does not pay in full the tax due, the IRS begins a tax collection process. The collection process usually starts with the IRS sending the person a bill for the additional tax due.

10. The IRS collection process can include many steps. The IRS may be able to offer a person who owes additional taxes a monthly installment agreement or an offer in compromise.

11. An offer in compromise is an agreement between the person and the IRS that resolves the person's tax liability by payment of an agreed reduced amount. A person can also request that the IRS delay collection of the taxes the person owes. Before the IRS agrees to an offer in compromise or to delay collection of taxes, the IRS requires the person to complete one or more types of financial statements. These financial statements require the person to provide truthful information about their assets, monthly income, expenses, and bank accounts. These financial statements also require the person to submit them to the IRS subject to the penalties of perjury.

12. The IRS collection process allows the IRS, under appropriate circumstances, to take steps to collect taxes from a person who does not voluntarily pay the taxes they owe but has the income or assets to do so. To satisfy a person's tax debt, the IRS can file a public notice of a federal tax lien, levy (seize) wages from employers and funds in bank accounts, and seize and sell property, including real estate and automobiles.

13. When a person does not pay the full amount of income taxes they owe when they file their tax return, the Internal Revenue Code requires the IRS to charge interest on the unpaid amount. The IRS may also add to the amount of unpaid taxes a monetary penalty for late payment. The Internal Revenue Code makes the interest and penalty amounts part of the taxes a person owes.

COUNTS 1 Through 12
(Investment Account Churning)
(15 U.S.C. § 78j(b))

The allegations in paragraphs 1 through 7, above, are incorporated herein by reference.

1. Beginning and ending on or about the dates identified below, in the District of Oregon and elsewhere, defendant **JAMES W. MILLEGAN**, directly or indirectly, by the use of a means or instrumentality of interstate commerce, or of the mails, or of a facility of a national securities exchange: (a) employed a device, scheme, or artifice to defraud; (b) made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (c) engaged in an act, practice, or course of business which operated as a fraud or deceit upon persons in connection with the purchase or sale of any security. To wit, defendant **MILLEGAN** churned the investment accounts of the individuals identified below.

COUNT	JWMI CLIENT	TIME PERIOD OF ACCOUNT CHURNING
1	Client #1	03/12 – 02/15
2	Client #2	03/12 – 05/17
3	Client #3	03/12 – 04/17
4	Client #4	01/12 – 03/17
5	Client #5	03/12 – 06/16
6	Client #6	03/12 – 12/16
7	Client #7	03/12 – 12/16
8	Client #8	03/12 – 01/17
9	Client #9	03/12 – 12/16
10	Client #10	03/12 – 03/17

11	Client #11	03/12 – 06/15
12	Client #12	03/12 – 04/15

2. As a consequence of defendant **JAMES W. MILLEGAN** churning their investment accounts, the clients identified in Counts 1 through 12 collectively experienced the following financial losses:

a. $2,500,160 in trading costs.

b. $3,337,222 in market adjusted trading costs, which are the trading costs plus the opportunity cost of having the trading costs taken out of the investment accounts.

c. $4,316,215 in market adjusted loss, which is the additional amount the accounts would have been worth if the accounts had been invested in an S & P 500 Index fund.

In violation of Title 15 United States Code § 78j(b)); 17 CFR § 240.10b-5; and Securities and Exchange Commission Rule 10-b5.

<u>COUNT 13</u>
(Tax Evasion)
(26 U.S.C. § 7201)

Paragraphs 1 through 6 and 8 through 12 of the Introduction are incorporated herein.

1. Each year from 2006 through 2016, defendant **JAMES W. MILLEGAN** personally derived substantial taxable income from his operation of JWMI.

2. Each year from 2006 through 2016, defendant **JAMES W. MILLEGAN** used a professional tax return preparer to prepare his federal income tax returns.

3. Each year from 2006 through 2016, defendant **JAMES W. MILLEGAN** filed federal joint individual income tax returns for himself and his wife, on which he reported the substantial taxable income he earned from his operation of JWMI.

4. The federal income tax returns defendant **JAMES W. MILLEGAN** filed each year reported substantial personal income taxes due and owing. For the following years, defendant **MILLEGAN'S** tax returns reported he owed the following income tax amounts:

Tax Year	Income Taxes Owed
2006	$268,985
2007	$414,492
2008	$87,736
2009	$207,516
2010	$236,794
2011	$169,618
2012	$224,553
2013	$260,757
2014	$44,869
2015	$3,445

5. For each of the tax years identified in paragraph 4, above, defendant **JAMES W. MILLEGAN** paid to the IRS only a portion of the income taxes he owed. For six of the ~~eleven~~ ten tax years (2007, 2009, 2010, 2011, 2013, 2014,), defendant **MILLEGAN** paid less than 10% of the income taxes he owed the IRS. By the end of September 2016, defendant **MILLEGAN** owed to the IRS approximately $3,300,000 in income taxes for tax years 2006 through 2015.

6. From in or about July 2009 through in or about September 2016, in the District of Oregon and elsewhere, defendant **JAMES W. MILLEGAN** willfully attempted to evade and defeat the payment of income tax due and owing by him and his wife to the United States of America for the calendar years 2006 through 2015, by committing the following affirmative acts, among others:

a. From July 2009 through September 2016, defendant **MILLEGAN** transferred approximately $3,736,633 of his personal commission income from his operation of JWMI to six bank accounts he controlled. Defendant **MILLEGAN** then used those funds for his personal benefit. Defendant **MILLEGAN** took these actions to conceal this income from the IRS and to prevent the IRS from levying the funds to pay the income taxes he owed. Each transfer or expenditure of these funds was an affirmative act to evade the payment of the income taxes defendant **MILLEGAN** owed the IRS.

b. In May 2011, defendant **MILLEGAN** established a leasing agreement between two entities he controlled and in 2012, 2013, 2014, and 2015, transferred a total of $800,000 in his personal commission funds from the first entity (JWMI) to the second entity (Carlton LLC) in excess of the stated lease amounts. By doing this, defendant **MILLEGAN** concealed the $800,000 from the IRS and prevented the IRS from obtaining the funds and using them to pay the income taxes he owed.

c. In September 2011, defendant **MILLEGAN** submitted to the IRS a five-page document titled "History – 9/7/2011" in which **MILLEGAN** purported to accurately inform the IRS about why he had not paid all the income taxes he owed and why he had little current income or assets with which to pay the taxes he owed for prior years. Defendant **MILLEGAN** submitted this document to support his request that the IRS allow him to pay a low monthly amount pursuant to a payment agreement with the IRS. In this document, defendant **MILLEGAN** intentionally did not disclose to the IRS that between July 2009 and August 2011, he had moved about $472,000 in personal JWMI commission income through bank accounts he concealed from the IRS, as described in subparagraph a, above.

d. In January 2013, defendant **MILLEGAN** submitted to the IRS an IRS financial information statement in support of an offer in compromise he made the IRS. On that statement defendant **MILLEGAN** did not disclose six bank accounts he controlled and used at that time to conceal his commission income from the IRS, as described in subparagraph a, above. Defendant **MILLEGAN** also falsely reported on this financial statement that his total household income was $40,800 per month. This amount was false because: (1) his actual commission income for December 2012 had been about $126,000 and he had concealed from the IRS about $73,000 of those commissions by transferring that amount to the six bank accounts he did not disclose to the IRS; and (2) in January 2013, his actual commission income was $113,000, and he transferred about $92,000 of those commissions to the six bank accounts he did not disclose to the IRS.

e. In March 2013, defendant **MILLEGAN** submitted to the IRS another IRS financial information statement but he did not disclose five bank accounts he controlled and used to conceal his commission income from the IRS, as described in subparagraph a, above. Defendant **MILLEGAN** also falsely reported on this financial statement that his total household income was approximately $45,000 per month. This amount was also false because: (1) his actual commission income for February 2013 had been about $104,000 and he had concealed from the IRS about $70,000 of those commissions by transferring that amount to five of the bank accounts he did not disclose to the IRS; and (2) in March 2013, his actual commission income was about $112,000 and he transferred about $69,000 of those commissions to five of the bank accounts he did not disclose to the IRS.

f. In December 2014, defendant **MILLEGAN** submitted to the IRS an IRS financial information statement as part of a request for an installment agreement whereby defendant **MILLEGAN** proposed to pay $5,000 per month towards all the income taxes he owed the IRS. The financial statement was false because defendant **MILLEGAN** did not disclose five bank accounts he controlled and used to conceal his commission income from the IRS, as described in subparagraph a, above. Defendant **MILLEGAN** also falsely reported on this financial statement that his total household income was $34,000 per month. This amount was false because: (1) his actual commission income for November 2014 had been about $68,000 and he had concealed from the IRS about $40,000 of those commissions by transferring that amount to ~~six~~ (5) five of the bank accounts he did not disclose to the IRS; and (2) in December 2014, his actual commission income was about $99,000 and he transferred about $52,000 of those commissions to ~~six~~ (5) five of the bank accounts he did not disclose to the IRS.

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

Dated: November 19, 2019.

A TRUE BILL.

[redacted]

OFFICIATING FOREPERSON

Presented by:

BILLY J. WILLIAMS
United States Attorney

Seth D. Uram

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