

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
(KANSAS CITY DOCKET)

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
MARY C. VERNON,)
)
 Defendant.)
_____)

No. 12-20160-01-KHV-DJW

INDICTMENT

The Grand Jury charges:

INTRODUCTION

At all times relevant to this Indictment:

1. Defendant Mary C. Vernon resided in Lawrence, Kansas.
2. Defendant Vernon was a physician with a Doctor of Medicine (MD) degree.

Defendant Vernon specialized in bariatric medicine, the branch of medicine that deals with the study and treatment of obesity. Defendant Vernon worked for private medical practices as a physician in Lawrence and Shawnee, Kansas, and also provided medical consulting services and served as the medical director for a number of nursing home facilities.

3. Defendant Vernon co-authored a book with Dr. Robert Atkins and others, published in 2004, titled "Atkins Diabetes Revolution." Atkins Nutritionals, Inc. (ANI), a

business founded by Dr. Atkins, specialized in weight loss programs and products. In 2003 and 2004, defendant Vernon provided general consulting and other services to ANI related to the promotion of ANI's nutritional approach and products. Defendant Vernon earned approximately \$588,686 for the services she provided ANI. After Dr. Atkins' death, defendant Vernon was hired to promote Dr. Atkins' nutritional theories. From 2005 through 2008, defendant Vernon was paid approximately \$190,000 for these services.

4. From 1999 through 2007, defendant Vernon was subject to Internal Revenue Service (IRS) efforts to collect taxes, interest, and penalties defendant Vernon owed and failed to pay for the years 1991 through 2005. The IRS collected approximately \$2 million in taxes, interest, and penalties from defendant Vernon through levies and seizures.

5. In and around 2003, defendant Vernon hired an attorney to create a corporation related to defendant Vernon's work outside of her private medical practice. Rockledge Medical Services, Inc. (RMS), a Kansas corporation, was incorporated on or about January 28, 2003.

6. S.W. resided with defendant Vernon in Lawrence, Kansas. S.W. was listed as the registered agent and the initial director on the Articles of Incorporation of RMS. S.W. was also the President, Secretary, and sole shareholder of RMS.

7. RMS had a business bank account at U.S. Bank, account no. xxx2071. S.W. was the only person who had signatory authority over this account.

8. University National Bank (UNB or the bank) was a financial institution as defined in Title 18, United States Code, Section 20, with a location in Lawrence,

Kansas. The bank routinely provided loans to customers who were qualified. The bank often required its customers to provide financial information to be approved for a loan.

9. In or about September 2009, defendant Vernon and S.W. applied for a loan from UNB Bank to refinance the home they shared in Lawrence, Kansas.

10. The bank required defendant Vernon and S.W. to provide financial records so the bank could determine their credit worthiness. On or about September 10, 2009, defendant Vernon provided UNB with documents that she purported to be the first two pages of U.S. Individual Income Tax Returns for 2006 and 2007 for herself and S.W.

11. On September 11, 2009, UNB requested full copies of the tax returns, including all related schedules. On or about October 2, 2009, defendant Vernon provided documents she purported to be complete copies of 2006 and 2007 U.S. Individual Income Tax Returns for herself and S.W. These tax returns were different from the documents defendant Vernon provided UNB on September 10, 2009. Defendant Vernon told bank representatives that the returns she provided to the bank were what she had filed with the IRS.

12. At the time she submitted these tax returns to the bank, defendant Vernon falsely represented to the bank that these returns had been filed with the IRS, a representation she knew to be false because no tax returns had been filed for 2006 and 2007 for herself and S.W.

COUNT 1

26 U.S.C. § 7201 - Tax Evasion, 2004

13. Paragraphs 1 - 12 are incorporated and realleged herein.

14. From on or before January 1, 2004, through at least May 15, 2006, in the

District of Kansas and elsewhere, the defendant,

MARY C. VERNON,

willfully attempted to evade and defeat substantial income tax due and owing by her to the United States of America, for the calendar year 2004, by committing the following affirmative acts of evasion, among others:

- a. filing a false and fraudulent U.S. Individual Income Tax Return, Form 1040, for calendar year 2004, for herself, on which she understated her total income;
- b. negotiating, and signing, or causing S.W. to sign, a contract between RMS and another business for consulting and other services to be provided personally by defendant Vernon;
- c. directing businesses to make checks payable to RMS and to transfer funds to the RMS business bank account for services defendant Vernon personally provided;
- d. depositing, and causing to be deposited, into the RMS business bank account, checks payable to RMS for services defendant Vernon personally provided; and
- e. using the RMS business bank account to pay for personal expenditures.

All in violation of Title 26, United States Code, Section 7201.

COUNT 2

26 U.S.C. § 7201 - Tax Evasion, 2005

15. Paragraphs 1 - 12 are incorporated and realleged herein.

16. From on or before January 1, 2005, through at least April 26, 2007, in the District of Kansas and elsewhere, the defendant,

MARY C. VERNON,

willfully attempted to evade and defeat substantial income tax due and owing by her to the United States of America, for the calendar year 2005, by committing the following affirmative acts of evasion, among others:

- a. filing a false and fraudulent U.S. Individual Income Tax Return, Form 1040A, for calendar year 2005, for herself, on which she understated her total income;
- b. negotiating, and signing, or causing S.W. to sign, contracts between RMS and other businesses for consulting and other services to be provided personally by defendant Vernon;
- c. directing businesses to make checks payable to RMS and to transfer funds to the RMS business bank account for services defendant Vernon personally provided;
- d. depositing, and causing to be deposited, into the RMS business bank account, checks payable to RMS for services defendant Vernon personally provided;
- e. depositing, and causing to be deposited, into the RMS business bank account, checks payable to defendant Vernon for services she personally provided; and
- f. using the RMS business bank account to pay for personal expenditures.

All in violation of Title 26, United States Code, Section 7201.

COUNT 3

26 U.S.C. § 7201 - Tax Evasion, 2006

17. Paragraphs 1 - 12 are incorporated and realleged herein.

18. From on or before January 1, 2006, through at least October 15, 2007, in the District of Kansas and elsewhere,

MARY C. VERNON,

willfully attempted to evade and defeat substantial income tax due and owing by her to the United States of America, for the calendar year 2006, by failing to file a 2006 U.S. Individual Income Tax Return on or before October 15, 2007, as required by law, to any proper officer of the Internal Revenue Service; failing to pay to the Internal Revenue Service the income tax due and owing; and committing the following affirmative acts of evasion, among others:

- a. negotiating, and signing, or causing S.W. to sign, contracts between RMS and other businesses for consulting and other services to be provided personally by defendant Vernon;
- b. directing businesses to make checks payable to RMS and to transfer funds to the RMS business bank account for services defendant Vernon personally provided;
- c. depositing, and causing to be deposited, into the RMS business bank account, checks payable to RMS for services defendant Vernon personally provided;
- d. depositing, and causing to be deposited, into the RMS business

bank account, checks payable to defendant Vernon for services she personally provided;

- e. using the RMS business bank account to pay for personal expenditures;
- f. falsely stating to an Internal Revenue Service employee that she received no compensation for an easement on real property in Lawrence, Kansas, that she owned and controlled; and
- g. signing over and depositing, or causing S.W. to deposit, into S.W.'s personal bank account, compensation defendant Vernon received pursuant to an easement on real property in Lawrence, Kansas.

All in violation of Title 26, United States Code, Section 7201.

COUNT 4

26 U.S.C. § 7201 - Tax Evasion, 2007

19. Paragraphs 1 - 12 are incorporated and realleged herein.

20. From on or before January 1, 2007, through at least October 15, 2008, in the District of Kansas and elsewhere,

MARY C. VERNON,

willfully attempted to evade and defeat substantial income tax due and owing by her to the United States of America, for the calendar year 2007, by failing to file a 2007 U.S. Individual Income Tax Return on or before October 15, 2008, as required by law, to any proper officer of the Internal Revenue Service; failing to pay to the Internal Revenue Service the income tax due and owing; and committing the following affirmative acts of evasion, among others:

- a. negotiating, and signing, or causing S.W. to sign, a contract between RMS and another business for consulting and other services to be provided personally by defendant Vernon;
- b. directing businesses to make checks payable to RMS and to transfer funds to the RMS business bank account for services defendant Vernon personally provided;
- c. depositing, and causing to be deposited, into the RMS business bank account, checks payable to RMS for services defendant Vernon personally provided;
- d. depositing, and causing to be deposited, into S.W.'s personal bank account, checks payable to defendant Vernon for services defendant Vernon personally provided; and
- e. using the RMS business bank account to pay for personal expenditures.

All in violation of Title 26, United States Code, Section 7201.

COUNT 5

26 U.S.C. § 7201 - Tax Evasion, 2008

21. Paragraphs 1 - 12 are incorporated and realleged herein.

22. From on or before January 1, 2008, through at least April 16, 2010, in the District of Kansas and elsewhere, the defendant,

MARY C. VERNON,

willfully attempted to evade and defeat substantial income tax due and owing by her to the United States of America, for the calendar year 2008, by committing the following

affirmative acts of evasion, among others:

- a. filing a false and fraudulent U.S. Individual Income Tax Return, Form 1040, for calendar year 2008, for herself, on which she understated her total income;
- b. aiding and assisting in the preparation and filing of a false and fraudulent U.S. Income Tax Return for an S Corporation, Form 1120S, in the name of Rockledge Medical Services Inc., for calendar year 2008;
- c. aiding and assisting in the preparation and filing of a false and fraudulent U.S. Individual Income Tax Return, Form 1040, in the name of S.W., for calendar year 2008;
- d. negotiating, and signing, or causing S.W. to sign, a contract between RMS and another business for consulting and other services to be provided personally by defendant Vernon;
- e. directing businesses to make checks payable to RMS and to transfer funds to the RMS business bank account for services defendant Vernon personally provided;
- f. depositing, and causing to be deposited, into the RMS business bank account, payments issued to RMS for services defendant Vernon personally provided; and
- g. using the RMS business bank account to pay for personal expenditures.

All in violation of Title 26, United States Code, Section 7201.

COUNT 6

18 U.S.C. § 1014 - False Statements to Bank

23. Paragraphs 1-12 are incorporated and realleged herein.

24. During the period from on or about September 10, 2009, and continuing until on or about October 2, 2009, in the District of Kansas and elsewhere, the defendant,

MARY C. VERNON,

knowingly made a material false statement and report for the purposes of influencing the action of University National Bank, a financial institution, in connection with and for the purpose of obtaining a loan, that is, falsely claiming that U.S. Individual Income Tax Returns she provided to the bank had been filed with the Internal Revenue Service.

All in violation of Title 18, United States Code, Section 1014.

Dated: December 19, 2012

/s/ Foreperson

FOREPERSON OF THE GRAND JURY

Matthew J. Kluge
Trial Attorney
United States Department of Justice, Tax Division
Western Criminal Enforcement Section
202-305-3301

D. Christopher Oakley #19248 for
BARRY R. GRISSOM
United States Attorney
District of Kansas
500 State Ave., Suite 360
Kansas City, KS 66101

(913) 551-6730
(913) 551-6541 (fax)
barry.grissom@usdoj.gov
Ks. S. Ct. No. 10866

(It is requested that trial of the above captioned case be held in Kansas City, Kansas.)

PENALTIES

Counts 1 through 5

26 U.S.C. § 7201

NMT 5 years imprisonment
NMT \$250,000 or 2 times gain or loss
NMT 3 years supervised release
\$100 mandatory special assessment
costs of prosecution

Count 6

NMT 30 years imprisonment
NMT \$1,000,000 fine
NMT 5 years supervised release
\$100 mandatory special assessment