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# Brager Tax Law Group

June 2013

## Auto Mogul Acquitted of all Tax Fraud and Conspiracy Charges

Greetings,

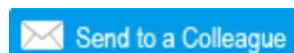
The U.S. District Court for the District of Hawaii recently acquitted an 87-year-old auto dealership mogul of all **tax fraud** and conspiracy charges that the U.S. Government had brought against him. James Pflueger, who was facing multiple counts of both tax fraud and conspiracy to defraud the government, had been indicted on those charges in 2010 based on his alleged involvement in two separate tax fraud schemes. On March 20th, 2013, however, Pflueger was acquitted of all charges in what his **criminal tax attorneys** called "the Justice Department's first unsuccessful prosecution relating to the use of foreign bank accounts in the Government's ongoing international enforcement efforts."

Pflueger was initially indicted on tax fraud and conspiracy charges related to two separate incidents, the first of which involved a situation where Pflueger's company allegedly improperly paid for personal expenses of Pflueger's family, and the second of which involved alleged underreporting of gain from Pflueger's sale of one of his properties, known as Hacienda. The government also initially charged Pflueger with



**Dennis N. Brager, Esq.**

Former IRS Senior Trial Attorney  
Nationally Recognized California  
State Bar Certified Tax Specialist



### Upcoming Events

**Dennis will be speaking at the following upcoming conferences.**

**State Bar Small & Solo Firm Summit**

"Innocent Spouse"  
Long Beach, CA  
June 20-22, 2013

**California State Bar Tax Section Annual Meeting**

"State and Federal Responsible Person Penalties"  
San Jose  
November 8, 2013

**2013 American Bar Association 30th Annual Institute on**

the failure to file a [Report of Foreign Bank and Financial Accounts \(FBAR\)](#), but dropped that charge before trial.

Dennis Duban, the accountant who handled Pflueger's financial affairs, had pled guilty in October 2012 to conspiracy and aiding in the filing of a false tax return. According to the government, Duban and Pflueger engineered the Hacienda sale to effect **offshore tax evasion** by transferring the proceeds from the sale to a **Swiss bank account** in order to prevent the proceeds from being used to pay civil claims arising from a 2006 accident at another of Pflueger's properties. However, Pflueger's criminal tax attorneys were successful in arguing that Pflueger was not responsible for his **IRS tax problems**, and that Duban was the sole mastermind of the **tax fraud**.

Over the course of a bench trial (which was elected by Pflueger's counsel partly due to concerns about jury prejudice resulting from the aforementioned well-publicized accidents at Pflueger's property), Judge Kobayashi of the District Court for the District of Hawaii held that the government failed to prove beyond a reasonable doubt that Pflueger had conspired to obstruct the IRS. Kobayashi also agreed with Pflueger's arguments that he lacked the requisite intent for a conspiracy conviction (as well as a lack of financial wherewithal and knowledge), finding that "Pflueger relied in good faith on his company's accounting staff, and especially on Duban" in all matters related to his company's books. Kobayashi also acquitted Pflueger of the charges of filing false returns for 2004 and 2007, finding again that Pflueger lacked willfulness, and had relied in good faith on others that had committed **tax fraud**.

While Pflueger was ultimately acquitted it is worth noting that his advanced age, and his claimed reliance on his accountant did nothing to stop the IRS from putting him through the stress and expense of a trial.

Sincerely,  
**Dennis Brager**

## **Criminal Tax Fraud and 3rd National Institute on Tax Controversy**

Las Vegas  
December 11-13, 2013

### **Previous Events**

#### **KFWB Radio 980 AM**

"Money 101 with Bob McCormick"  
9:05 AM - 11 AM PT  
Los Angeles  
March 11, 2013 & March 29, 2013  
& May 14, 2013

### **Previous Speeches**

#### **Los Angeles County Bar Association's 2013 Tax Night**

"International Tax Enforcement Update"  
Los Angeles  
February 12, 2013

#### **2012 American Bar Association nth Annual Institute on Criminal Tax Fraud and 2nd National Institute on Tax Controversy**

"Tax Strategies, Administrative Tax Strategies and Techniques in a Recessionary Economy"  
Las Vegas  
December 6-7, 2012

### **Articles Quoting Dennis Brager**

#### **"Offshore Tax Evaders Taking Big Risk, Former IRS Attorney Says"**

*AdvisorOne*  
April 30, 2013

#### **"Employees Besieged on All Sides for Misclassifying Workers"**

*Lawyers USA Online*  
April 5, 2013

#### **"Bel Air Payroll Firm Sued for Allegedly Keeping Clients' Tax Payments"**

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## Do You Know a Great Tax Litigation Attorney?

We are growing and searching for a great tax litigation attorney. Currently, we have five tax litigation attorneys in our Westwood office. Our tax controversy attorneys only represent clients with tax problems or tax disputes; whether those tax problems are with the IRS, the California Franchise Tax Board (FTB), the State Board of Equalization (SBE) or the Employment Development Department (EDD).

All of our tax lawyers formerly practiced as trial attorneys with the Internal Revenue Service's Office of Chief Counsel, and/ or the Department of Justice. If you know someone with a minimum of five years of experience in tax litigation with an LLM, CPA or IRS, Department of Justice, U.S. Attorney's Office, Tax Court Clerk experience, please pass along our contact information to the person. Thank you.

Dennis Brager  
[dbrager@bragertaxlaw.com](mailto:dbrager@bragertaxlaw.com)

*The Baltimore Sun*

March 1, 2013

### **"Indictment of Swiss Bank Employees Signals Ongoing Crackdown on Evasion, Lawyers Say"**

The Bureau of National Affairs

January 4, 2013

### **"New 'Streamlined' IRS Procedures Effective for Non-Resident U.S. Citizens"**

*The Wall Street Journal Online*

September 12, 2012

## Articles Written by Dennis Brager

### **"Third-Party Federal Tax Liens and Levies and How to Fight Them"**

*Journal of Tax Practice &*

*Procedure*

December 2012/January 2013

### **"New 'Streamlined' FBAR Filing"**

*Los Angeles Daily Journal*

November 1, 2012

### **"Case Finds CFOs Liable for Payroll Taxes"**

*CFO.com*

## Recent Blog Posts

### **"87 Year Old Hawaiian Auto Mogul Acquitted of all Tax Fraud and Conspiracy Charges after District Court for District of Hawaii Finds Lack of Intent and Willfulness"**

May 2, 2013

### **"Tax Preparers Beware! 6th Circuit Court of Appeals Affirms Dismissal of Tax Refund Suit Due to Inability to Prove Timely Filing of Amended Return"**

April 11, 2013

**"Prominent Tax Attorney Found  
Liable for Civil Tax Fraud  
Penalties Due to Finding of  
"Willful Blindness" to  
Underreporting of Income"**

March 20, 2013

**"Streamlined Foreign Bank  
Account Report (FBAR) Filing  
Compliance Procedure FAQs  
Issued by IRS for Non-Resident  
Taxpayers"**

March 6, 2013

**"San Diego Used Car Dealer  
Sentenced in Tax Fraud Case"**

January 28, 2013

## Our Services

- **Tax Litigation**
- **Tax Controversy**
- **Criminal Tax Defense**
- **IRS Payroll Tax Problems**
- **California Payroll Tax Problems**
- **Tax Fraud**
- **Tax Preparer Penalties**
- **Office of Professional Responsibility (OPR) Defense**
- **California Sales Tax Problems**
- **Tax Audits**
- **Tax Appeals**
- **Innocent Spouse Defenses**
- **Offers in Compromise**
- **Installment Payment Agreements**

The **Brager Tax Law Group** is a tax litigation and tax controversy law firm, which represents clients with tax problems and tax disputes with the IRS, the California Franchise Tax Board (FTB), the State Board of Equalization (SBE) and the Employment Development Department (EDD). **All of the firm's tax lawyers** are former trial attorneys with the IRS.



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