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Fraud Victims Now Also Have to Pay Back Taxes

By Fritz Pessl

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A wealth manager defrauded hundreds of investors out of millions. Now, in addition to losing their money, many investors are being hit with tax demands by the Austrian tax authority.

[image]

Hundreds of investors lost their money through the insolvent Schilling Group (symbolic image). Many of those who had invested their savings in loss-participation models—which also offered tax advantages—must now pay income tax arrears.

The 67-year-old self-made financial advisor is not appearing before a criminal court for the first time. Back in May 2021, the native Tyrolean was convicted of embezzlement and sentenced to 30 months of partially suspended imprisonment (10 months to be served). He was the founder and mastermind behind the Schilling Group, which defrauded investors including dentists, specialists, technicians, an architect, businesspeople, and pensioners. At the time, both the prosecutor and the judge described the case as just "the tip of the iceberg", saying the full picture of the 30-company Schilling Group was even more alarming.

A new criminal trial is currently underway against the former railway worker turned advisor. Together with a 64-year-old German accomplice, who also has multiple prior convictions, he is being prosecuted by the Economic and Corruption Prosecutor's Office (WKStA) before the Vienna Regional Criminal Court for serious, repeated fraud. 15 trial days have already taken place, and a verdict could be delivered in early February.

The case concerns so-called loss-participation models from the period 2003 to 2013. Investors were supposed to generate ongoing tax advantages in the early years through guaranteed loss allocations, and later profit from the returns of the "portfolio companies" in which the funds were invested. This is what the 67-year-old promised in brochures and promotional materials. According to the 92-page indictment: "His advertising was primarily directed at individuals with relatively high incomes, because the structure of his model (200% loss allocation) would achieve its maximum 'value' in the highest income tax bracket... This effectively shifted the financial outflow usually associated with investments entirely to the tax authorities, and for the potential investor—at least in the short term—it was irrelevant whether the investment was profitable." The allegation from the Economic and Corruption Prosecutor's Office (WKStA): The business model was doomed to fail from the outset. The indictment refers to a "Ponzi scheme." Charles Ponzi was one of the greatest fraudsters of his time in the 1920s United States. What Ponzi schemes, snowball systems, and pyramid schemes have in common is that they require an exponentially growing number of participants to avoid collapse, and that returns paid to earlier investors are covered by the contributions of newer ones.

The WKStA estimates that the first defendant alone caused damages of €26.5 million. Around 500 investors were affected, including many academics, such as a high-ranking arts and culture manager. But for many victims, the financial hit didn't stop there. They are now facing significant tax bills for income tax they never paid back then. "Even though the investors ended up with nothing, they must still pay taxes on amounts similar to what they originally invested," says Vienna attorney Georg Kudrna, who represents many victims in the trial as private parties.

Many victims were reportedly tax residents in Salzburg, as two employees of the Salzburg-Land Tax Office have been called as witnesses in court.

Both defendants deny any intent to defraud (presumption of innocence applies). But according to prosecutors, the first defendant should not be seen as a mere unlucky investor or poor businessman, but rather as someone who knew from the start that the investments had no realistic chance of success.

Notably, an insolvency proceeding was opened over the 67-year-old's assets on November 23, 2021 and remains unresolved.

Žrtve prevar zdaj morajo vrniti tudi davke

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Upravitelj premoženja je milijone prevaral stotine investorjev. Zdaj, poleg izgube svojega denarja, mnoge investitorje udarjajo davčni zahtevki avstrijske davčne uprave.

[slika]

Stotine investorjev je izgubilo svoj denar prek insolventne skupine Schilling (simbolična slika). Veliko tistih, ki so vlagali svoje prihranke v modele sodelovanja v izgubi - ki so prav tako ponujali davčne olajšave - zdaj mora plačati zaostale dohodninske davke.

67-letni samozaposleni finančni svetovalec se ne pojavlja pred kazenskim sodiščem prvič. Maja 2021 je bil domačin iz Tirola obsojen zaradi prisvojitve in obsojen na 30 mesecev delno odložene zaporne kazni (10 mesecev zaradi prestati). Bil je ustanovitelj in glavni um skupine Schilling, ki je prevaral investitorje, med drugim zobozdravnike, specialistke, tehnike, arhitekte, podjetnike in upokojece. Oba, tožilec in sodnik, sta primer opisala kot le "vrh ledene gore", pri čemer sta poudarila, da je celotna slika 30-članske skupine Schilling še bolj zaskrbljujoča.

Trenutno poteka nov kazenski postopek proti nekdanjemu železniškemu delavcu, ki je postal svetovalec. Skupaj s 64-letnim nemškim pomočnikom, ki ima prav tako več prejšnjih obsodb, ga preganja Urad državnega tožilstva za gospodarske zločine in korupcijo (WKStA) pred deželnim kazenskim sodiščem v Dunaju zaradi hudih, ponavljajočih se goljufij. Že je potekalo 15 sojenj, obrezni pa bi lahko bil izdan v začetku februarja.

Primer se nanaša na tako imenovane modele delitve izgube iz obdobja med letoma 2003 in 2013. Investitorji naj bi v prvih letih ustvarjali stalne davčne ugodnosti s pomočjo zagotovljenih dodelitev izgub, kasneje pa profitirali iz donosov "portfeljskih družb", v katere so bili vloženi sredstva. To je obljubljal 67-letnik v brošurah in promocijskih materialih. Po 92-stranski obtožnici: "Njegovo oglaševanje je bilo predvsem usmerjeno na posameznike z relativno visokimi dohodki, saj bi struktura njegovega modela (200 % razporeditve izgub) dosegla svojo največjo 'vrednost' v najvišem dohodninskem razredu... To je dejansko preneslo finančni odtok, ki je običajno povezan z naložbami, povsem na davčne organe, in za potencialnega vlagatelja - vsaj na kratki rok - ni bilo pomembno, ali je bila naložba donosna." Obtožba Urada za gospodcrime in korupcijo (WKStA): Poslovni model je bil od samega začetka obsojen na propad. Obtožnica se sklicuje na "Ponzi shemo." Charles Ponzi je bil eden največjih prevarantov svojega časa v ZDA v 20-ih letih. Kar imajo skupnega Ponzi sheme, snežne kepe in piramidne sheme, je, da potrebujejo eksponentno rastoče število udeležencev, da se izognejo kolapsu, in da so donosi, izplačani prejšnjim vlagateljem, pokriti s prispevki novejših. WKStA ocenjuje, da je prvi obtoženec sam povzročil škodo v višini 26,5 milijona evrov. Približno 500 vlagateljev je bilo prizadetih, med njimi številni akademiki, kot je visoko rangiran manager za umetnost in kulturo. Toda za mnoge žrtve se finančna škoda tu ni končala. Zdaj se soočajo z velikimi davčnimi obveznostmi za davek na dohodek, ki ga takrat nikoli niso plačali. "Čeprav so vlagatelji na koncu ostali brez ničesar, morajo še vedno plačati davke na

zneske, ki so podobni tistim, ki so jih prvotno investirali," pravi dunajski odvetnik Georg Kudrna, ki zastopa mnoge žrtve v sojenju kot zasebni stranke.

Mnoge žrtve naj bi bile davčni rezidenti v Salzburgu, saj sta bila dva uslužbenca Davčne uprave Salzburg-Land poklicana kot priče na sodišču.

Oba obtoženca zanikata kakršnekoli namere po goljufiji (domneva o nedolžnosti velja). Toda po mnenju tožilstva prvega obtoženca ne bi smeli obravnavati zgolj kot nesrečnega vlagatelja ali slabe poslovneža, temveč kot nekoga, ki je od začetka vedel, da naložbe nimajo realne možnosti za uspeh.

Zlasti je bilo 23. novembra 2021 odprto stečajno postopanje nad premoženjem 67-letnika, ki ostaja nerešeno.