

Miller & Chevalier Victory in Jon Flask Case

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Washington, DC, February 4, 2013 – Following a month-long trial, the jury in *United States v. Daryl Haynor and Jon Flask* today found Jon Flask, a Miller & Chevalier client, not guilty of all counts against him. The charges against Flask related to an alleged tax shelter conspiracy involving sale-leaseback transactions (SLOTS) designed by KPMG LLP for various Fortune 500 corporations. The alleged tax losses were more than \$200 million.

"The Department of Justice (DOJ) conviction rate on these cases is more than 90%," said Miller & Chevalier Member Thomas E. Zehnle.* "It is rare to win one, so when you do, it means something special." The federal government has had great success with tax shelter cases, he said, but added that perhaps future cases will be considered more carefully. "You can't take every tax avoidance strategy and turn it into a crime."

The prosecution charged Flask with conspiring with a KPMG partner, Daryl Haynor, and other unindicted co-conspirators, to conceal aspects of the sale-leaseback transactions in an effort to impede and impair the IRS's audits of the large corporations that engaged in the transactions. Flask was acquitted by the jury on both counts against him. (Haynor was acquitted by the jury on one count and was granted a judgment of acquittal by the Court on the second count after the jury declared itself hung on that particular charge.) Flask's acquittal came more than three years after the indictment was first issued. "It took extraordinary patience and will for Jon to bear these charges over such a long period of time," Zehnle said. "Needless to say, we are ecstatic to have obtained an acquittal for him."

Flask said his acquittal "was an extraordinary achievement for Tom and the entire defense team."

"Fairly or not, we evaluate professionals on statistics and results. For example, for athletes, we cite batting averages, hits, wins, losses, prize money, field gold percentages and similar objective standards," said Flask, who detailed his thoughts in a [testimonial letter](#). "For the legal profession, however, it is impossible to create objective benchmarks to evaluate a lawyer's performance. However, even by our more traditional standards, Mr. Zehnle was a winner, as I was acquitted of all charges."

Because sale-leaseback transactions are complicated, "It really takes an attentive jury to understand the argument you're making and to follow the law," Zehnle said. "We were lucky to have had a fairly sophisticated jury who seemed willing to delve into the details with us."

Miller & Chevalier represented Flask throughout the matter and during the trial, which took place in Cincinnati before federal district court Senior Judge Sandra S. Beckwith of the Southern District of Ohio. In addition to Zehnle, the trial team included Miller & Chevalier Senior Associate Jonathan Kossak* and local counsel Patrick Hanley. Miller & Chevalier Counsel [Dawn Murphy-Johnson](#) worked the case up through the pre-trial motion phase.

About Miller & Chevalier

Founded in 1920, Miller & Chevalier is a Washington, DC law firm with a global perspective and leading practices in Tax, Employee Benefits (including ERISA), International Law and Business, White Collar and Internal Investigations, Complex Litigation, and Government Affairs. For more information on the firm, visit www.millerchevalier.com.

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