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Airline Leasing Company Files Suit Over Tax Shelter

Says Scheme Forced It Into Bankruptcy

By LYNNLEY BROWNING

An airline leasing company in Miami has sued the law firm and bank that it says sold it an abusive tax shelter, contending that the shelter prompted the company's financial demise.

The suit, brought by International Air Leases Inc., known as IAL, and its holding company, International Air Leases of P.R. Inc., based in Puerto Rico, names as defendants the law firm of Sidley Austin Brown & Wood in New York; R. J. Ruble, a tax lawyer who worked for the firm; and Deutsche Bank Trust, which acquired a company originally involved in the transaction.

The abusive shelter defrauded the company and helped prompt it and the parent company to seek protection from creditors in March 2002, the suit says. A third amended version of the suit, filed Dec. 4 in bankruptcy court in the Southern District of Florida, accuses the defendants of fraud and professional malpractice and seeks punitive and compensatory damages, among other things. The bankruptcy estate of IAL faces back taxes potentially totaling more than \$100 million.

Deutsche Bank declined to comment, and Sidley Austin did not return calls requesting comment. Mr. Ruble could not be reached for comment.

The suit emerged yesterday as part of a list of exhibits in connection with a request by the Justice Department and the Internal Revenue Service, which are asking a federal court to enforce a John Doe summons on Sidley Austin. The summons seeks the names of more than 370 clients who invested in listed, or barred, transactions that were sold through the firm's Chicago office. The summons, issued in October, covers Brown & Wood, a firm absorbed by Sidley Austin.

The complex tax shelter sold to IAL was called CARDS, or custom adjustable rate debt structure. The I.R.S. declared CARDS a listed transaction in April 2002, meaning that taxpayers, both individuals and companies, must disclose their use of the shelter to the I.R.S. and that promoters, like accounting firms and lawyers, must keep lists of such taxpayers.

The shelter was intended to use a foreign loan to allow IAL to finance its business operations and generate losses to offset taxable gains at the business. The losses would come from artificially inflating the value of assets contributed to a shell company by using the value of the loan to increase the value of other assets contributed.

The suit appears to indicate that the type of shelter sold to IAL never generated any tax-related losses. IAL was told the shelter would generate \$285 million in tax losses, but it never did, according to an I.R.S. document filed in connection with IAL's bankruptcy case.

IAL paid \$11.8 million in fees for the shelter, including \$5.1 million to Deutsche Bank, the suit says. The bank acquired Bankers Trust, which the complaint says handled the financing part of the transaction, in June 1999.

The complaint contends that Mr.

Ruble and his former employer, Sidley Austin Brown & Wood, created and marketed the shelter, earning fees and bonuses for their work. The fees were a percentage of the tax losses to be generated, the suit says, one sign of an abusive shelter in the eyes of the I.R.S.

According to the suit, IAL's sole shareholder, George Batchelor, agreed to sell his shares in IAL to the parent company in Puerto Rico in November 1998 for \$475 million, essentially a leveraged buyout.

After the sale, IAL needed three things: a way to pay part of what it owed to Mr. Batchelor; a way to finance its continuing operations; and a way to reduce its federal income taxes for 1999 and 2000, estimated at \$100 million at the time because of the sale to Mr. Batchelor. He died in July 1999.

The company contends it was contacted by Chenery & Associates, an investment banking firm in San Francisco now known as Sussex Financial Enterprises, and Mr. Ruble sometime in 1999 about a supposedly legal but secret tax-and-financing strategy called CARDS. Mr. Ruble persuaded IAL to hire Sussex as its financial adviser for the deal, the suit said. Sussex Financial could not be reached for comment yesterday.

Accusations of fraud against a law firm and a bank.

Under the deal, Sussex helped set up a limited liability shell company in Delaware called Bakerloo, which was to be issued a bank loan, which IAL would then assume. Around June 1999, Bankers Trust said it would provide the loan, using aircraft assets as collateral. The suit contends that Mr. Ruble issued a legal opinion to IAL calling the shelter legitimate. The law firm received \$500,000 for the letter.

Deutsche Bank, which announced a merger with Bankers Trust in June 1999, lent Bakerloo 310 million euros. It required Bakerloo to use more than half the loan to buy nearly risk-free foreign bonds, whose own interest paid the interest on the loan. Mr. Ruble assured IAL that it would be able to use \$64.5 million from the loan to continue its operations.

But IAL was struggling and lacked significant assets to back the loan after the deal with Mr. Batchelor. Deutsche Bank and Sidley Austin knew IAL did not have sufficient collateral, the suit says, but the bank issued the loan to Bakerloo anyway. The suit contends that Deutsche Bank was in effect not really making a loan because it required Bakerloo to buy the government bonds and thus faced little risk. Mr. Ruble did not tell this to IAL because he, Sidley Austin Brown and Deutsche Bank wanted to create a sham loan and collect fees from IAL anyway, according to the suit.

In October 1999, IAL tried to obtain money from the Bakerloo loan but was refused by Deutsche Bank, which called the loan, the suit says. IAL was unable to repay the loan, and Deutsche Bank seized the bonds held by Bakerloo.