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others.

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Tobias Elsass built a booming business capitalizing on the economic misfortune of others.

For years, the attorney-turned-businessman made a living traveling across the country pitching the services of his Worthington-based company, Fraud Recovery Group, to victims of Ponzi schemes and other financial scams.

His promise: He could use the tax code to help scam victims recover tens of thousands of dollars of losses by claiming massive deductions on several years of tax returns. In return, his company took a portion of the recovery as a fee.

“I can't tell you how many widows I've talked to. (They would say) 'This scam killed him. We've worked all our lives for this money,'?” he said.

But in the eyes of the IRS, he was just another scammer preying on people who'd already been victimized. Internal Revenue Service agents began asking questions about his methods in 2007 and the Justice Department sued in 2010.

Last fall, a federal court ordered Elsass to close Fraud Recovery Group and a companion company, Sensible Tax Services.

In his ruling, Judge Peter Economus didn't hold back: Elsass and his companies misled customers into believing they had legitimate deductions to claim on their tax returns, he said.

“To be blunt,” he wrote, “Elsass seems perfectly willing to lie and deceive, even to the extent of possibly committing perjury, in order to advance his own interests.”

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whose husband died before the collapse of Heritage Financial.

Relying on the testimonial of a friend, she turned to Elsass to recover some of her money.

She paid Elsass \$6,000. Elsass, in return, got back \$19,000 in state and federal tax returns, she said. Elsass said his records show Burton recovered \$27,000.

“Everything went through like clockwork,” she said.

Then the letters from the IRS began coming.

“I owed them some money. I really didn't know what for,” said Burton, who admitted to not having much understanding of how Elsass handled the tax returns.

She went back to Elsass for help, but she heard back from him only once — a message in which he said “The IRS is

100 percent wrong, but they aren't budging an inch.” Meanwhile, the letters from the IRS kept coming.

She ultimately hired an attorney, Roger Weaver of Canal Winchester, who helped settle the dispute with the IRS. Burton said she paid the IRS \$8,900 and recently took out a loan to pay another bill of \$2,100 that the IRS said is for interest. If nothing else, she figures that Elsass owes her the \$6,000 she paid him.

“I should have gotten at least that back,” said Burton, who these days says she'd have been better off if she'd never sought his help.

### How it worked

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Elsass used a hypothetical case of a single person earning \$50,000 a year who lost \$200,000 in a Ponzi scheme to show how his system works. Typically, such a person would pay about \$8,000 a year in federal income tax.

Elsass said the victim could claim the full \$200,000 loss by taking deductions for the current tax year and filing amended returns for the previous three years. If all the losses couldn't be taken over that span, the losses could be written off on future tax returns.

Under his hypothetical, the taxpayer would recover \$32,000 in taxes — \$8,000 for each of four years — plus interest, Elsass said. Elsass' fee would be either 15 percent or 30 percent of the amount of money recovered, depending on whether the taxpayer pays the fee for the returns upfront or the fee is deducted from the returns.

In some instances, it can be difficult to persuade victims to claim losses.

“People are ashamed. They don't want their kids to know they lost the inheritance,” he said.

Elsass started the company in 2006 out of his house.

He was no stranger to such a business. Elsass had been a salesman for JK Harris & Co., a company that touted its ability to settle consumers' tax bills for “pennies on the dollar.” After Elsass left the company, It was sued by 18 attorneys general, including Ohio, on charges that it failed to live up to its promises and ultimately ended up in bankruptcy protection. Fraud Recovery grew so big so fast that he opened an office in Worthington. He once had 60 employees.

In 2009, he opened a second company, Sensible Tax Services, also in Worthington, to perform routine tax services for clients who had trouble finding preparers. It employed a handful of people.

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The government also argued that Elsass used improper forms that led to larger refunds than a taxpayer was entitled to receive.

The IRS declined to comment on the Elsass case. Instead, it referred to information that is available to taxpayers on how to claim losses from financial schemes. The Justice Department did not respond to requests for comment.

One local expert in such issues indicated that Elsass and his company got into trouble by taking a broader approach to tax law than the IRS allows.

After reviewing Economus' ruling, Ted Johnson, the tax and litigation support partner with local accounting firm Parms & Co., said losses from Ponzi schemes and other scams are legitimate deductions. But before they can be claimed, every attempt must be made to see whether there is any money left that can be returned to victims.

“(Fraud Recovery Group) extrapolated activities that occurred in the companies that were being invested in and worked to come to the 'no recovery coming' conclusions in calendar years earlier than they should have,” he said. “The matter of this deduction timing seemed to be one of the core issues in the case.”

Elsass' company isn't the only one to have tried to make money through tax schemes.

In the past decade, the Justice Department's Tax Division said it has obtained more than 500 injunctions to stop tax-fraud promoters and tax-return preparers. Many involve preparers accused of inflating or creating deductions, boosting income to claim credits that would lead to bigger returns, and hiding income.

How much of this kind of fraud takes place is hard to say, said Allan Bachman, education manager for the Association of Certified Fraud Examiners.

“There is always going to be tax fraud,” he said. “It's an easy way to get money. You're

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Economus had a lot of harsh words for Elsass, but he is allowing Elsass to finish work for existing clients, provided he complies with the ruling and informs customers of the court order.

Elsass is appealing to the 6th U.S. Circuit Court of Appeals in Cincinnati. He disagrees with Economus and says the deductions that his clients claimed are allowed and that even most IRS agents don't understand the law.

“Some things are really hard,” he said. “It confuses the IRS.”

If Elsass' business were illegal, Economus would have shut him down immediately, Elsass said.

“The goofy thing is that the judge let me finish. That means it isn't illegal,” he said.

He figures he has fewer than 100 clients left.

Economus declined to comment on the ruling and said through a law clerk that the ruling and other public documents in the case speak for themselves.

Paul Rose, an Ohio State University law professor who teaches business law and corporate finance, said Elsass is reading the judge's ruling incorrectly.

“That's completely wrong. That's absolutely wrong,” he said. “The judge is very clear that (allowing Elsass to work with existing clients) is a really narrow exception.”

Economus is allowing Elsass to continue to serve existing clients so they won't suffer additional costs by having to hire new tax preparers, Rose said.

Rose said he understands that Elsass believes the work of Fraud Recovery is legal.

“But I also believe that Bernie Madoff believed in what he was doing. Often, people

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After fighting with the IRS, Elsass said he was ready to let Economics Training stand and move on to other business ventures.

He chose to appeal because of the effect the case has had on current and former employees. ” Quite frankly, I'm tired,” he said. “I'm tired of being chased. I'm tired of the rigmarole.”

Elsass has started a new business called SOS, or Save Our Shack, meant to connect homeowners in foreclosure with lawyers who can help them in their fight against the banks.

Like with other business ventures, Elsass said this is meant to help people who have been victims.

“I think the banks are bullying people,” he said. “It lets them have a fair shot at the bank. “

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