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FEDERAL JURY CONVICTS FORMER NURSING HOME EXECUTIVE

FORT WORTH, Texas — Following one hour of deliberation, a federal jury in Fort Worth convicted Bedford, Texas, resident, Stephen Michael Ewing, a/k/a “Stephen Michaels,” on various offenses related to his operation of nursing homes in Texas and elsewhere, announced U.S. Attorney Richard B. Roper of the Northern District of Texas. Following this afternoon’s verdict, U.S. District Judge Terry R. Means remanded Ewing to the custody of the U.S. Marshals Service.

Specifically, the jury convicted Ewing, 60, on one count of conspiracy, seven counts of tax evasion, five counts of mail fraud, seven counts of making false statements to government agencies and seven counts of making false statements regarding health care. The maximum statutory sentence applicable to the conspiracy, false statements and tax evasion counts are five years in prison and a \$250,000 fine, per count; the maximum statutory penalty applicable to the mail fraud counts is 20 years in prison and a \$250,000 fine, per count. Restitution could be ordered. Sentencing has been set for July 21, 2008.

At trial, the government presented evidence that beginning in August 1999 and continuing through mid-May 2004, Ewing, along with co-defendants, Gary Trebert and Larry May, conspired together, and with others, to defraud the U.S. by impeding, impairing, obstructing, and defeating the lawful government functions of the Internal Revenue Service (IRS) in the ascertainment, computation, assessment, and collection of the revenue, that is, nursing facility employees’ withheld income taxes, social security taxes and medicare taxes, and the Department of Health and Human Services (HHS) in the administration of the Social Security Act and the Medicare and Medicaid programs.

Gary Trebert, a licensed attorney, pled guilty last week to conspiracy to defraud the government by obstructing and impeding lawful government functions of the IRS and HHS and tax evasion and aiding and abetting. He faces a maximum statutory sentence of 10 years in prison, a \$500,000 fine and restitution that will be determined by the Court based on all of his criminal conduct relating to the offenses charged in the indictment, including, but not limited to, unpaid taxes and unlawfully obtained healthcare payments. The government will, as part of the plea agreement, make a non-binding recommendation that the Court sentence Trebert to a term of eight years in the custody of the Bureau of Prisons. Co-defendant Larry Gordon May pled guilty to his role in the conspiracy in October 2007. May is scheduled to be sentenced on April 28, 2008; Trebert is scheduled to be sentenced on July 14, 2008.

As part of the conspiracy, Ewing and his coconspirators, using the names of sham corporate entities, obtained control of 70 licensed nursing facilities with thousands of patient beds and thousands of employees. In order to acquire control of these facilities, Trebert, Ewing and May used false statements and false and fraudulent documents, including Applications for Nursing Facility License and Medicaid Contracts, Medicare Federal Provider Enrollment applications, ownership documents, IRS Employer Identification Number applications, Health Insurance Benefit Agreements, and Electronic Fund Transfer forms. Their falsifications included falsely

identifying relatives as owners, operators, and managers of the nursing homes on the applications; failing to disclose staffing/payroll companies on nursing home applications; failing to disclose Ewing and May as the true owner/operators of nursing homes; and forging names of individuals on filed documents to divert responsibility away from the three defendants. They used the false statements and documents to hide from HHS, state licensing and Medicaid agencies, and the IRS, the true control and management of the nursing facilities, their responsibility for more than \$200 million in money derived from the nursing homes, and their responsibility for the nursing facilities' residents.

Both Trebert and May testified against Ewing at trial. Trebert testified that he and Ewing repeatedly discussed the creation and the overseas payroll companies to interfere with IRS efforts to collect the payroll taxes. Trebert also testified that Ewing once boasted about having previously operated nursing homes without having to pay the payroll taxes. Larry May testified that Trebert and Ewing made him president of the company, even though he told them he was not qualified.

May further testified that, during some of the periods covered by the Indictment, he was making \$10,000 to \$25,000 per month for doing little more than signing documents, including tax returns, and taking tax returns to England to mail back to the IRS in the U.S. More than 150 sham staffing/payroll entities, many with foreign business addresses at drop boxes in England and Austria, were created to file Form 941 employer withholding tax returns with the IRS, preventing the IRS from assessing and attempting to collect more than \$34 million of unpaid payroll tax liabilities from Trebert, Ewing and May, and creating the appearance that these sham staffing/payroll entities employed more than 4500 nursing facility employees, when they did not.

The defendants diverted to themselves and their personal activities substantial sums of money derived from their nursing home operations and from the non-payment of employees' withheld payroll taxes. At trial, the government presented evidence that, during the period covered by the Indictment, Ewing spent more than \$2.5 million in money derived from the nursing home operations on his personal expenses. The total expenditures included more than \$200,000 at department stores such as Saks Fifth Avenue, and more than \$250,000 on automobiles.

Trebert admitted that in April 2004, he attempted to evade and defeat the assessment and payment of more than \$4,113,000 in withholding taxes taken out of employees' pay at 42 nursing homes he and his coconspirators controlled.

U.S. Attorney Roper praised the investigative efforts by federal and state agencies including, Internal Revenue Service - Criminal Investigation, U.S. Department of Health and Human Services Office of Inspector General, Federal Bureau of Investigation, U.S. Postal Inspection Service, Texas Office of the Attorney General - Medicaid Fraud Control Unit, and state agencies from Kansas, Iowa, Oklahoma and Virginia. The case is being prosecuted by Assistant U.S. Attorneys Ron Eddins and Alan Buie.

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