The United States Attorney's Office

Northern District of Georgia

Former Hedge Fund Manager Indicted for Defrauding Investors and Obstructing the SEC

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GAINESVILLE , Ga.– Stanley J. Kowalewski has been arrested in South Carolina after being indicted by a federal grand jury in Atlanta for defrauding investors of hedge funds of up to $8 million, and for obstructing the U.S. Securities and Exchange Commission's subsequent investigation of his activities.

"Kowalewski is charged with stealing from the investors who trusted him and then repeatedly lying to them and the SEC about his self-dealing," said United States Attorney Sally Quillian Yates. "The victims of his greed include pension funds, schools, hospitals, and other non-profits who lost over $8 million in hard-earned money, which Kowalewski diverted to his own personal use."

Mark F. Giuliano, Special Agent in Charge, FBI Atlanta Field Office, stated: "Investment fraud cases such as this remain a focus of the FBI's criminal investigators in that these cases generate many victims and large loss amounts. The FBI will continue to work with its many law enforcement partners in an effort to hold accountable those individuals who would victimize unsuspecting investors by diverting their funds for personal gain."

"Theft of employee benefit assets jeopardizes the benefits of workers. This case reaffirms the Labor Department's commitment to protect workers' benefits by identifying criminal activity wherever and whenever it occurs," said Isabel Colon, Regional Director of EBSA's Atlanta Regional Office.

According to United States Attorney Yates, the charges and other information presented in court: Kowalewski was the sole owner and Chief Executive Officer of SJK Investment Management, LLC, in Greensboro, N.C. Beginning in 2009, Kowalewski solicited investment money from pension funds, school endowments, hospitals, non-profit foundations, and other investors which he placed in two SJK "hedge fund of funds," an onshore fund and an offshore fund called the Absolute Return Funds. Almost immediately after receiving the first investor money, Kowalewski began diverting the proceeds to pay for personal and business overhead expenses.

In December 2009, Kowalewski formed a new SJK fund called the Special Opportunities Fund, which he did not disclose to investors. He diverted millions from the Absolute Return Funds to the Special Opportunities Fund without disclosing the transfers to investors. After he secretly transferred the funds, Kowalewski diverted millions from the Special Opportunities Fund to himself through various self-dealing transactions, including having the Special Opportunities Fund buy three homes that Kowalewski owned and in which his family, his parents, and his brother-in-law's family lived. Kowalewski also bought a multi-million-dollar beach house and directed that the Special Opportunities Fund pay him $4 million as a fee to which he was not entitled. Kowalewski created and altered documents in an effort to make these transactions appear legitimate.

Also as part of the scheme, Kowalewski overvalued the assets held by the Special Opportunities Fund and used those fraudulent valuations to calculate the returns for investors in the Absolute Return Funds. As a result, the monthly statements distributed to SJK investors showed fraudulently inflated returns. Investors lost over $8 million as a result of Kowalewski's fraudulent scheme.

On March 30, 2010, the SEC initiated a proceeding to determine whether there had been violations of the federal securities laws in connection with SJK. As part of its investigation, the SEC subpoenaed Kowalewski to testify under oath. During his sworn testimony, Kowalewski testified that, after the Special Opportunities Fund had purchased his three homes, the Fund had leased the properties to him and his relatives, each for a yearly rental payment. He testified further that Michael J. Fulcher, the Chief Financial Officer of SJK, had drafted, and Kowalewski had signed, the leases at or near the time of the homes' sales. According to the indictment, however, Kowalewski and his relatives had never leased the homes back from the Special Opportunities Fund. Prior to Kowalewski's sworn testimony, Kowalewski and Fulcher conspired to obstruct the SEC proceeding by creating the leases and backdating them, in an effort to document the claimed lease relationships and to conceal the self-dealing transactions by Kowalewski. The leases were not created and signed at the time of the homes' sales but in November 2010, a few weeks before Kowalewski testified. Kowalewski provided the fraudulent leases to the SEC as part of the investigation and then testified falsely about them to conceal his actions and obstruct the SEC's investigation. The indictment also alleges Kowalewski lied in his sworn testimony when he testified that he had disclosed the Special Opportunities Fund to investors and that attorneys and other professionals had approved of his self-dealing transactions.

The indictment charges Kowalewski, 41, of Pawleys Island, S.C., with 22 counts of wire fraud, one count of conspiracy, and one count of obstructing the SEC proceeding. Each wire fraud count carries a maximum sentence of 20 years in prison. The conspiracy and obstruction charges each carry a maximum sentence of 5 years in prison. On April 19, 2013, Fulcher pleaded guilty to one count of conspiring with Kowalewski to obstruct the SEC proceeding, which charge carries a maximum sentence of five years in prison. Each of these charges carries a fine of up to $250,000. Fulcher's sentencing date has not yet been scheduled. In determining the actual sentence, the Court will consider the United States Sentencing Guidelines, which are not binding but provide appropriate sentencing ranges for most offenders.

Members of the public are reminded that the indictment contains only allegations. The defendant is presumed innocent of the charges and it will be the government's burden to prove the defendant's guilt beyond a reasonable doubt at trial.

This case is being investigated by Special Agents of the Federal Bureau of Investigation, Investigators with the Atlanta Regional Office of the U.S. Department of Labor's Employee Benefits Security Administration (EBSA), and Special Agents of the Atlanta Regional Office of the U.S. Department of Labor's Office of the Inspector General. The Atlanta Division Office of the U.S. Securities and Exchange Commission previously brought a civil action against Kowalewski. In that case, Kowalewski was ordered to pay over $16 million in disgorgement and civil penalties.

Assistant United States Attorneys Stephen H. McClain and Russell Phillips are prosecuting the case.

For further information please contact the U.S. Attorney's Public Affairs Office at USAGAN.PressEmails@usdoj.gov or (404) 581-6016. The Internet address for the home page for the U.S. Attorney's Office for the Northern District of Georgia Atlanta Division is http://www.justice.gov/usao/gan/.