



DEPARTMENT OF THE TREASURY Internal Revenue Service Criminal Investigation

Memorandum of Interview

Investigation #: [REDACTED] **Location:** USAO Delaware – Conference Room

Investigation Name: Robert DOE
Date: November 16, 2021
Time: Approx. 3:01PM – 4:30PM

Participant(s): Troy Schmidt, RHB’s Return Preparer
Phil Carney, Schmidt’s Counsel
Joseph A Ziegler, Special Agent, IRS-CI
Christine Puglisi, Special Agent, IRS-CI
Michelle Hoffman, Forensic Accountant, FBI
Jack Morgan, Department of Justice – Tax
Mark Daly, Department of Justice - Tax

On the above date and time, SA Ziegler, SA Puglisi, FA Hoffman, DOJ-Tax Attorney Morgan and DOJ-Tax Attorney Daly met with Troy Schmidt (“Schmidt”) and his attorney, Phil Carney at the above location. This interview had been set up prior to the meeting. [REDACTED], had noted that RHB had withdrawn some of his claims of privilege relating to the return preparation documents, [REDACTED]

[REDACTED] Schmidt provided the following information.

1. Schmidt stated that he would track his time in the same manner that Jeff Gelfound (“Gelfound”) would have kept his. Schmidt stated that his timesheet might have less detail though because he is a partner and his ability to keep track of time is more relaxed. Schmidt stated that that his assistant ultimately submits Schmidt’s time into the billing system. Schmidt stated that he turned over his detailed timesheets at the same time Gelfound did.
 - a. [REDACTED]
2. Schmidt stated that George Mesires’ (“Mesires”) role in RHB’s return preparation process was helping them get information for RHB in helping prepare RHB’s unfiled tax returns. Schmidt stated that Mesires did not give them a heads up on advice of working with RHB and what they needed to pay attention to. Mesires helped them get information from RHB’s prior accountants as they were initially reluctant in turning over information to them. Schmidt

stated that they were instructed to send all communications regarding RHB to Mesires.

3. Schmidt couldn't recall why RHB had unfiled tax returns. Schmidt did recall that the reasons were just excuses: RHB had been through a difficult divorce, his prior accountant had passed away, he had been going through difficult times and that he had a breakup with his former business partner.
4. Schmidt stated that his first communication with RHB was around their first meeting on November 11, 2019. Schmidt stated that they were provided with RHB's draft tax returns out of that meeting and that they started their review of RHB's tax returns. Schmidt stated that in the beginning, they were trying to gather as much information as possible. Gelfound would have drafted the first open items listing.
5. [REDACTED]
 - a. Schmidt stated that he would send these emails to Mesires. Schmidt was asked about item #10 and Schmidt stated that it was always a "challenge" in getting source documents. If they would identify something that was missing, Schmidt/ Gelfound would ask Mesires. If Mesires didn't know, Mesires would repeatedly point them in the right direction to get the source documents, which would include the Wells Fargo bankers, RHB and the accountants with Morgan Wingate.
 - b. Schmidt stated that they did have a draft of the Morgan Wingate prepared 2017 tax return and that they would ask for support of every line item.
6. [REDACTED] asked about #10:
 - a. Schmidt doesn't believe that they ever got an answer to this item. Schmidt recalled that Bill Morgan ("Morgan") had passed away and that Merritt Wingate ("Wingate") didn't work on the RHB tax engagement. It was apparent that Wingate wasn't knowledgeable on the RHB's tax details.
 - b. Schmidt stated that they probably followed the treatment used for RHB in the prior tax years.
7. [REDACTED] asked about item #14:
 - a. Schmidt stated that this was a general question. Schmidt was asked if they would push back on the treatment of tax deductions. Schmidt stated that they would look at the deductions for reasonability and if it "looked like" a business deduction. Schmidt stated that if there was a larger issue with something in the records, that it would be the partner's job (Schmidt's) to step in and add some muscle.

- b. Schmidt stated that there was an instance with RHB where he needed to step in and that it was mainly on the income side. RHB was telling that the money he received was a loan to him. RHB was unable to provide loan documentation when asked for support. Schmidt stated that they got the tax returns for the entity that had paid Owasco and that the tax return did not show the money paid to Owasco as a loan. That entity actually expensed the payments made to Owasco. At the end of the day, RHB backed down and ultimately agreed that the payments to him were not a loan.
8. [REDACTED]
 - a. Schmidt stated that it took a while to get through to the right people in getting source documents. Schmidt pointed at the amount of time it took to get some of the documents. Schmidt wasn't surprised that Mesires didn't have the information and stated that Schwerin was ultimately very helpful in getting them information.
9. [REDACTED] asked about the entry on January 17th:
 - a. Schmidt didn't recall seeing the notes from the call. Schmidt stated that in addition to gathering documents, Mesires was also reviewing drafts of the tax returns.
 - b. Schmidt didn't recall going through in detail the drafts of the tax returns with Mesires. But that they went over some items on the tax returns.
 - c. Schmidt didn't recall Mesires or Asheef (sp) coming back with any issues on the draft tax returns.
10. [REDACTED] entry on January 18th [REDACTED]
 - a. Schmidt stated that these looked like his notes and that he felt at the time like they needed to be typed up. Schmidt recalled being surprised that they 2016 tax return had not been filed and that everyone had assumed it had been filed. Schmidt stated that Mesires and RHB tried to get the tax lien resolved. Mesires wanted to avoid a public tax lien and that they were trying to work out an extension with the IRS and/ or get the taxes paid right away. Schmidt also recalled telling Mesires about the 2016 tax return not being filed.
11. Schmidt did not recall anyone telling him about RHB omitting Burisma income from the 2014 tax return and/ or that RHB needed to file an amended tax return for 2014.
12. [REDACTED]

- a. Schmidt stated that these were his notes from the crisis meeting at Kevin Morris' ("Morris") home in the Pacific Palisades. Either Morris or Morris' assistant had invited Schmidt to this meeting and Schmidt stated that at the time, he had no idea what he was walking into. Schmidt stated that the meeting lasted 2 ½ hours.
- b. Schmidt stated that Morris had first appeared two days prior to this meeting.
- c. Schmidt didn't recall the exact purpose of the crisis meeting, Schmidt originally thought that they were going to discuss RHB's returns, but that they didn't end up discussing anything about the preparation of RHB's tax returns. Schmidt stated that at least ten people were at the meeting and that he didn't end up documenting everyone at the meeting. Schmidt recalled Mesires, RHB, Morris and Lindsey Wineberg at the meeting.
- d. Schmidt stated that Morris' role was another advisor to RHB and RHB's family. Schmidt was not surprised that a lot of attorneys were working for RHB.

13. [REDACTED]

- a. Schmidt would review documents with Gelfound and either Schmidt and/ or Gelfound would send them to Mesires as he was the point guy in RHB's return preparation. Schmidt and / or Gelfound were not communicating with RHB at this point because that's what they were instructed to do.
- b. Schmidt was sure he discussed these reports with Gelfound. Schmidt stated that they were creating RHB's books and records from scratch and were going off of QuickBooks entries they had input from the bank statements. Schmidt stated that their bookkeeper had made the initial classification and that RHB was instructed to identify personal expenditures.

14. [REDACTED]

- a. Schmidt couldn't recall having a call with Mesires before sending the email. Schmidt didn't recall discussing the reports in detail with Mesires. Schmidt stated that this Exhibit showed expenses that were questionable.
- b. Schmidt stated that they never discussed these reports with Morris. Morris was not involved in the tax return prep.

15. [REDACTED] entry dated January 27th. [REDACTED]
the representation letter in their workpapers.

- a. Schmidt stated that this letter evolved out of the return preparation process. Schmidt stated that RHB was a high-profile individual and that they had to rely on RHB's statements in the return preparation process. Schmidt wanted to make sure that there was no mistake on reliance in the return preparation. Schmidt further stated that he wanted to make sure that there was "no misunderstanding later on". Schmidt stated that they had difficulty in getting information from RHB and his representatives and that they were missing information. Schmidt thought that it was significant enough to get this representation letter.
- b. Schmidt stated that the letter did not come up as a snap decision. Schmidt stated that he would have discussed this representation letter with the other partners. Schmidt stated that they got a draft of the representation letter from their insurance provider Camico website and that they tailored the letter to RHB's situation.

16. [REDACTED]

- a. Schmidt recalled the meeting. Schmidt stated that they were constantly asking for the same things from RHB. Schmidt didn't recall discussing or educating RHB on what was a proper business deduction, but Schmidt stated that RHB knew what a proper business expense was.
- b. Schmidt was asked about item 6. Schmidt stated that they must have reviewed this in detail with RHB.
- c. Schmidt was asked about the January 25th report in the workpapers. Schmidt recalled RHB highlighting items and going through the report. Schmidt stated that they might have also discussed some of the items. Schmidt recalled him and Gelfound sitting with RHB as he went through these statements and that they were there to answer any questions he had.
- d. Schmidt recalled giving a stack of bank statements to RHB, and that he took them home to review. Schmidt stated that RHB did take the statements home and that he brought them back after he reviewed them.

17. [REDACTED]

- a. Schmidt was sure that they had a discussion with RHB about the Ridgewood and Chase items. Schmidt stated that based on these discussions they decided that the payments were deductible and that they were never able to get evidence to the contrary. Schmidt stated that they would have asked for backup documentation for these items.
- b. Schmidt recalled having pressure from RHB and his attorneys at this time to get the returns completed and filed with the IRS.

- c. Schmidt didn't recall what RHB stated about the Ridgewood Savings expenditures. Schmidt recalled that some of the payments went to RHB's uncle, James Biden ("James B"). Schmidt recalled that they had originally classified something as being paid to James B that didn't actually go to James B.
- d. Schmidt stated that RHB recalled what certain bank accounts were used for and that they were business expenses, but that he couldn't recall the specifics. Schmidt stated that they would have just relied on the statements made by RHB about the expenditures.

18. [REDACTED]

- a. Schmidt recalled that BHR was a Chinese investment that RHB was involved in. Schmidt couldn't recall what was said about the initial source of the funds for the \$450,000 investment. Schmidt stated that the investment was prior to 2017 / 2018.
- b. Schmidt stated that if he received background information on BHR that it would be in the workpapers / notes. Schmidt recalled telling Gelfound to take good notes.

19. Schmidt couldn't recall if he was at the next meeting on January 30th with RHB. Schmidt stated that he didn't attend 100% of the meetings with RHB and that he would have to look back at his own schedule.

20. Schmidt recalls the next meeting on February 6th. Schmidt stated that the 2018 workpapers were shown to RHB and that they went over some of the same issues. Schmidt stated that they had issued Forms 1099 for payments made from Owasco. Schmidt recalled receiving a phone call from Sara Biden ("Sara B") who was disputing the amount shown on the Form 1099. Schmidt recalled this being related to the payments made to a Chase account that were classified as being paid to James B and Sara B. Schmidt recalled he and Gelfound trying to get support for these Chase payments and that it was a mystery to them why they couldn't get it. Schmidt recalled constantly asking for this support. Schmidt recalled that RHB wasn't able to access some of the records because the accounts were closed. Schmidt recalled that RHB's banker at Wells Fargo also weren't able to get the support and that RHB had insisted that the unknown payments were business related.

21. Schmidt stated that the 80 / 20 split on the line of credit was decided in one of the late meetings with RHB. Schmidt stated that they had got some sense of what RHB would have used the line of credit for based on discussions with RHB. RHB had represented to Schmidt that the line of credit was mostly used for travel and that's why they came up with the split.

22. DOJ-Tax Attorney Daly asked Schmidt what type of business was RHB doing during 2018. Schmidt stated that RHB had traveled extensively for business as

a consultant and that he had international business he was doing as well. RHB did not discuss his substance abuse issues in 2018 with Schmidt.

23. [REDACTED] DOJ-Tax Attorney Daly had pointed out that the travel account was 13 times more in 2018 than in 2017:
 - a. Schmidt stated that the Travel Transportation and other account encompassed stuff that they didn't have supporting documentation for. Schmidt recalled telling RHB that if he was audited, they would have to find documentation for these items and that the IRS could throw them out. Schmidt recalled that RHB said if the return had to be amended, that he would amend it.

24. [REDACTED]
 - a. Schmidt stated that this was an effort to send the returns to everyone and to notify them that they don't have support for some of the items. Schmidt stated that they were expressing this concern to RHB's counsel and that nobody called after they sent this email. Schmidt stated that they may have had an email that the returns look fine. Schmidt stated that they ended up filing the returns so they must have received a response, with no changes. Schmidt stated that he wasn't sure if any of the attorneys actually reviewed the tax returns, but that there were no comments made and no changes suggested.
 - b. Schmidt stated that no body had asked them to delay filing the returns or to slow down the process. Schmidt recalled RHB trying to go online to get his tax account transcripts. Schmidt stated that they never received the support.
 - c. Schmidt does not recall the name Shep Hoffman. Schmidt stated that the "personally and politically" statement delves into the other areas and that they were again, under a significant amount of pressure to file the tax returns.

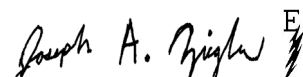
25. Schmidt recalled RHB signing the returns on February 11th and that Schmidt had a meeting the day before, with Ed White and another partner at the firm Rick Finnestrom. At this meeting they discussed the outstanding matters with RHB's returns and where they stood in filing them. Schmidt looked at this meeting as an internal review process and to ask the other partners if they had missed anything.

26. Schmidt again verified that they never got the line of credit records from RHB.

27. Schmidt stated that they did not amend the 2018 tax return due to the discrepancy with Sara B and James B's 2018 payments because they never got additional support that disproved the expenditures were not business related.

28. Schmidt was asked about the final review with RHB of the tax returns. Schmidt stated that they went over with RHB the final numbers, the bottom-line number, the income and tax due. Schmidt was asked if RHB had any comments about the returns. Schmidt stated that the "tax due" opened his eyes. RHB didn't indicate to Schmidt how he was going to pay the tax due. Schmidt recalled discussing a payment plan with RHB. Schmidt again stated that RHB definitely went through the returns and that he was aware of the open items they had at the time of filing.

I prepared this memorandum over December 17 through December 28, after refreshing my memory from notes made during and immediately after the interview with Troy Schmidt.

 E
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