

S.D. eye surgeon pleads guilty

Kawesch faces prison, fines for tax evasion

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May 9, 2003

San Diego eye surgeon Glenn Kawesch, under fire from state licensing officials who say he is unfit to practice medicine, yesterday pleaded guilty to evading \$4.2 million in federal taxes through sham contracts and schemes stretching from Ireland to the West Indies.

He faces five years in prison and an undetermined amount in fines for failing to report \$1.46 million in cash payments and for overstating expenses by about \$14.5 million between 1997 and 1999, according to his signed plea agreement.

U.S. Attorney Carol Lam said Kawesch's crime "involved millions of dollars, and it was committed by a professional physician who was determined to cheat the system."

Kawesch's actions were "sophisticated and very creative" efforts to "skim cash from his business . . . for his personal use," said Denise L. Rubin, special agent in charge of criminal investigations for the Internal Revenue Service.

Kawesch's attorney Michael Lipman said: "Does he wish he hadn't done it? Of course. There are very substantial penalties for someone who gets caught doing what he did, and there's the possibility that he will actually be incarcerated."

The 27-page agreement was filed yesterday in U.S. District Court before Judge M. James Lorenz and comes as Kawesch battles to keep his license to practice ophthalmology.

In the plea, Kawesch admits to working with tax attorneys, whose names were not made public, to set up "sham contractual agreements" to falsely claim tax-deferred compensation by making Kawesch an employee of Worldwide Career Management, an Irish company.

By routing transactions through Worldwide and two other companies, Kawesch and his company, Southwest Eye Care Center, were able "on a regular basis" to cause "periodic payments to be made from Southwest Eye Care Center . . . purportedly in payment for defendant's services," the plea agreement says.

"In fact, these were sham transactions, carried out as part of a scheme for (Kawesch) to evade income tax liability," the agreement says.

He used \$1.9 million of the payments to buy a Lear jet.

Kawesch also admits to setting up a fictitious \$1 million marketing service agreement between Kawesch's Southwest Eye Care and an entity called Telco, which he did with the assistance of an attorney and others.

Telco would make an investment in another company, Sequoia Ltd. of Island of Nevis, West Indies. Instead of being held by Sequoia, the funds were placed in a Kawesch account.

"The entire (marketing service agreement) was nothing more than a ruse," according to Kawesch's plea agreement.

Lipman emphasized that Kawesch "has been cooperative with the government since October 2001" in "doing what he said he would do, which is to be candid" in telling federal officials how the transactions were done.

A status hearing, during which Kawesch might be sentenced, is set for Aug. 11.

"I would think he's going to pay a substantial amount in back taxes with interest and penalties," Lipman said, adding that he expects the final sum might amount to about \$8 million, or double the amount of taxes owed.

Lipman said "it's pretty clear the government doesn't want him sentenced until he's finished with his cooperation and any testimony that they want him to give." While the government has not yet charged anyone else involved in Kawesch's case, Kawesch has agreed to help the government's side when they do, Lipman said.

Since December 2001, Kawesch has fought charges from the state attorney general, acting on behalf of the Medical Board of California, that he operated on patients who could not benefit from the procedures and on some who were harmed by inappropriate use of Lasik procedures and photoreactive keratectomy.

Before a hearing could be scheduled, the state learned of more patients allegedly harmed by Kawesch and, last June, declared him a "danger to public health" in a petition to have the court immediately suspend his license.

The judge rejected the petition last June. Since then, the original accusation has been amended with additional patients and is scheduled to be heard June 30.

Kawesch was charged in 1995 with submitting false Medicare claims, fabricating test results and falsifying insurance codes to receive payment for services that were unnecessary or never performed, according to state documents.

He paid \$225,000 in fines and was excluded from government reimbursement programs for four years.

Kawesch said he treats 3,000 patients a year. He publicizes his practice through print and broadcast ads and has performed surgery on many sports, broadcast and political figures, including former San Diego Mayor Susan Golding.

Lipman said Kawesch continues to treat patients at his Laser and RK Eye Center off Mira Mesa Boulevard, but that since the controversies, the number of patients has declined.

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