

PRESS RELEASE

# Wiley Rein Secures Appellate Reversal of Criminal Tax Convictions and Vacatur of Seven-Year Sentence

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August 7, 2015

Wiley Rein today secured a major appellate victory on behalf of a client in an appeal of criminal tax convictions and seven-year sentence, in a case stemming from charges by the U.S. Department of Justice that the client defrauded several federal government contracting agencies.

In *United States v. Elaine Martin*, the U.S. Court of Appeals for the Ninth Circuit today vacated Elaine Martin's convictions for subscribing false federal tax returns and vacated her entire sentence. The Ninth Circuit held that the U.S. District Court for the District of Idaho had abused its discretion by admitting evidence at trial that Ms. Martin had previously been audited by Idaho state tax authorities.

"We conclude that the state tax audit evidence was not relevant on the federal tax claims and so should have been excluded under Rule 404(b)," the Court said in its opinion, authored by Circuit Judge Ronald M. Gould. "But even if relevant, it was unduly prejudicial and not admissible under Rule 403. The government in substance told the jury that Martin had lied on her taxes before and should be convicted of doing so again—an argument not supported by the facts and barred under the rules of evidence."

The Ninth Circuit also concluded that the district court erred in calculating the loss under the Sentencing Guidelines at Ms. Martin's sentencing hearing.

## Related Professionals

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## Practice Areas

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Government Contracts  
Issues and Appeals

Andrew G. McBride, chair of the firm's Appellate Practice, argued Ms. Martin's appeal before the Ninth Circuit in May 2015. The Wiley Rein team representing Ms. Martin also includes partners Brett A. Shumate and John R. Prairie, and associate Dwayne D. Sam.

The court's opinion can be found [here](#). News coverage of the court's ruling, in *PubKLaw*, can be found [here](#).