



Freed Maxick & Battaglia, PC  
Certified Public Accountants

## Press Release

### For Immediate Release

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## WNY firms part of winning defense team at federal tax evasion trial

### Expert witness tax consulting leads to acquittal in tax shelter case in Virgin Islands

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*Buffalo, NY – March 10, 2009* - The Western New York based firms of Andreozzi Fickess, LLP and Freed Maxick & Battaglia, CPAs provided legal and expert witness tax consulting that helped earn multiple not-guilty verdicts in a high-profile tax shelter case in the Virgin Islands. The firms were part of the defense team that represented J. David Jackson, Chief Financial Officer of Kapok Management LP, and eight other defendants indicted on tax evasion, conspiracy and wire fraud charges. The IRS and the United States Department of Justice accused Jackson and Kapok Management of sheltering \$300 million through the Virgin Islands Economic Development Commission (EDC) program. After a two-month trial, a federal jury on Wednesday acquitted Jackson and the other defendants. The defense team was co-headed by prominent white collar defense attorney Gordon Rhea, of the Richardson, Patrick, Westbrook & Brickman (RPWB) law firm in Charleston, South Carolina. The South Carolina law firm tapped tax counsel Andreozzi Fickess LLP of Clarence, NY to assist in representing David Jackson in the case. David Barrett, CPA, Director of Tax Services at Freed Maxick, was also brought on board to provide expert witness consulting and analysis for the defense team.

As part of the defense, the team pointed out that Kapok Management was part of a government-established and government-approved structured tax incentive program designed to do exactly what it offered to taxpayers—provide strong tax incentives for wealthy mainland businessmen to operate through the U.S. Virgin Islands. Not long after it entered the EDC Program, Kapok Management was targeted by the IRS in an investigation code-named “Operation Island Hideaway,” which looked to bring charges against these same wealthy mainland businessmen who participated in the Virgin Islands’ Economic Development Program. The IRS identified the

Virgin Islands Economic Development Commission (EDC) program as a target of its abusive tax shelter program. Following six years of investigative efforts by numerous IRS agents, the U.S. and Virgin Island governments brought a 29 count indictment in 2007 against individuals and entities that were part of Kapok Management LP.

The case presented a complex mixture of tax issues. Virgin Islands residency requirements, valuation issues, economic substance doctrines, the impact of statutory tax incentive programs, and lines of governmental authority were all matters addressed in the case. The government is expected to generate additional cases. The Department of Justice could bring additional indictments against other participants in the EDC program, or IRS could assert civil claims against EDC participants.

The Firms of Richardson Patrick, Andreozzi Fickess and Freed Maxick have provided high quality legal, tax and forensic services on other high profile tax cases together. Rhea is an accomplished trial attorney specializing in abusive tax shelter cases. Andreozzi and Fickess are former IRS Counsel now in private practice. All have extensive experience in tax controversies in both the civil and criminal areas. Mr. Barrett and his firm have extensive experience in both the civil and criminal tax litigation matters and provide forensic services to assist counsel in developing their cases.

#### **About Freed Maxick & Battaglia, CPAs**

Freed Maxick & Battaglia, CPAs is the largest public accounting firm in Western New York and a Top 100 Firm in the U.S. Freed Maxick & Battaglia has 260 employees and operates an alternative practice structure with RSM McGladrey, the nation's 5<sup>th</sup> largest accounting & consulting firm. Freed Maxick has offices in Buffalo, NY; Rochester, NY; and Batavia, NY. Visit [www.freedmaxick.com](http://www.freedmaxick.com).

#### **About Andreozzi Fickess, LLP**

Andreozzi Fickess, LLP is a national law firm based in Clarence, NY specializing in tax controversies. The Firm provides legal counsel to corporations and individuals both in administrative proceedings and tax litigation. In addition to white collar defense, the Firm's experienced tax attorneys represent clientele before the U.S. Tax Court and Internal Revenue Service. Visit [www.aftaxlaw.com](http://www.aftaxlaw.com).

#### **About Richardson, Patrick, Westbrook & Brickman, LLC**

Richardson Patrick is a national law firm based in Charleston, SC. The Firm is uniquely qualified for litigation involving white collar defense and abusive tax shelters. Visit [www.rpwb.com](http://www.rpwb.com).