

Restaurants

Charleston Restaurant Owner Gets Jail Time For Tax Evasion and Undocumented Workers

Dao Ping Lin, the owner of a Chinese restaurant in Charleston, S.C., has been sentenced to prison on charges of tax fraud and employing illegal aliens, federal prosecutors said Oct. 10 (*United States v. Lin*, D.S.C., No. 2:13-cr-00497, *sentencing* 10/10/14).

According to the U.S. attorney's office for the District of South Carolina, Lin owned and operated Osaka Restaurant and employed a number of undocumented immigrants. Some of them lived at Lin's house, and he transported them to work, the office said.

Prosecutors said Lin filed false quarterly employment tax returns (Form 941s) from 2007 through 2010, reporting only information related to legal employees paid by check.

However, most of Lin's employees were undocumented workers who were paid in cash and not included in the Form 941s he filed, prosecutors charged.

Through the scheme, Lin reportedly failed to remit \$228,912 in income and Federal Insurance Contribution Act taxes due from employees, as well as employer taxes of \$46,512.

Wife Supported Scheme. To help support the scheme, prosecutors said Lin's wife, Jin Xian Yang, conducted dozens of structured cash withdrawal transactions to evade currency transaction reporting requirements. Her charges were included in a separate case also filed in the U.S. District Court for the District of South Carolina (*United States v. Yang*, D.S.C., No. 2:13-cr-00496, *sentencing* 10/10/14).

The two were investigated and charged after the couple engaged in postal money order purchases also designed to avoid reporting requirements, according to prosecutors.

In October 2013, Lin pleaded guilty to charges of violating federal tax law and hiring illegal aliens, and his wife pleaded guilty to a charge related to structuring bank transactions.

Lin was sentenced to one year and one day in prison and three years of supervised release for the tax violations, and six months in prison for hiring undocumented workers. His prison terms are to run concurrently.

Yang was sentenced to 18 months in prison on the bank transaction charge, to which she pleaded guilty in October 2012. The couple also previously forfeited more than \$400,000 in assets as part of the proceedings.

Attorney: Practices Already in Place. Lionel S. Lofton, an attorney with the Charleston, S.C., offices of Lofton and Lofton who represented both Lin and Yang, told Bloomberg BNA Oct. 20 that he was pleased with the outcome as both of his clients received sentences below the federal guidelines for the charges.

According to Lofton, the couple had worked at the restaurant for several years before purchasing it. "A lot of the practices and the things that got them in trouble" had been in place before the couple took over the establishment, he said.

Although "it wasn't right" and the couple "didn't do anything to straighten it out," the judge apparently took into consideration that Lin and Yang didn't devise the fraudulent scheme themselves, Lofton told Bloomberg BNA.

Lin's sentencing to a prison term of one year and one day is important, as the time served may be reduced for federal sentences of longer than one year, according to Lofton. In addition, Yang will serve her sentence before Lin begins his to allow for their successful restaurant to remain open, Lofton said.

Lofton said that "[w]hile you'd like to keep your clients out of jail," he was "very, very satisfied with the results."

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