

[REGISTER](#) | [LOGIN](#) | [FACEBOOK](#) | [TWITTER](#) | [TUMBLR](#)[HOME](#) | [POLITICS](#) | [ENTERTAINMENT](#) | [BOOKS](#) | [FASHION](#) | [INNOVATION](#) | [BUSINESS](#) | [U.S. NEWS](#) | [WORLD](#)[Trending Topics](#) | [Jobs](#) | [College Rankings](#) | [Andrew Sullivan](#) | [Women in the World](#) | [Spin Cycle](#) | [Photos](#) | [Food](#)

# BUSINESS

[CHANGE TEXT SIZE](#)

## Tax Avoidance

Apr 10, 2007 8:00 PM EDT

**Good accountants know how to save their clients money on 15. But the demise of a respected Dallas law firm shows that some of the nation's leading tax specialists went too far.**

[Print](#) | [Email](#) | [Comments 0](#)

It took 50 years to build Jenkens & Gilchrist from a boutique Dallas law firm to a national player. The fall was much quicker. Once the fastest-growing law firm in the country, Jenkens & Gilchrist disbanded March 31 after a four-year battle with the Internal Revenue Service over what the firm finally conceded were fraudulent tax shelters that it designed and promoted. The closure of Jenkens was part of an agreement with the Justice Department that included payment of a \$76 million fine, an admission of guilt and Jenkens's promise to cooperate in the government's ongoing investigation of illegal tax shelters.

The demise of one of the most respected law firms in Dallas is only the latest episode in the federal government's ongoing crackdown against questionable tax shelters. In the go-go '90s, tax-accounting gurus had created a series of tax shelters with rock star names like BOSS, son of BOSS, and a Jenkens spin-off called COBRA. These shelters allegedly sapped the federal treasury of an estimated \$17 billion a year before the IRS started shutting them down in 2003. Jenkens was just one of many major firms that sold these tax-avoidance products to their wealthiest clients.

At one time, all six of the largest accounting firms in the United States were heavily promoting these tax vehicles. And several investment banks, including Lehman Brothers and Citigroup, were performing the financial transactions.

needed to create them. Eventually, most of the firms ended up in court, litigating both the IRS and clients who filed civil claims. Dallas attorney David Dean and his partners have civil lawsuits pending against American Express, Citigroup and Lincoln Financial. Many others have already settled with him including Lehman Brothers, Deutsche Bank, Ernst & Young and PricewaterhouseCoopers Gilchrist.

STORIES WE LIKE  
 EXPRESSTV/BAH  
 NEWSWEEK  
 Why Can't America Compete?  
 74 Percent of Black Obama's Handling

The shelters in question reduced tax liability by creating paper losses but increased economic risk, usually by shifting reportable income in time or converting it to capital gains or other lesser-taxed categories. COBRA (Currency Options Reward Alternatives), for instance, involved offsetting foreign currency transactions. The accounting firms formed teams with names like Predator and Othello for hefty commissions from these products, spurred by a law firm that allowed them to charge a percentage of tax dollars saved instead of flat fees. Jenkens and other law firms, such as Sidley Austin Brown & Wood LLP issued form letters saying the shelters were "more likely than not" legitimate, giving their clients the illusion that they were shielded from potential IRS penalties.

NEWSWEEK  
 Why Can't America Compete?  
 ABSUGAR  
 How Jessing Albar Cool Fall Style  
 ASK MEN  
 How To Lose Weight

"This whole abusive tax-shelter period was a sorry chapter, particularly relevant to some of our finer professional firms both legal and accounting," says IRS Commissioner Mark Everson. Now, "they think twice." The shelters had proliferated while the IRS, facing scrutiny by Congress for what some have called overly aggressive tactics, focused on improving customer service at the expense of enforcement. But that all changed in 2000, when the IRS listed BOSS and 30 other spinoffs as illegal tax dodges.

STYLELIST  
 Grace Jones at Style Back  
 NO  
 GET A TRIAL  
 TRIAL

The IRS argued, and federal appeals courts agreed, that BOSS and its offshoots were nothing more than accounting gimmicks whose sole purpose was to defraud the government of tax revenue. The economic substance standard prevailed: transactions had to serve a real business purpose other than saving taxes, as low-income housing and other legal tax shelters do. Prosecution authorized by the DOJ's Tax Division jumped. Jenkens and other law firms were forced to disclose their clients' names, and the IRS went after those clients for back taxes and penalties, resulting in the clients suing Jenkens and the other firms.

RELATED STORY  
 THE DAILY BEAST  
 Porn's New HIV Protection  
 THE DAILY BEAST  
 Is James Murdoch  
 THE DAILY BEAST  
 Michael Moore, Tr

The IRS has recouped more than \$3 billion from thousands of taxpayers from one of the tax-shelter variants, Son of BOSS. KPMG was fined \$450 million. Corporate-tax receipts tripled between 2003 and 2006, and the chairman of the Senate Finance Committee pointed to the tax-shelter crackdown as partly responsible. The committee continues to push for stricter laws against abusive tax schemes.

ARTICLE \$450 MILLION  
 CAREONE  
 How to do it as party  
 eat up your money

Meantime, the mass-marketed tax shelters have largely been abandoned by firms. "Our members are telling me that they wouldn't touch anything that looks like a tax shelter with a 10-foot pole," says Tom Ochsenrath, managing partner for taxation for the American Institute of Certified Public Accountants. "They want to be the next **Jenkins & Gilchrist**." A minority of "loose cannons" at firms were promoting tax shelters to begin with, he insists.

**Behind The Row:**  
**Ashley Olsen**

Jenkins & Gilchrist had a long and successful history before it got into the shelter business. It opened in 1951 with close ties to a Dallas Cowboys' cofounder and his oil-tycoon father. It weathered the Texas savings-and-loans real-estate crash of the 1980s and rebounded the next decade as a coast-to-coast operation. At its peak just a few years ago, Jenkins had offices in New York, Los Angeles, and Washington, D.C.; more than 600 attorneys and a revenues topping \$300 million.

View As Single Page 1 2 N

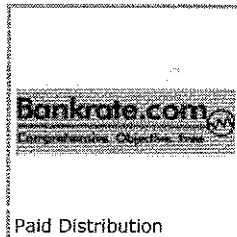
Print      Email      Comments 0

**law firms, Business, Jenkins and Gilchrist, Department of Justice, USD**

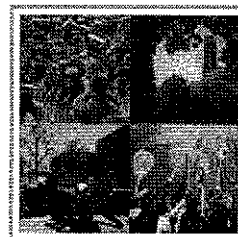
### RELATED STORIES



Mansion's Sad



Waitress scams bad tippers (BANKRATE.COM)



The Biggest Admissions Edge

### COMMENTS

You must be logged in to comment

Login or