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## Jay Sekulow's Golden Ticket

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Just the week before, Jay Sekulow, chief counsel of the American Center for Law and Justice, had cheerfully predicted that Supreme Court nominee Harriet Miers had "turned the corner" and would never withdraw her name from consideration.

Now, a few hours after Miers proved him dead wrong, Sekulow sounded as upbeat as ever. "She did the noble thing," Sekulow told the million-plus people listening to his daily radio show on Christian stations last Thursday, adding, confidentially, "I saw this coming." The next nominee, he predicted, would be a sitting judge just as worthy of support as Miers.

It was vintage Sekulow: gliding over contradictions, pleased to be a player in nomination politics, and more than ready to play again. In recent weeks, Sekulow, the leading Supreme Court advocate of the Christian right, emerged as the steadiest and most visible of a dwindling number of social conservatives willing to support Mier . Because of that steadfast loyalty, he is likely to play a key role in campaigning for whoever replaces her.

"Jay has clearly succeeded in becoming closely linked to the Bush administration and has become a principal salesman for Bush nominees," says Elliot Minberg, legal director of People For the American Way.

This is the public Jay Sekulow, the man who has become a familiar face on television in recent months and who has been a fixture in Washington legal circles as head of the ACLJ, an organization founded by religious broadcaster Pat Robertson in 1990.

But there is another side to Jay Sekulow, one that, until now, has been obscured from the public. It is the Jay Sekulow who, through the ACLJ and a string of interconnected nonprofit and for-profit entities, has built a financial empire that generates millions of dollars a year and supports a lavish lifestyle — complete with multiple homes, chauffeur-driven cars, and a private jet that he once used to ferry Supreme Court Justice Antonin Scalia.

That less-known side of Sekulow was revealed in several interviews with former associates of his and in hundreds of pages of court and tax documents reviewed by *Legal Times*. Critics say Sekulow's lifestyle is at odds with his role as the head of a charitable organization that solicits small donations for legal work in God's name.

For example, in 2001 one of Sekulow's nonprofit organizations paid a total of \$2,374,833 to purchase two homes used primarily by Sekulow and his wife. The same nonprofit also subsidized a third home he uses in North Carolina.

At various times in recent years, Sekulow's wife, brother, sister-in-law, and two sons have been on the boards or payrolls of organizations under his control or have received generous payments as contractors. Sekulow's brother Gary is the chief financial officer of both nonprofit organizations that fund his activities, a fact that detractors say diminishes accountability for his spending.

According to documents filed with the Internal Revenue Service, funds from his nonprofits have also been used to lease a private jet from companies under his family's control. And two years ago, Sekulow outsourced his own legal services from the ACLJ, shifting from a position with a publicly disclosed salary to that of a private contractor that requires no public disclosure. He acknowledged to *Legal Times* that his salary from that arrangement is "above

\$600,000" a year.

Sekulow's financial dealings deeply trouble some of the people who have worked for him, leading several to speak with *Legal Times* during the past six months about their concerns — before Sekulow assumed his high-profile role promoting President George W. Bush's Supreme Court nominees.

"Some of us truly believed God told us to serve Jay," says one former employee, who requested anonymity out of fear of reprisal. "But not to help him live like Louis XIV. We are coming forward because we need to believe there is fairness in this world."

Another says: "Jay sends so many discordant signals. He talks about doing God's work for his donors, and then he flies off in his plane to play golf."

Still another told *Legal Times*, "The cause was so good and so valid, but at some point you can't sacrifice what is right for the sake of the cause."

Sekulow shrugs off the criticism and makes no apologies. "I wouldn't pretend to tell you we don't pay our lawyers well," including himself, says Sekulow. "As a private lawyer, I could bill \$750 an hour, but I don't." He does lease a jet, he says, and he does sometimes use it to reach the golf course — but with donors or vendors, he insists. "We've been doing this for 20 years and never had a blip" of financial irregularity.

Nothing in the relatively loose regulations that govern nonprofits prohibits family members from serving on boards, drawing salaries, or spending money. But critics say the extravagant spending burns up money that Sekulow solicits from donors for legal causes. Citing the high cost of litigating Supreme Court cases, Sekulow wrote in a 2003 fund-raising letter, "We are asking God to prompt every member of the ACLJ to get involved personally in this effort." He added later, "Please send a generous gift right away."

Bruce Hopkins, a partner at Polsinelli Shalton Welte Suelthaus in Kansas City, Mo., and author of 11 books on nonprofit operations and governance, says that Sekulow is "certainly engaging in practices where higher scrutiny is warranted."

Charity watchdog Bennett Weiner agrees that the kind of family board involvement and transactions with family businesses that are indicated on the IRS Form 990s filed by Sekulow's nonprofits "would lead us to ask questions and seek more information." Weiner is chief operating officer of the Better Business Bureau's Wise Giving Alliance, which publishes standards for nonprofits. The ACLJ has not responded to several requests from the alliance for information. Weiner stressed he could not comment specifically about the ACLJ.

The Evangelical Council for Financial Accountability, created in 1979 to improve the public's trust of Christian nonprofits, also has set standards for its members requiring independent boards of directors made up of people "not related by blood or marriage to staff members." Sekulow's organizations are not among the council's more than 1,100 members.

A review of publicly available tax and court documents, as well as interviews with several former employees, paints a stark portrait of Sekulow as a hard-charging man who emerged from bankruptcy and allegations of securities fraud in the late 1980s to build a complex network of personal, business, and nonprofit entities. At times, those financial dealings have alienated employees and been criticized in court.

Sekulow, 49, has always been an oddity on the evangelical landscape. Born in Brooklyn, N.Y., to Jewish parents, Sekulow still describes himself as a "Messianic Jew," meaning he believes Jesus Christ is the Messiah. He says his Jewish faith never caused him trouble among Christian evangelicals.

His family moved to Atlanta when he was in high school. Sekulow went to a Baptist college, now known as Mercer University, partly because it was near home. There, Sekulow met a student he later described as a "Jesus freak." The friend urged him to study the Bible, and over time, Sekulow questioned Jewish beliefs. "As I read, my suspicion that Jesus might really be the Messiah was confirmed," Sekulow wrote later.

Sekulow stayed at Mercer for law school and, after a brief period as an attorney for the IRS, set up a private practice and real estate business in Atlanta with law school friend Stuart Roth, who is still a partner in some of his current dealings. Meanwhile, Sekulow's religious views solidified, and he joined Jews for Jesus, eventually becoming that organization's general counsel.

It was in that capacity that Sekulow argued his first case before the Supreme Court, a 1987 dispute involving the

Los Angeles Board of Airport Commissioners, which tried to stop Jews for Jesus adherents from distributing leaflets at LAX. Sekulow said he was nervous when his name was called. "Me, a short Jewish guy from Brooklyn, New York, went before the justices of the Supreme Court of the United States," he wrote in an article for the Jews for Jesus Web site. "God had brought me through that trial." Sekulow won the case 9-0.

At the time of his successful Supreme Court debut, Sekulow was also dealing with a trial of another sort. His private practice, which focused on creating tax shelters and financial deals for the renovation of historic buildings in Atlanta, collapsed when investors sued him for securities violations related to the renovation deals. He and his firm filed for bankruptcy protection in 1987, and more than a dozen creditors filed suit. A later story in the Atlanta Constitution said he left a trail of angry investors and employees. "God brought Jay to his knees then," a former employee told *Legal Times*.

But Sekulow bounced back up, in part by creating a new nonprofit, Christian Advocates Serving Evangelism (CASE), which still exists today and serves as an important conduit for funds that finance Sekulow's activities. "I almost feel like God raised me back from the dead," Sekulow told the Atlanta paper in 1991. "It was a spiritual rebirth."

It was 1990 when Christian broadcaster Pat Robertson decided to create the ACLJ, and it was no accident that its acronym was one letter away from that of the American Civil Liberties Union. "Someone has got to stop the ACLU in court," said Robertson when he launched the organization.

Robertson continues as unpaid president of the ACLJ's board to this day and frequently invites Sekulow to appear on his "700 Club" show on the Christian Broadcasting Network.

Sekulow became chief counsel of the ACLJ in 1991 but did not fold the Atlanta-based CASE into its operations, giving him an independent source of funds. Former employees say this was done, in part, to keep some of Sekulow's operations out of Robertson's view. Sekulow assumed full control of the ACLJ a few years later, when its executive director left. In a statement, Robertson said, "I meet regularly with Jay Sekulow to discuss the activities, programs, accomplishments, and general operations of the ACLJ and affiliated organizations, which includes CASE."

Sekulow built the ACLJ into a formidable legal advocacy group that helped persuade the courts to give greater accommodation to religious practices and speech. His signature legal strategy has been to frame freedom of religion cases as free speech battles, often — but not always — with success. He took on cases nationwide, but nothing matched the exhilaration of arguing before the Supreme Court, which he has done a dozen times. "That is what juices me up in the morning," he says.

After the 2000 presidential election, Sekulow began to work his way into conservative Washington's inner circle, forging ties with the White House and Republican Congress members.

Former Attorney General John Ashcroft is part of Sekulow's orbit. In addition to his own lobbying work, Ashcroft teaches at Robertson's Regent University in Virginia Beach, Va., and maintains an office in the ACLJ's multimillion-dollar town house behind the Supreme Court. Ashcroft traveled with Sekulow to Europe in July for a conference at the European Center for Law and Justice, an ACLJ affiliate incorporated in France.

But Sekulow reached the pinnacle of D.C. influence earlier this year when he, along with former White House Counsel C. Boyden Gray, one-time Federalist Society head Leonard Leo, and former Attorney General Edwin Meese III — soon dubbed the "four horsemen" — participated in a weekly conference call with White House deputy public liaison Tim Goeglein and others to discuss judicial nominations and the so-called nuclear option to eliminate filibusters by Democratic senators of conservative judges.

In a controversial Oct. 6 conference call with conservatives who had doubts about the Miers nomination, Sekulow boasted of the recent conversations he had had with Bush about the need to change the direction of the courts. Sekulow went on to state bluntly, "I'm involved in three cases at the Court this term. And believe me, I want Harriet Miers voting on these critical cases."

Sekulow took on the assignment of shoring up support for Bush nominees among Christian groups, and he has done so in a variety of ways. From a studio in the basement of the center's D.C. town house, Sekulow has extolled nominees John Roberts Jr. and, more recently, Miers on his daily radio talk show, syndicated to 550 Christian radio stations with more than 1.5 million listeners nationwide. Sekulow boasts he can reach 940,000 followers by e-mail within three hours, and several times a year he sends out upward of 2 million pieces of regular mail. He also has a weekly television show airing on Christian networks.

Using those same tools, Sekulow is also an accomplished fund-raiser, according to the Form 990 that the ACLJ, like

other nonprofits, files annually with the IRS. According to the ACLJ's 2003 return, the most recent available, it received \$14.5 million in donations that year.

That isn't the entire story. When donors respond to solicitations and write out checks to the ACLJ, some of the money never makes it into ACLJ coffers but instead winds up with CASE; Sekulow's separate entity. Certain solicitations mention CASE in fine print as an entity "doing business as" the ACLJ. Sekulow confirms that checks resulting from these mailings are routed to CASE.

Internal critics say that the lesser-known CASE is where Sekulow reports most family-related transactions and other financial information that would be unflattering if revealed on the IRS forms filed by the more visible ACLJ.

The amounts involved are substantial. CASE reported receiving nearly \$14 million in donations for 2003. Its board of directors has three members: Jay Sekulow; his wife, Pam; and his son Jordan, who sometimes appears on Sekulow's radio show. The ACLJ also has only a three-member board: Pat Robertson, who is unpaid; Jay Sekulow; and Thomas Monaghan, a Kentucky-based lawyer who was paid \$224,995 in salary, benefits, and expenses by the ACLJ in 2003.

Sekulow serves as chief counsel for both the ACLJ and CASE. His brother Gary serves as chief financial officer for both organizations. As one former employee puts it: "With Gary there, nobody is looking at what Jay is doing. Nobody." Jay Sekulow notes that his brother is a certified public accountant. Gary was paid \$200,000 by CASE and \$143,699 by the ACLJ in 2003. Gary Sekulow could not be reached for comment.

Pam Sekulow is not listed on ACLJ tax forms. But CASE reported to the IRS that she was secretary-treasurer of that organization with an annual salary of \$180,878. Former employees say that she currently has few operational duties, but Jay Sekulow, speaking for her, says she has significant responsibilities, including event planning.

Sekulow says his son Jordan is paid by his company, Regency Productions, which produces the radio show. His other son, Logan, has a late-night comedy show that airs on Christian television networks and is sponsored by CASE.

And what about Sekulow's own salary? In an interview with *Legal Times* in June, Sekulow estimated his salary to be \$275,000, but that appears to be an incomplete number. In 2002, for example, the ACLJ reported paying him \$255,042, and CASE paid him \$228,783, for a total of \$483,825.

In 2003, CASE paid Sekulow \$213,098 in salary, according to its IRS filing, along with an additional \$154,643 in benefits and expenses. Curiously, though, the ACLJ's tax filings for 2003 report that Sekulow's salary from that group went to zero.

The disappearing-salary mystery is perhaps solved in another section of the ACLJ's 2003 disclosure. There, on a list of independent contractors that the ACLJ paid that year, a new entity shows up for the first time, the "Center for Law and Justice," without the word "American" at the beginning. This new entity received \$733,389 from the ACLJ for "legal services." The ACLJ form offers no details about the center.

But CASE's tax form for 2003 is more revealing. CASE paid the Center for Law and Justice \$625,599 that year, also for legal services. In a supplementary statement explaining transactions the organization has had with trustees and directors, CASE states that the Center for Law and Justice is "a law firm partially owned by the president and chief counsel" of CASE — in other words, Jay Sekulow. Together, the ACLJ and CASE paid the center \$1,358,988 in 2003.

Other sources state that the firm was formed by Sekulow and two others: longtime business partner Stuart Roth, listed that year as vice president for litigation at the ACLJ with a salary of \$109,250, and Monaghan, a member of the ACLJ's board of directors.

Sekulow's salary from the newly created law firm is no longer ascertainable from the Form 990, but late last week, Sekulow confirmed it was "above \$600,000."

The bottom line: Sekulow performs legal services as before, but now he is paid as an outside contractor, blurring the exact compensation he personally receives from the groups. One former employee quotes Sekulow as saying, before the law firm was created, "We've got to get the salaries off the 990s." Sekulow denies making that statement.

If the figure for his salary is accurate, Sekulow would be the 13th-highest-paid executive of a charitable organization in the United States — just below the United Way's CEO, Brian Gallagher — according to a ranking by the American Institute of Philanthropy, another charity watchdog group.

Hopkins, the nonprofit expert, says this relationship involving CASE, the ACLJ, and Sekulow's law firm could be viewed as an improper "private benefit" even if Sekulow is being paid at a reasonable rate. Under this doctrine, nonprofits are barred from conferring substantial benefits that "serve private interests" on individuals other than those the charitable organization is supposed to serve.

Sekulow, asked about the law firm, says it was not created for deceptive purposes but rather to better protect the attorney-client relationship between lawyers doing work for the ACLJ and CASE and their clients. He also says the law firm has other clients unrelated to the ACLJ or CASE. Roth too says the goal of establishing the firm was to protect client confidentiality. Monaghan could not be reached for comment.

The 2003 filing by CASE reveals several other transactions between the nonprofit and Sekulow family-owned businesses. CASE leased an interest in the plane used by Sekulow from two companies that own the plane. One is a company owned by Kim Sekulow, Gary's wife. The company is not named on the form, but former employees say it is PGMS of Georgia — a company that also is the agent for syndication of Sekulow's radio show. The other for-profit company that CASE leased the plane from in 2003 is Sekulow's for-profit corporation, Regency Productions.

Sekulow created Regency in 1995 to produce his radio show, and it has become a major source of income for him and his family. The company figured in allegations of fraud made in the course of a bankruptcy proceeding filed in the Western District of Oklahoma last year. Sekulow had been a member of the board of directors of Amerivision Inc., a company that provided telephone services to Christian consumers under the name Lifeline Communications and donated a portion of revenue back to the Christian ministries to which the customers belong.

When the firm declared bankruptcy, it claimed in its filing that Sekulow and other directors had depleted company funds for personal gain. It alleged that while Sekulow was on the board of directors, Amerivision paid more than \$5 million to Regency between 1998 and 2000. The money was payment, the filing said, for Sekulow promoting Lifeline on his radio show. Because Amerivision did not get sufficient value in return, the payments amounted to "fraudulent transfers," the company said.

Beyond that, also while Sekulow was on the board, Amerivision gave more than \$3 million in charitable contributions to the ACLJ, CASE, and other ACLJ affiliates, according to the lawsuit. In reply, Sekulow acknowledged that Amerivision paid "agent commissions" to Regency and other money to Regency, CASE, and the ACLJ, but denied any wrongdoing.

Sekulow says the charges were never proved, adding that he was vindicated because, in April of this year, bankruptcy Judge Niles Jackson approved a reorganization plan for the company submitted by a group that included Sekulow. The company was renamed Affinity 4 and placed under a new board of directors that includes Sekulow and T.D. Jakes, the popular Dallas minister and best-selling author who has also been a visible supporter of Bush in recent months.

As part of the ACLJ's plan to expand, five years ago, Sekulow decided that the Virginia Beach-based group needed a stronger D.C. presence. In 2001, CASE bought a town house at 201 Maryland Ave. N.E. The purchase price was \$5 million.

Not only was the town house a stone's throw from the Supreme Court, but it also looked directly over the ACLU's Washington offices at the nearby Mott House. But there was one small problem: By the time the ACLJ renovated and opened its new headquarters, the ACLU had left the location for a building downtown.

Renovations on the Maryland Avenue building were extensive, totaling more than \$1 million, according to CASE's 2002 return. One redecorated conference room featured a mural costing \$41,000. But the ACLJ wasn't done. That same year it plunked down another \$1.5 million to purchase a residence next door to its headquarters, at 119 2nd St. N.E. Sekulow and his family stay in the house when they are in Washington.

The D.C. town house is one of three residences used by Sekulow that were paid for or subsidized by CASE. Another is a home in Virginia Beach that was bought by CASE for \$852,937 in 2001. The third home, in North Carolina, is described on CASE's IRS filings as a "retreat property." Sekulow says the houses are not for his family's exclusive use.

The North Carolina home is itself an interesting study in how Sekulow operates. CASE sold the home to Sekulow's

wife, Pam, in 1997. But CASE loaned her the money to purchase it, according to CASE's IRS returns. She has not always made payments on the loan, and CASE's board, of which she is a member, has at times forgiven repayment — an arrangement confirmed by Sekulow. The amount she does not repay is then reported as income to her — \$49,266 in 2003 — on which she pays income tax. Sekulow says the loan has now been retired. The Sekulows also own a home in Atlanta.

Former employees of Sekulow allege that the multiple homes were just one part of an over-the-top lifestyle. They say it was not unusual for Sekulow to drop \$800 for lavish meals at Morton's, a high-end steakhouse, and that Sekulow rented luxury suites at the Willard Inter-Continental Hotel in the days before his Supreme Court arguments. Along with the private jet came chauffeured cars and added security, including bodyguards.

But Sekulow says the tales of his extravagance are overstated. He says he only ate once at Morton's and that he stopped rooming at the Willard once his D.C. offices opened. "We do have a car and a driver," he says, but maintains this service was mainly used for court appearances.

In the past several years a number of staff members have left the ACLJ and affiliated organizations, believing they had strayed from their mission and that continuing to work with Sekulow would violate their Christian ethics. Some were required to sign agreements that they would never disclose internal matters about the ACLJ.

In 1998, Sekulow's high-flying ways brought him in close contact with Justice Scalia, who was scheduled to give an address at Regent University in Virginia Beach on the occasion of its 20th anniversary.

Sekulow offered Scalia the chance to travel from Washington to the event on a jet then owned by CASE. Was it appropriate to give a free ride to a Supreme Court justice before whom Sekulow and the ACLJ regularly argued? Sekulow says the jet was leased to Regent University, the host of the event, for that trip as well as for other occasions — a fact he says was made clear to Scalia. Sekulow, however, declined to provide a copy of the lease document.

Asked about the ride, Scalia said through a spokeswoman that "I honestly cannot remember" the episode. Pat Robertson also said he could not recall the details but added that it is "common" for the university to share transportation resources with related organizations like the ACLJ and CASE.

It was yet another sign of Sekulow's expanding clout, but he shrugs it off as nothing exceptional or improper. "We had a very pleasant 32-minute flight. That's it."

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