

**ORIGINAL**

**IN THE SUPREME COURT OF OHIO**

**In re:** :

**Robert L. Schwartz** :  
**Attorney Reg. No. 0000818** :

: **10-1339**

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**ENTRY OF FELONY CONVICTION**

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**Jonathan W. Marshall (0015498)**  
**Board of Commissioners on Grievances and Discipline**  
**65 South Front Street**  
**Fifth Floor**  
**Columbus, Ohio 43215**  
**(614) 387-9370**

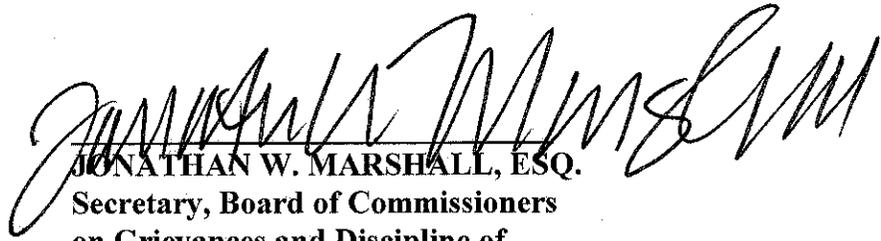
**Robert L. Schwartz (0000818)**  
**461 Fairview Place**  
**Cincinnati, OH 45219-1117**

**FILED**  
**AUG 02 2010**  
**CLERK OF COURT**  
**SUPREME COURT OF OHIO**

**IN THE SUPREME COURT OF OHIO**

In re: :  
**Robert L. Schwartz** : **ENTRY**  
Registration No. 0000818 :  
: **Gov. Bar R. V(5)**

Pursuant to Rule V, Section 5 of the Supreme Court Rules for the Government of the Bar of Ohio, the Court is hereby notified of the felony conviction of **Robert L. Schwartz** to the offense of **Mail Fraud** in violation of 18 U.S.C. 1341 and to **Filing a False Tax Return** in violation of 26 U.S.C. 7206(1) in the United States District Court, Southern District of Ohio at Cincinnati, Case No. CR-1-09-67, on the 8<sup>th</sup> day of June, 2010.

  
**JONATHAN W. MARSHALL, ESQ.**  
**Secretary, Board of Commissioners  
on Grievances and Discipline of  
the Supreme Court of Ohio**

FILED  
JAMES BONINI  
CLERK

**United States District Court**  
**Southern District of Ohio at Cincinnati**

10 JUN -8 PM 5:46

UNITED STATES OF AMERICA  
v.  
**ROBERT L. SCHWARTZ,**

**JUDGMENT IN A CRIMINAL CASE**  
Case Number: **CR-1-09-67**  
USM Number: **04890-061**

U.S. DISTRICT COURT  
SOUTHERN DISTRICT OHIO  
WEST DIV CINCINNATI

James Fleisher, Esq. and Martin Pinales, Esq.  
Defendant's Attorney

**THE DEFENDANT:**

- pleaded guilty to count(s): One and Two of the Information.
- pleaded nolo contendere to counts(s) \_\_\_ which was accepted by the court.
- was found guilty on count(s) \_\_\_ after a plea of not guilty.

The defendant is adjudicated guilty of these offense(s):

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. 1341	Mail Fraud	May 6, 2009	One
26 U.S.C. 7206(1)	Filing a False Tax Return	April 14, 2008	Two

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on counts(s) \_\_\_.
- Count(s) \_\_\_ (is)(are) dismissed on the motion of the United States.

IT IS ORDERED that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and the United States Attorney of material changes in the defendant's economic circumstances.

June 8, 2010

Date of Imposition of Judgment

Signature of Judicial Officer

**HERMAN J. WEBER, United States Senior District Judge**  
Name & Title of Judicial Officer

6/08/10

Date

I Certify that this is a true and correct copy of the original filed in my office on 6/8/2010  
**JAMES BONINI CLERK**  
 By: [Signature]  
 Date: 6/8/2010

AO 245B (Rev. 06/05) Sheet 2 - Imprisonment

CASE NUMBER: CR-1-09-67  
DEFENDANT: ROBERT L. SCHWARTZ,

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### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of FORTY-EIGHT (48) MONTHS ON COUNT ONE AND THIRTY-SIX (36) MONTHS ON COUNT TWO, to be served concurrently.

- The court makes the following recommendations to the Bureau of Prisons:  
That the defendant be placed in either the federal facility at Ashland or the federal facility at Manchester.
- The defendant is remanded to the custody of the United States Marshal.
- The defendant shall surrender to the United States Marshal for this district.
  - at \_\_\_ on \_\_\_.
  - as notified by the United States Marshal.
- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
  - before 2:00 p.m. on \_\_\_.
  - as notified by the United States Marshal.
  - as notified by the Probation or Pretrial Services Office.

### RETURN

I have executed this judgment as follows:

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Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

UNITED STATES MARSHAL

By \_\_\_\_\_  
Deputy U.S. Marshal

CASE NUMBER: CR-1-09-67  
DEFENDANT: ROBERT L. SCHWARTZ,

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of THREE (3) YEARS ON COUNT ONE AND ONE (1) YEAR ON COUNT TWO, to be served concurrently.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependants and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

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### **SPECIAL CONDITIONS OF SUPERVISED RELEASE**

- 1) the defendant shall not submit any applications for credit of any kind, unless and until the application has been reviewed and approved by his Probation Officer;
- 2) the defendant shall comply with all tax laws of the United States including cooperating with the IRS to enable the contents of his criminal file maintained by the government of the case agents to be shared with civil attorneys;
- 3) the defendant shall assist staff of the IRS to enable them to investigate any and all civil taxes and penalties that he may owe; and
- 4) the defendant shall make payments on any unpaid balance of the criminal monetary penalties. The defendant shall disclose all financial information requested by his Probation Officer.
- 5) The defendant shall make no objection to the entry of an Order under Fed.R.Crim.Pro. 6(e) permitting the Internal Revenue Service Criminal Investigation Division to disclose to the Internal Revenue Service Examination Collection Division (for purposes of a civil audit) all documents obtained, and the Internal revenue Service reports produced, during the criminal investigation, whether or not such documents and reports are grand jury material within the meaning of Fed.R.Crim.P. 6(e) or are otherwise prohibited from being disclosed.

AO 245B (Rev. 06/05) Sheet 5 - Criminal Monetary Penalties

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 DEFENDANT: ROBERT L. SCHWARTZ,

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### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 200.00	\$ 10,000.00	\$ 3,227,686.12

- The determination of restitution is deferred until \_\_. An amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment unless specified otherwise in the priority order of percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>*Total Loss</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Hadassah, The Women's Zionist Organization of America, Inc. 50 West 58 <sup>th</sup> Street New York, New York 10019-2500	\$2,492,469.00 (\$200,000.00 has been paid)	\$2,292,469.00	
Internal Revenue Service Attn: MPU, STOP 151 (Restitution) P.O.Box 47-421 Doraville, GA 30362	\$935,217.12	\$935,217.12	
<b>TOTALS:</b>	<b>\$ 3,427,686.12</b>	<b>\$ 3,227,686.12</b>	

- Restitution amount ordered pursuant to plea agreement \$ 2,492,469.00
- The defendant must pay interest on restitution and a fine of more than \$2500, unless the restitution or fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. §3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).
- The court determined that the defendant does not have the ability to pay interest and it is ordered that:
  - The interest requirement is waived for the  fine  restitution.
  - The interest requirement for the  fine  restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994 but before April 23, 1996.

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 DEFENDANT: ROBERT L. SCHWARTZ,

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## SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows: Defendant shall pay a **SPECIAL ASSESSMENT OF \$200.00**, a **FINE of \$10,000.00**, and **RESTITUTION of \$2,292,469**, which shall be due immediately. Defendant shall pay **RESTITUTION of \$935,217.12** to the Internal Revenue Service, which shall be due upon his release to supervision. No interest shall be due on the **FINE** or **RESTITUTION**.

- A  Lump sum payment of \$200.00 due immediately, balance due
- not later than or
- in accordance with  C,  D,  E, or  F below; or
- B  Payment to begin immediately (may be combined with  C,  D, or  F below); or
- C  Payment in equal installments of \$ over a period of , to commence days after the date of this judgment; or
- D  Payment in equal installments of \$ over a period of , to commence days after release from imprisonment to a term of supervision; or
- E  Payment during the term of supervised release will commence within (e.g., 30 or 60 days) after release from imprisonment. The Court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F  Special instructions regarding the payment of criminal monetary penalties:
- If the defendant, while incarcerated, is working in a non-UNICOR or grade 5 UNICOR job, the defendant shall pay \$25.00 per quarter toward defendant's monetary obligation. If working in a grade 1-4 UNICOR job, defendant shall pay 50% of defendant's monthly pay toward defendant's monetary obligation. Any change in this schedule shall be made only by order of this Court.
- After the defendant is released from imprisonment, and within 30 days of the commencement of the term of supervised release, the probation officer shall recommend a revised payment schedule to the Court to satisfy any unpaid balance of the monetary penalty. The Court will enter an order establishing a schedule of payments.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court. The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- Joint and Several (Defendant and Co-Defendant names and Case Numbers, Total Amount, Joint and Several Amount and corresponding payee, if appropriate.):
- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):

- The defendant shall forfeit to the United States:  
 \$2,492,469.00 in United States currency for which a Money Judgment is granted.

On June 11, 2009, defendant Robert L. Schwartz formally entered pleas of guilty to Counts 1 and 2 of an Information, charging him with mail fraud in violation of 18 U.S.C. § 1341 and filing a false tax return in violation of 26 U.S.C. § 7206(1). A notice of forfeiture relating to Count 1 of the Information gave notice to the defendant that the United States would seek the forfeiture of a sum of money equal to \$2,492,469.00 in United States currency, which represents the amount of proceeds obtained as a result of the violation as part of

Payments shall be applied in the following order: (1) assessment; (2) restitution principal; (3) restitution interest; (4) fine principal; (5) fine interest; (6) community restitution; (7) penalties; and (8) costs, including cost of prosecution and court costs.

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 DEFENDANT: ROBERT L. SCHWARTZ,

Judgment - Page 6 of 7

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- B  Payment to begin immediately (may be combined with  C  D, or  F below); or
- C  Payment in equal installments of \$ over a period of , to commence days after the date of this judgment; or
- D  Payment in equal installments of \$ over a period of , to commence days after release from imprisonment to a term of supervision; or
- E  Payment during the term of supervised release will commence within (e.g., 30 or 60 days) after release from imprisonment. The Court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F  Special instructions regarding the payment of criminal monetary penalties:
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DEFENDANT: ROBERT L. SCHWARTZ,

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any sentence in accordance with Fed. R. Crim. P. 32.2. The proceeds of mail fraud are subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c).

Under the terms of the Plea Agreement with the United States, defendant Robert L. Schwartz agreed and stipulated to a readily provable fraud loss in the amount of \$2,492,469.00. The United States had identified five real properties for forfeiture as listed in the Notice of Forfeiture in the Information. The real properties located at Olivia Lane and Fairview have been turned over to the new trustee. The trust will initiate foreclosure proceedings on Garrard Street. The Banklick property was sold prior to the Information being filed. The Norwood Avenue property is titled in the name of ZOI Realty which is owned by the defendant. The United States does not seek criminal forfeiture of any of the real property.

Pursuant to Fed. R. Crim. P. 32.2(b)(1), the Court finds, based on evidence in the record, that the defendant obtained \$2,492,469.00 in proceeds from the fraud for which he has been convicted.

Therefore, it is hereby

ORDERED that defendant Robert L. Schwartz shall forfeit to the United States the sum of \$2,492,469.00 pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c).

IT IS FURTHER ORDERED that the United States may, at any time, move pursuant to Rule 32.2(e) to amend this Order of Forfeiture to include substitute property having a value not to exceed \$2,492,469.00 to satisfy the money judgment in whole or in part.

Payments shall be applied in the following order: (1) assessment; (2) restitution principal; (3) restitution interest; (4) fine principal; (5) fine interest; (6) community restitution; (7) penalties; and (8) costs, including cost of prosecution and court costs.