

NEWS

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FOR IMMEDIATE RELEASE
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Bergen County Man Indicted for Fraud and Obstruction of Justice

(More)

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NEWARK – A Bergen County man was indicted today and charged with violating a court order and stealing approximately \$335,000 in gold coins and obstruction of justice, Acting U.S. Attorney Ralph J. Marra, Jr. announced.

Barry Sussman, 48, of Tenafly, was charged in a two-count Indictment with theft of government property and obstruction of justice, according to Assistant U.S. Attorney Deborah J. Gannett.

Sussman was first arrested on a criminal Complaint at his home on May 14 by U.S. Postal Inspectors. He has remained under house arrest since then. He will be arraigned on the Indictment in the coming days once the case is assigned to a federal judge.

The Indictment alleges that on May 12, 2003, the Federal Trade Commission (FTC) filed a complaint in the U.S. District Court in Newark against Check Investors, Inc., a Sussman-owned company. The civil action charged Sussman and others with engaging in a debt-collection scheme to obtain millions of dollars from consumers nationwide by falsely threatening them with arrest and prosecution unless the consumers paid money the consumers did not, in most instances, owe.

The FTC alleged that Sussman and his co-defendants engaged in deceptive, abusive, and unfair debt-collection practices in the collection of payments for checks returned by financial institutions for non-sufficient funds, in violation of the Fair Debt Collection Practices Act.

A preliminary injunction was later entered in the District Court action pursuant to which Sussman his co-defendants were barred from transferring, concealing, withdrawing, or otherwise disposing of any funds, real or personal property, or other assets, wherever located which were owned or controlled by Sussman. The injunction further directed any financial institution, including the Bank of New York and its branch in Secaucus, N.J. to “deny access to any safe deposit boxes” that were either titled in the name of any defendant; or subject to access by any defendant.

According to the Indictment, on or about Oct. 14, 2003, in the presence of Sussman and his attorney, an inventory was conducted at the Bank of New York by an FTC attorney and bank personnel and the contents of a safe deposit box titled in the name of Sussman his wife Elisabeth were catalogued. The safe deposit box, which was a subject of the preliminary injunction, was found to contain gold coins, namely 314 antique \$20 gold coins and 55 gold coins stamped “Weiner Philharmoniker.” After the inventory was completed, Sussman’s attorney and the FTC attorney signed a document memorializing the contents of the safe deposit box, and the coins were put back inside and returned to the custody of Bank of New York officials. The purpose of the inventory was to catalogue and secure the gold coins for use as partial payment to the FTC in the event the FTC prevailed in the District Court case.

On July 18, 2005, a final order was entered in the District Court action, finding that Sussman and his co-defendants deceived, abused, and harassed consumers, as the FTC's complaint alleged. Among other things, the final order entered a judgment against Sussman and his co-defendants in the amount of \$10,204,445. To partially satisfy the monetary judgment, the final order directed the Bank of New York to transfer to the FTC the contents of the safe deposit box.

The Indictment charges that on Aug. 8, 2005, the FTC served a copy of the final order by facsimile on Sussman at his residence in Israel. On Aug. 17, 2005, Sussman and his companies filed a Notice of Appeal, but did not file for a stay of the final order.

Ultimately, the Indictment alleges, a series of appeals taken by defendant Barry Sussman and were denied. On Feb. 6, 2008, petitions for rehearing filed by Sussman and his former corporate counsel, were denied by the Third Circuit Court of Appeals.

The following day, the Indictment alleges that Sussman entered the Bank of New York branch in Secaucus, and in direct violation of the final order and preliminary injunction, sought access to the Safe Deposit Box. After being initially denied access to the Safe Deposit Box by a bank employee, defendant Barry Sussman stated, in substance, that he knew there was a problem with the box, but that his lawyer had taken care of everything. After gaining access to the Safe Deposit Box, he transferred all the gold coins from the Safe Deposit Box into a satchel that he had brought with him, then left the bank with the gold coins which were concealed in the satchel.

The FTC reported the fraud to the U.S. Attorney's Office and has cooperated throughout the investigation.

Sussman faces a statutory maximum penalty of 10 years in prison on the theft of government property offense and a fine of up to \$250,000. He faces a statutory maximum of up to 10 years in prison and a fine of up to \$250,000 for the obstruction of justice offense.

Marra credited the U.S. Postal Inspection Service, under the direction of Newark Division Postal Inspector in Charge David Collins, with developing the case against Sussman.

The government is represented by Assistant U.S. Attorney Gannett of the U.S. Attorney's Public Protection Division in Newark.

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Defense Counsel: Stephen LaCheen, Esq., Philadelphia