

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Criminal No.
	:	
v.	:	18 U.S.C. § 1343
	:	18 U.S.C. § 2
DAVID NEWMARK	:	26 U.S.C. § 7201
	:	28 U.S.C. § 2461(c)
	:	18 U.S.C. § 981(a)(1)(C)

I N F O R M A T I O N

The defendant having waived in open court prosecution by indictment, the United States Attorney for the District of New Jersey charges:

COUNT 1

WIRE FRAUD

1. At all times relevant to this Information, defendant DAVID NEWMARK was a resident of New Jersey, and was employed as Chief Financial Officer at an investment management company identified herein as C.H.C.M. (the "Company") in Short Hills, New Jersey.

2. From in or about February 2008, through on or about March 15, 2011, in Essex County, in the District of New Jersey and elsewhere, Defendant

DAVID NEWMARK

did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud the Company and others, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and, for the purpose of executing and attempting to execute this scheme and artifice, did cause to be transmitted by means of wire communications in interstate commerce certain writings, signs, signals, and pictures described below.

3. It was the object of the scheme and artifice that defendant DAVID NEWMARK, acting for his own financial gain, embezzled money from the Company, by, among other things, causing fraudulent wire transfers of money belonging to the Company to his own bank account.

4. It was part of the scheme and artifice that defendant DAVID NEWMARK set up a bank account in New Jersey in a name similar to the Company's name (the "Fraud Account") in order to receive wire transfers and checks payable to the Company without arousing suspicion.

5. It was further part of the scheme and artifice that, on or about February 26, 2008, defendant DAVID NEWMARK sent a

letter from New Jersey to a financial institution located in New York at which the Company kept an account. The letter requested two checks totaling \$685,040.72. On or about February 29, 2008, defendant DAVID NEWMARK deposited the two checks into the Fraud Account.

6. It was further part of the scheme and artifice that, on or about October 29, 2008, defendant DAVID NEWMARK sent an email from New Jersey to an administrator located in Connecticut who controlled certain Company funds. The email requested two wire transfers totaling \$213,071.43. On the same day, defendant DAVID NEWMARK received those two wire transfers from a bank in New York into the Fraud Account. The email falsely claimed that the transfers were to reimburse the Company for certain expenses it had incurred.

7. It was further part of the scheme and artifice that, on or about April 15, 2009, defendant DAVID NEWMARK sent an email from New Jersey to a financial institution located in New York at which the Company kept an account. The email requested a wire transfer in the amount of \$521,217.25. On the same day, defendant DAVID NEWMARK received that wire transfer into the Fraud Account.

8. It was further part of the scheme and artifice that, on or about April 8, 2010, defendant DAVID NEWMARK sent an email from New Jersey to a financial institution located in New York

at which the Company kept an account. The email requested four wire transfers, including a wire transfer in the amount of \$1,579,226.08 to the Fraud Account. On the same day, defendant DAVID NEWMARK received that wire transfer into the Fraud Account.

9. It was further part of the scheme and artifice that, on or about April 20, 2010, defendant DAVID NEWMARK sent an email from New Jersey to a financial institution located in New York at which the Company kept an account. The email requested a wire transfer in the amount of \$2,447,847.82. On the same day, defendant DAVID NEWMARK received that wire transfer into the Fraud Account.

10. It was further part of the scheme and artifice that between in or about February 2008 and on or about March 15, 2011, defendant DAVID NEWMARK embezzled approximately \$10,442,379.90 by using the Fraud Account in this fashion, which funds he used for his own purposes.

In violation of Title 18, United States Code, Section 1343 and Section 2.

COUNT 2

TAX EVASION

1. The allegations contained in Paragraphs One and Three through Ten of Count One of this Information are incorporated by reference as though set forth in full herein.

2. During the tax year ending December 31, 2008, defendant DAVID NEWMARK received approximately \$2,892,689 in income from the scheme and artifice described in Count One of this Information. Defendant DAVID NEWMARK failed to disclose and report a significant portion of this income on his tax return, thereby causing that tax return to substantially understate his income.

3. On or about October 16, 2009, defendant DAVID NEWMARK filed a U.S. Individual Income Tax Return, Form 1040. That return stated that his taxable income for the calendar year 2008 was \$472,921.

4. The return did not include the approximately \$2,892,689 in additional taxable income defendant DAVID NEWMARK received in 2008. An additional tax of approximately \$1,012,441 was due and owing to the United States on this income.

5. On or about October 16, 2009, in the District of New Jersey and elsewhere, defendant

DAVID NEWMARK

did knowingly and willfully attempt to evade and defeat a substantial part of the income tax due and owing to the United States in that he signed and caused to be filed a false and fraudulent 2006 U.S. Individual Income Tax Return, Form 1040, described in paragraph 3 of this Count, knowing it to be false and fraudulent as described in paragraph 4 of this Count.

In violation of Title 26, United States Code, Section 7201, and Title 18, United States Code, Section 2.

FORFEITURE ALLEGATIONS

1. The allegations contained in Paragraphs 1 through 10 of Count 1 of this Information are hereby realleged and incorporated by reference for the purpose of noticing forfeitures pursuant to Title 28, United States Code, Section 2461(c).

2. The United States hereby gives notice to the defendant charged in Count 1 of this Information that, upon conviction of the offense charged in that count, the government will seek forfeiture, in accordance with Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 981(a)(1)(C), of any and all property, real or personal, that constitutes or is derived from proceeds traceable to the violation of Title 18, United States Code, Section 1343, alleged in Count 1 this Information, including but not limited to the following:

- a. A sum of money equal to at least \$10,442,379.90 in United States currency.

3. If by any act or omission of the defendant, any of the property subject to forfeiture described in paragraph 2 herein:

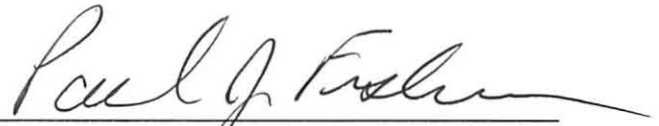
- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party,

c. has been placed beyond the jurisdiction of the
court;

d. has been substantially diminished in value; or

e. has been commingled with other property which
cannot be subdivided without difficulty,

the United States of America will be entitled to forfeiture of
substitute property up to the value of the property described
above in paragraph 2, pursuant to Title 21, United States Code,
Section 853(p), as incorporated by Title 28, United States Code,
Section 2461(c).



PAUL J. FISHMAN

United States Attorney

CASE NUMBER: _____

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

DAVID NEWMARK

INFORMATION FOR

**18 U.S.C. § 1343
26 U.S.C. § 7201**

PAUL J. FISHMAN

UNITED STATES ATTORNEY, NEWARK, NEW JERSEY

CHARLTON A. RUGG
*ASSISTANT U.S. ATTORNEY
NEWARK, NEW JERSEY
973.645.2700*
