

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Criminal No.
	:	
v.	:	18 U.S.C. §§ 1341 & 2
	:	
BENJAMIN WARNER	:	<u>I N F O R M A T I O N</u>

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

THE DEFENDANT & OTHER ENTITIES

At all times relevant to this Information:

1. Defendant BENJAMIN WARNER ("defendant WARNER") was employed by the Robert Wood Johnson Foundation ("RWJF") as a financial analyst.

2. RWJF, with an address in Princeton, New Jersey, among others, was a non-profit foundation that, through the use of grants, funded health care services entities, such as hospitals, medical schools, hospices, research organizations, professional associations, government agencies, and community groups. In connection with its mission, RWJF had a policy of matching the charitable donations of its employees by a ratio of up to 5 to 1. This policy provided that, after making charitable gifts to qualified charities, RWJF employees could submit Matching Gift Forms (that is, forms accounting for the gifts and

requesting that matching funds be sent to the charities) to RWJF's Matching Gift Coordinator, and RWJF would in turn remit matching funds to the charities.

3. Tenth American Foundation, Inc. ("Tenth American"), with an address in Hamilton, New Jersey, among others, claimed to be a non-profit foundation established to help local families pay medical and education costs during times of need. Defendant WARNER was Tenth American's president and its sole officer and employee.

4. B.K. was a non-profit organization that qualified for tax-exempt status under Section 503(c)(1) of the Internal Revenue Code.

5. W.C. was a non-profit organization that qualified for tax-exempt status under Section 503(c)(1) of the Internal Revenue Code.

6. W.D.C. was a non-profit organization that qualified for tax-exempt status under Section 503(c)(1) of the Internal Revenue Code.

7. P.O.F. was a non-profit organization that qualified for tax-exempt status under Section 503(c)(1) of the Internal Revenue Code.

8. L.B.C. was a non-profit organization that qualified for tax-exempt status under Section 503(c)(1) of the Internal Revenue Code.

THE SCHEME TO DEFRAUD

9. From at least as early as in or about May 2001 to in or about March 2003, in Mercer County, in the District of New Jersey and elsewhere, the defendant

BENJAMIN WARNER

did knowingly and willfully devise and intend to devise a scheme and artifice to defraud RWJF and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, which scheme and artifice was in substance as set forth below.

Object

10. The object of the scheme and artifice to defraud was for defendant WARNER to divert RWJF matching charitable funds from RWJF and eligible non-profit organizations to himself.

Means

11. It was a part of the scheme and artifice to defraud that defendant WARNER made charitable gifts to Tenth American, which he controlled. Defendant WARNER then submitted Matching Gift Forms to RWJF and used a portion of the resulting matching funds remitted to Tenth American by RWJF for personal and non-charitable purposes.

12. It was a further part of the scheme and artifice to defraud that defendant WARNER caused gifts to be made to B.K., W.C., W.D.C., P.O.F., and L.B.C. ("the non-profits") and Matching

Gift Forms to be submitted to RWJF. The non-profits in turn agreed to remit a sum equaling the original amount of the pre-matched gifts plus a monthly "financial consultant" fee in the amount of \$2,000 ("the payments") to defendant WARNER or his designee.

13. It was a further part of the scheme and artifice to defraud that defendant WARNER made charitable gifts in his own name to the non-profits and submitted Matching Gift Forms to RWJF. Defendant WARNER then received (directly or through his designee) the payments from the non-profits after the non-profits received their matching funds.

14. It was a further part of the scheme and artifice to defraud that defendant WARNER recruited RWJF employees and provided them with funds to gift to Tenth American and the non-profits. These recruits submitted Matching Gift Forms to RWJF, and upon receipt of matching funds from RWJF, the non-profits remitted the payments to defendant WARNER (or his designee).

Gifting Summary

15. By the above means, defendant WARNER caused RWJF to render employer matching gifts amounting to approximately \$324,875, dispersed as follows:

- a. Tenth American Foundation: \$114,875
- b. B.K.: \$75,000
- c. P.O.F.: \$55,000

d. W.D.C.: \$25,000

e. W.C.: \$30,000

f. L.B.C.: \$25,000

The Mailing

16. On or about March 18, 2002, for the purpose of executing and attempting to execute the aforesaid scheme and artifice to defraud, in the District of New Jersey and elsewhere, the defendant

BENJAMIN WARNER

did knowingly and willfully cause to be placed in a post office and authorized depository for mail, and cause to be sent and delivered by the United States Postal Service, certain mail matter, that is, a check from W.D.C. in the amount of \$3,000 made payable to Tenth American Organization, addressed to Tenth American Organization in Hamilton, New Jersey.

In violation of Title 18, United States Code, Sections 1341 and 2.

CHRISTOPHER J. CHRISTIE
United States Attorney