



# Department of Justice

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## **CINCINNATI BUSINESS OWNER SENTENCED FOR FAILING TO WITHHOLD MONEY FROM EMPLOYEES' CHECKS FOR TAXES**

CINCINNATI – John P. Hart II, 49, of Cincinnati was sentenced to 18 months in prison, three years of supervised release, and ordered to pay \$679,663 in restitution to the Internal Revenue Service (IRS) for failing to collect and pay over employment taxes to the IRS. Hart previously pleaded guilty to the aforementioned charge on March 3, 2010.

Carter M. Stewart, United States Attorney for the Southern District of Ohio, and Jose A. Gonzalez, Special Agent in Charge, Internal Revenue Service Criminal Investigation (IRS), announced the sentence handed down today by Senior United States District Judge Herman J. Weber.

According to public court record documents, Hart was the controlling shareholder and owner of Selection Management Systems, Inc. ("SMS"), a corporation Hart formed in 1997 and doing business in Cincinnati. SMS was in the business of conducting employee background checks and providing proprietary software to employers for background checks of prospective employees. SMS employed approximately 40 employees during the relevant time period.

From 2004 through 2006, Hart was responsible for SMS's day-to-day accounting and payroll functions. Hart was required to withhold payroll taxes from SMS employees' paychecks, including Medicare and Social Security Taxes (often referred to as Federal Insurance Contributions Act or "FICA" taxes). SMS was required to make deposits of the payroll taxes to the IRS on a periodic basis, and was required to file, on a quarterly basis, an Employer's Quarterly Federal Income Tax Return (Form 941). Beginning at least as early as January 2004, Hart willfully failed to withhold and pay over payroll tax payments from SMS employees' paychecks, failed to file Form's 941 with the IRS, and no payments of payroll taxes were made to the IRS. From 2004 through 2006 Hart failed to withhold and pay over to the IRS approximately \$678,644.79 in Medicare and Social Security taxes from his employees' paychecks.

From 2004 through 2006, Hart used SMS corporate funds for expenditures including, but not limited to, funding his skydiving team's attendance at skydiving competitions, funding other skydiving organizations, and paying for his annual membership and expenses at a local country club.

"As a result of these actions, SMS employees were not credited with the taxes that were supposed to have been applied to their individual accounts," Stewart said.

Stewart commended the investigation by IRS agents who investigated the case, and Assistant U.S. Attorney Anne Porter, who prosecuted the case.

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