



The United States Attorney's Office

Central District of California



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MALIBU MAN AGREES TO PLEAD GUILTY TO WILLFUL FAILURE TO DISCLOSE UBS SWISS BANK ACCOUNTS TO THE IRS

Los Angeles Investigators Examine Tax Fraud Related to Foreign Bank Accounts

LOS ANGELES – A Malibu man was charged today with failing to inform the government of a Swiss bank account as part of a scheme to move at least \$1 million from the United States into Swiss bank accounts with the goal of avoiding the payment of federal income taxes.

In a criminal information filed today in United States District Court, John McCarthy was charged with one count of willfully failing to file a Foreign Bank and Financial Accounts report (FBAR). In a related plea agreement also filed today, McCarthy agreed to plead guilty to the felony charge.

According to court documents, Switzerland's largest bank, UBS AG, turned over records showing that McCarthy was the beneficial owner and, therefore, had a direct financial interest in a UBS bank account opened in Switzerland in 2003 in the name of COGS Enterprises, Ltd., a Hong Kong entity. In court documents, McCarthy admitted skimming money from his domestic business and, after funneling the money through a U.S. account, wire transferring the skimmed funds into his COGS Enterprises account in Switzerland. McCarthy admitted that, with the assistance of UBS representatives and his Swiss lawyer, he directed the investment activities and transfers of funds into and out of the COGS UBS Swiss bank account, as well as from other UBS Swiss accounts he controlled. UBS representatives worked closely with his Swiss lawyer to keep McCarthy's funds from leaving Switzerland and helped McCarthy move additional monies out of the United States undetected by the federal government, according to the plea agreement.

McCarthy admitted that he transferred more than \$1 million of money skimmed from his business to the COGS Enterprises account at UBS in Switzerland. As a result of the money transfers, McCarthy admitted that he failed to pay at least \$200,000 in federal income taxes and that he now owes the government interest and penalties.

"Tax prosecutors in my office, working with IRS-Criminal Investigation agents and Department of Justice attorneys, are aggressively pursuing those who shirk their federal tax obligations by hiding funds in secret bank accounts in Europe and Asia," said United States Attorney Thomas P. O'Brien.

In his plea agreement, McCarthy agreed to cooperate with the United States Attorney's Office and the Internal Revenue Service, including agreeing to work with federal tax authorities to determine his personal and business tax liabilities for 2003 through 2007. McCarthy agreed that he is liable for the fraud penalty of 75 percent on any individual income taxes he owes for those years. In addition to the tax liability, McCarthy agreed to repatriate all funds held in foreign bank accounts and resolve his civil liability for failing to file FBARs for 2003 through 2008 by paying a penalty equal to 50 percent of the highest balance in his COGS account for each of the six years.

McCarthy is expected to make his initial appearance in federal court on September 14. Once he pleads guilty, McCarthy faces a statutory maximum penalty of five years in federal prison and fines totaling \$250,000.

In February, UBS AG entered into a deferred prosecution agreement on charges of conspiring to defraud the United States by impeding the Internal Revenue Service (see: <http://www.usdoj.gov/opa/pr/2009/February/09-tax-136.html>). As a result, UBS agreed to provide the United States government with the identities and account information of certain United States customers. McCarthy's Swiss bank account information was among the information provided by UBS to the Department of Justice. "The case against Mr. McCarthy is the latest victory in the Justice Department's crackdown on offshore tax evasion," said John DiCicco, Acting Assistant Attorney General for the Justice Department's Tax Division. "Americans with concealed offshore assets should voluntarily come clean with the IRS by September 23 and take advantage of the reduced penalties connected with the current offshore initiative. Failure to come forward and to disclose offshore assets exposes these Americans to increased penalties and possible criminal prosecution."

Eileen C. Mayer, Chief of IRS-Criminal Investigation, stated: "The prosecution of John McCarthy is the tip of the iceberg. In conjunction with the United States Attorney's Office here in Los Angeles and prosecutors around the country, our agents continue to investigate existing leads, as well as develop and follow-up on additional leads uncovered in the course of their investigations on others similarly situated. Today's actions show the IRS is committed to pursuing people hiding income offshore. Anyone in this situation needs to immediately come in through our voluntary disclosure process and get right with your government or face stiff criminal and financial penalties."

Additional information on the IRS's Voluntary Disclosure program can be found at <http://www.irs.gov/newsroom/article/0,,id=210027,00.html>.

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