

Department of Justice

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Western District of New York

FOR IMMEDIATE RELEASE
APRIL 6, 2012
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LAWYER PLEADS GUILTY TO EMBEZZLEMENT **FROM AN EMPLOYEE PENSION BENEFIT PLAN**

BUFFALO, N.Y.-- U.S. Attorney William J. Hochul, Jr. announced today that Thomas J. Barnes, 55, of Buffalo, New York, pleaded guilty before U.S. District Court Chief Judge William M. Skretny, to a felony charge of embezzlement from an employee pension benefit plan. The charge carries a maximum penalty of 5 years imprisonment, a fine of \$250,000, or both.

Assistant U.S. Attorney Aaron J. Mango, who handled the case, stated that as part of the plea, the defendant, a lawyer, admitted that he embezzled and converted to his own use money belonging to the Franbilt, Inc. 401(k) Plan. On April 15, 2005, the defendant purchased Franbilt, which was an industrial design and fabrication company located in Lockport, NY. On January 27, 2006, the defendant executed an amendment to the 401(k) Plan and officially became a trustee of the Plan. As such, the defendant was responsible for holding in trust and investing Plan assets for the sole benefit of the Plan participants and their beneficiaries. Thereafter, from February 2, 2006 up to the time Franbilt closed in January of 2007, the defendant embezzled and converted to his own use approximately \$69,894.51 belonging to the Plan. This amount includes employee salary deferrals intended to go into the Plan but withheld by the defendant, and an approximately \$50,000 distribution for one Plan Participant that was misappropriated by the defendant.

The plea was the culmination of an investigation on the part of Special Agents of the United States Dept. of Labor, Office of Inspector General, under the direction of Special Agent in Charge Robert L. Panella and the U.S. Dept. of Labor, Employee Benefits Security Administration, under the direction of Susan Hensley, Regional Director.

Sentencing is scheduled for August 1, 2012 at 9 a.m. in Buffalo, N.Y., in front of U.S. District Court Chief Judge William M. Skretny.

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