Department of Justice
U.S. Attorney's Office
Southern District of Florida

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# Former Cay Clubs Chief Financial Officer Sentenced to 40 Years in Prison for Conspiracy, Bank Fraud and Tax Offenses

The former Chief Financial Officer of Cay Clubs Resorts and Marinas (Cay Clubs) was sentenced to 40 years in prison, after having been previously convicted by a federal jury of conspiracy, bank fraud, and tax offenses.

Benjamin G. Greenberg, Acting United States Attorney for the Southern District of Florida, Kelly R. Jackson, Special Agent in Charge, Internal Revenue Service, Criminal Investigation (IRS-CI), and Timothy Mowery, Special Agent in Charge, Federal Housing Finance Agency, Office of Inspector General (FHFA-OIG), made the announcement.

**David W. Schwarz**, 60, of Orlando, was convicted at trial on March 3, 2017 of conspiracy to commit bank fraud, in violation of Title18 ,United States Code, Section 1349, two counts of bank fraud, in violation of Title 18, United States Code, Section1344, and one count of interference with the administration of the IRS, in violation of Title 26, United States Code, Section 7212(a). Chief U.S. District Judge K. Michael Moore, sitting in Key West, sentenced Schwarz to 40 years in prison. Judge Moore found that the criminal conduct resulted in $303 million in fraudulent proceeds and approximately $170 million in victim losses. A restitution hearing has been set for July 10, 2017, in Key West.

According to evidence at trial, Schwarz was the Vice President and Chief Financial Officer (CFO) of Cay Clubs, which operated purported luxury resorts in the Florida Keys, Clearwater, Orlando, Las Vegas, and elsewhere. Between 2004 and 2008, Cay Clubs grew to more than 1,000 employees and became one of the largest employers in the Florida Keys. Schwarz, who was the one-third owner, and Fred Davis Clark, Jr., a/k/a Dave Clark, who was the two-thirds owner, began Cay Clubs in 2004 with fraudulent sales of Cay Clubs units to insiders, using money from Cay Clubs bank accounts to fund the cash to close for purchases, while obtaining mortgage financing from lending institutions. These fraudulent sales were used in marketing materials to falsely show demand for Cay Clubs units and to inflate prices, as Cay Clubs was in reality purchasing units from itself. Proceeds of these sales were diverted to Schwarz and Clark.

Trial evidence established that Cay Clubs raised more than $300 million from approximately 1,400 investors, who purchased units in Cay Clubs developments. Schwarz and Clark failed to remodel the dilapidated properties as they promised investors, while taking millions of dollars out of the company for their own benefit. During the operation of Cay Clubs from 2004 through 2008, Schwarz and Clark diverted more than $30 million in proceeds for themselves, including millions of dollars in cash transfers that were used to purchase property and other businesses, including a gold mine, a rum distillery, aircraft, and a coal reclamation business.

Trial evidence further showed that as Cay Clubs faced dwindling sales due to its failure to upgrade the dilapidated properties in 2006, Schwarz, Clark, and others engaged in additional fraudulent sales of Cay Clubs units to insiders, including Clark's family members. These mortgage loans were used to prevent Cay Clubs from defaulting on commercial debts. The documents used to obtain these mortgages included falsified signatures and notary attestations, and had Cay Clubs acting as the seller while Schwarz provided the cash to close so that mortgage loans could be obtained to fund the sales.

During the course of this scheme, Schwarz and Clark did not file any corporate tax return for $74 million in income generated by the Cay Clubs entities. Furthermore, neither Schwarz or Clark filed any individual tax return for these years until after an investigation of Cay Clubs by the U.S. Securities and Exchange Commission (SEC). In 2010 and 2011, Schwarz filed false individual tax returns for tax years 2004, 2005 and 2006, respectively, in which he substantially underreported his income for these tax years and concealed his receipt of millions of dollars in proceeds.

On December 11, 2015, Dave Clark, 59, formerly a resident of Tavernier, was convicted by a federal jury in connection with related bank fraud charges and obstruction of the SEC. He was sentenced on February 21, 2016, to 40 years in prison by U.S. District Judge Jose E. Martinez. Former Cay Clubs sales executives Barry Graham, 59, and Ricky Lynn Stokes, 54, both formerly of Ft. Myers, previously pled guilty to conspiracy to commit bank fraud in related cases and were sentenced to 60 months, and 30 months, respectively.

Mr. Greenberg commended the investigative efforts of the IRS-CI and FHFA-OIG, and the extensive assistance of the SEC's Miami Regional Office. This matter was prosecuted by Assistant U.S. Attorneys Jerrob Duffy, James V. Hayes, and Alison Lehr.