U.S. Department of Justice

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NEWS RELEASE:

Former Cay Clubs Chief Financial Officer Charged with Bank Fraud and Tax Offenses

The former Chief Financial Officer of Cay Clubs Resorts and Marinas (Cay Clubs) was arrested earlier today in Orlando, Florida, on federal bank fraud and criminal tax offense charges.

Wifredo A. Ferrer, 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 charged by indictment with conspiracy to commit bank fraud, in violation of Title 18, United States Code, Section 1349, three counts of bank fraud, in violation of Title 18, United States Code, Section 1344, three counts of false statements to a financial institution, in violation of Title 18, United States Code, Section 1014, and one count of interference with the administration of the IRS, in violation of Title 26, United States Code, Section 7212(a) (Case No. 16-10039-CR-Moore). If convicted, Schwarz faces a statutory maximum of 30 years in prison for each of the conspiracy and bank fraud offenses, and 3 years in prison for the tax offense. The matter is assigned to Chief United States District Judge K. Michael Moore in Key West.

According to the indictment, Schwarz was the Vice President and Chief Financial Officer of Cay Clubs, which operated purported luxury resorts in the Florida Keys, Clearwater, Orlando, Las Vegas, and elsewhere. The indictment alleges that Schwarz and co-conspirator Fred Davis Clark, Jr., a/k/a Dave Clark, who was the two-thirds owner, began Cay Clubs in late 2004 with fraudulent sales of Cay Clubs units to insiders, using money from Cay Clubs's 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.

The indictment further alleges 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. The indictment alleges that the loan documents used to obtain these mortgages included falsified signatures and false notary attestations, and had Clark acting as the seller while Schwarz provided the cash to close so that mortgage loans could be obtained to fund the sales.

Furthermore, according to the indictment, during 2004 through 2008, the years Cay Clubs operated, Clark and Schwarz obtained more than $28 million in proceeds from the business. However, Schwarz and Clark did not file any corporate tax returns for the Cay Clubs entities. In addition, they did not file any individual tax returns 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, in which he substantially underreported his income 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. 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.

Mr. Ferrer commended the investigative efforts of the IRS-CI and FHFA-OIG, and the extensive assistance provided by the SEC's Miami Regional Office. The matter is being prosecuted by Assistant U.S. Attorneys Jerrob Duffy and Alison Lehr.

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