

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA	:	Criminal No. 17-
	:	
v.	:	18 U.S.C. § 1343
	:	18 U.S.C. § 1957
JOHN SCHOLTZ	:	
	:	<u>INFORMATION</u>

The defendant having waived in open court prosecution by indictment, the United States Attorney for the District of New Jersey charges:

COUNT 1
(Wire Fraud)

1. At all times relevant to this Information:
 - a. Innovative Payroll Services, LLC (“IPS”) was a business that provided payroll services to clients located in New Jersey and elsewhere. Such clients included municipalities, educational institutions, and various small to medium-sized privately held companies. The payroll services that IPS offered included processing clients’ payroll; preparing, signing, and filing clients’ federal, state and local tax returns (including quarterly federal tax forms 941 (“941”)); and collecting and remitting clients’ payroll taxes to the Internal Revenue Service (“IRS”) and state and local taxing authorities on a semi-weekly or monthly basis. IPS maintained its primary office in West Berlin, New Jersey.
 - b. Defendant JOHN SCHOLTZ was the majority owner and president of IPS. From at least as early as February 2012 to June 2015, defendant JOHN SCHOLTZ resided in New Jersey. In or about January 2015, defendant JOHN SCHOLTZ began spending the majority of his time living in Florida, but maintained frequent contact with the IPS office in New Jersey.

c. The City of Trenton (“Trenton”) was a client of IPS from in or about July 2009 to in or about January 2016. During that time, IPS was responsible for processing Trenton’s payroll; preparing, signing, and filing Trenton’s federal, state and local tax returns; and collecting and remitting Trenton’s federal, state and local payroll tax deposits.

d. Defendant JOHN SCHOLTZ established multiple bank accounts on behalf of IPS, including the following accounts:

(1) Bank accounts that served as trust accounts to receive and maintain IPS clients’ tax funds until they were remitted to the taxing authorities (collectively, “Tax Impound Accounts”), including an M&T Bank account held under the name “Innovative Payroll Services LLC Main Tax Impound Account” (the “Main Tax Impound Account”);

(2) A bank account at M&T Bank held under the name “Innovative Payroll Services Operating Account,” which served as an operating account for IPS business expenses (the “Operating Account”); and

(3) A bank account at M&T Bank held under the name “Innovative Payroll Services LLC Wire Account,” from which outgoing payments were made via wire transfer (the “Wire Account”).

e. Defendant JOHN SCHOLTZ also held multiple personal bank accounts, including a bank account at SB1 Federal Credit Union in Pennsylvania (the “SB1 Account”).

The Scheme and Artifice to Defraud

2. From in or about February 2012 to in or about January 2016, in the District of New Jersey, and elsewhere, defendant

JOHN SCHOLTZ

did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud IPS clients, and to obtain money and property from them by means of materially false and fraudulent pretenses, representations and promises.

The Purpose of the Scheme and Artifice to Defraud

3. The purpose of the scheme and artifice to defraud was for defendant JOHN SCHOLTZ to take IPS clients' tax funds without their knowledge or consent, and use those funds for his own personal benefit and for the operational expenses of IPS.

The Manner and Means of the Scheme and Artifice to Defraud

4. It was a part of the scheme and artifice to defraud that, for each payroll period, IPS provided its clients with a payroll summary setting forth the payroll taxes owed for that period. IPS clients then deposited the specified payroll taxes into one of the Tax Impound Accounts, where they were commingled. IPS falsely represented to its clients that these payroll taxes would be remitted to the taxing authorities in a timely fashion in satisfaction of their respective tax obligations.

5. It was further part of the scheme and artifice to defraud that, beginning in or about February 2012, defendant JOHN SCHOLTZ withdrew or directed others at IPS to withdraw client tax funds from the Tax Impound Accounts, knowing that these funds constituted client tax funds, and used these funds to pay his own personal expenses, including payments for homes, cars, boats, airplanes and credit card bills, and to pay IPS operating expenses. For example:

a. On or about June 3, 2015, Trenton deposited approximately \$869,573 into the Main Tax Impound Account for purposes of paying payroll taxes for the prior two-week pay period. The same day, at the direction of defendant JOHN SCHOLTZ, approximately \$400,000 was transferred from the Main Tax Impound Account to the Operating Account, then transferred to the Wire Account, and then transmitted via wire transfer to the SB1 Account. Two days later, on or about June 5, 2015, defendant JOHN SCHOLTZ transferred approximately \$380,000 of the \$400,000 from the SB1 Account to a third party in Florida to serve as part of a deposit on a \$1.8-million-dollar home in Florida for himself.

b. On or about September 23, 2015, Trenton deposited approximately \$921,235 into the Main Tax Impound Account for purposes of paying payroll taxes for the prior two-week pay period. The same day, at the direction of defendant JOHN SCHOLTZ, approximately \$175,275 was transferred from the Main Tax Impound Account to the Operating Account, and then transferred to the Wire Account. The next day, at the direction of defendant JOHN SCHOLTZ, approximately \$175,275 was transmitted via wire transfer from the Wire Account to a yacht and ship services company in Florida to pay for a boat for the benefit of defendant JOHN SCHOLTZ.

6. It was further part of the scheme and artifice to defraud that, despite the misappropriation of client tax funds, such as the examples set forth above in paragraph 5 of this Count, defendant JOHN SCHOLTZ, and various IPS employees acting at the direction of defendant JOHN SCHOLTZ, falsely represented to IPS clients that their taxes were being paid to the taxing authorities in a timely fashion in satisfaction of their respective tax obligations. Among these false representations were emails sent from IPS to clients attaching forms 941 that

falsely stated, “No payment is required. All 941 Tax Deposits have been made[,]” including the email set forth below in paragraph 8 of this Count.

7. It was further part of the scheme and artifice to defraud that, over time, this ongoing misappropriation of client tax funds caused many IPS clients to be in delinquent status with the IRS and state and local taxing authorities. Accordingly, as new client tax deposits came into the Tax Impound Accounts, IPS used such funds to pay other clients’ delinquent taxes owed for prior pay periods, as well as penalties and interest incurred for such delinquencies. As a result of defendant JOHN SCHOLTZ’s scheme, approximately 103 IPS clients sustained over \$8.4 million in losses based on federal, state and local tax deposits that IPS failed to make, as well as over \$578,000 in associated penalties and interest.

8. On or about October 19, 2015, for the purpose of executing and attempting to execute this scheme and artifice to defraud, in the District of New Jersey and elsewhere, defendant

JOHN SCHOLTZ

knowingly and intentionally transmitted and caused to be transmitted by means of wire communications in interstate commerce certain writings, signs, signals, and pictures, namely, an email communication sent from IPS in West Berlin, New Jersey, to the City of Trenton in Trenton, New Jersey, which email passed through the IPS server located in Philadelphia, Pennsylvania.

In violation of Title 18, United States Code, Section 1343 and Section 2.

COUNT 2
(Transacting in Criminal Proceeds)

1. Paragraphs 1 through 8 of Count 1 of this Information are hereby realleged and incorporated by reference as though fully set forth herein.

2. On or about June 5, 2015, in the District of New Jersey and elsewhere, defendant

JOHN SCHOLTZ

knowingly engaged and attempted to engage in a monetary transaction affecting interstate commerce in criminally derived property of a value greater than \$10,000, namely, a transfer in the amount of approximately \$380,000 from defendant JOHN SCHOLTZ's personal bank account at SB1 to an account held by a third party in Florida to pay part of a deposit for the purchase of a house for defendant JOHN SCHOLTZ, such property having been derived from specified unlawful activity; that is, wire fraud, in violation of 18, United States Code, Section 1343 as set forth in Count 1 of this Information.

In violation of Title 18, United States Code, Section 1957 and Section 2.

FIRST FORFEITURE ALLEGATION

1. The allegations contained in paragraphs 1 through 8 of Count 1 of this Information are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. As a result of committing the wire fraud offense charged in Count 1 of this Information, defendant JOHN SCHOLTZ shall forfeit to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), all property, real and personal, which constitutes or is derived from proceeds traceable to the commission of that offense. The property to be forfeited includes, but is not limited to,

- a. \$8,410,949.19 in United States currency, in that such sum constituted and was derived, directly and indirectly, from proceeds traceable to the commission of that offense; and
- b. Defendant JOHN SCHOLTZ's interest, if any, in the following property, or any net proceeds (after payment of liens and judgments against such property) if such property is sold prior to sentencing, which property was purchased in whole or in part with proceeds of criminal activity:
 - 1) \$135,000 in proceeds received from the sale of a 54-foot Sea Ray boat, bearing Hull Identification Number ("HIN") SER Y0557C999, sold on or about June 17, 2016;
 - 2) \$32,400 in net proceeds from the sale of a 33-foot Ocean Waves Blackhawk boat, bearing HIN JLU00001G708, sold on or about July 22, 2016;

- 3) A 26-foot Monterey boat, bearing HIN RGFMH602I314;
- 4) A 46-foot Hatteras boat, bearing HIN HATAS3160774;
- 5) \$85,100 received from the sale of a Cessna 340A airplane bearing Tail Number N315MG, sold on or about February 23, 2017;
- 6) An Aerostar 601P airplane bearing Tail Number N700MF;
- 7) A Cirrus SR20 airplane bearing Tail Number N923TL;
- 8) \$38,243 in proceeds received from the sale of a condominium located at 660 Island Way, Unit 804, Clearwater, FL;
- 9) A residence located at 672 Harbor Island Way, Clearwater, FL;
- 10) A residence located at 639 Albertson Road, Winslow, NJ;
- 11) Property located at 635 and 637 Albertson Road, Winslow, NJ;
- 12) Three CD accounts (ending in 6217, 6284, and 6131) at Iberia Bank held in the name of IPS, which contain a total of approximately \$13,323, plus any additional interest; and
- 13) Two accounts (ending in 9897 and 9491) at M&T Bank held in the name of IPS, which contain approximately \$424,687 and \$337,768, respectively, plus any additional interest.

3. If any of the above-described property, as a result of any act or omission of defendant JOHN SCHOLTZ:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or

- e. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p) and 28 U.S.C. § 2461(c), to seek forfeiture of any other property of defendant JOHN SCHOLTZ up to the value of the property described above.

SECOND FORFEITURE ALLEGATION

1. The allegations contained in paragraphs 1 and 2 of Count 2 of this Information are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 982(a)(1).

2. Pursuant to Title 18, United States Code, Section 982(a)(1), upon conviction of an offense in violation of Title 18, United States Code, Section 1957, defendant JOHN SCHOLTZ shall forfeit to the United States of America any property, real or personal, involved in such offense, and any property traceable to such property. The property to be forfeited includes, but is not limited to, the following:

- a. \$8,410,949.19 in United States currency, in that such sum was involved in the commission of the offense; and
- b. Defendant JOHN SCHOLTZ's interest, if any, in the following property, or any net proceeds (after payment of liens and judgments against such property) if such property is sold prior to sentencing, which property was purchased in whole or in part with proceeds of criminal activity:
 - 1) \$135,000 in proceeds received from the sale of a 54-foot Sea Ray boat, bearing Hull Identification Number ("HIN") SER Y0557C999, sold on or about June 17, 2016;
 - 2) \$32,400 in net proceeds from the sale of a 33-foot Ocean Waves Blackhawk boat, bearing HIN JLU00001G708, sold on or about July 22, 2016;
 - 3) A 26-foot Monterey boat, bearing HIN RGF MH602I314;
 - 4) A 46-foot Hatteras boat, bearing HIN HATA S3160774;

- 5) \$85,100 received from the sale of a Cessna 340A airplane bearing Tail Number N315MG, sold on or about February 23, 2017;
- 6) An Aerostar 601P airplane bearing Tail Number N700MF;
- 7) A Cirrus SR20 airplane bearing Tail Number N923TL;
- 8) \$38,243 in proceeds received from the sale of a condominium located at 660 Island Way, Unit 804, Clearwater, FL;
- 9) A residence located at 672 Harbor Island Way, Clearwater, FL;
- 10) A residence located at 639 Albertson Road, Winslow, NJ;
- 11) Property located at 635 and 637 Albertson Road, Winslow, NJ;
- 12) Three CD accounts (ending in 6217, 6284, and 6131) at Iberia Bank held in the name of IPS, which contain a total of approximately \$13,323, plus any additional interest;
- 13) Two accounts (ending in 9897 and 9491) at M&T Bank held in the name of IPS, which contain approximately \$424,687 and \$337,768, respectively, plus any additional interest.

3. If any of the property described above, as a result of any act or omission of defendant JOHN SCHOLTZ:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1) and Title 28, United States Code, Section 2461(c).



PAUL J. FISHMAN
United States Attorney

CASE NUMBER: _____

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

JOHN SCHOLTZ

INFORMATION FOR

18 U.S.C. §§ 1343 and 1957

PAUL J. FISHMAN
U. S. ATTORNEY
NEWARK, NEW JERSEY

SARAH M. WOLFE
ASSISTANT U. S. ATTORNEY
TRENTON, NEW JERSEY
(609) 989-2190

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