

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

1:09-cr-00166

UNITED STATES OF AMERICA	:	CASE NO.
	:	
v.	:	<u>INDICTMENT</u>
	:	18 U.S.C. § 2
MICHAEL A. FOX	:	18 U.S.C. § 1341
(Counts 1-6, Forfeiture)	:	18 U.S.C. § 1343
	:	18 U.S.C. § 1346
ROBERT C. SCHULER	:	18 U.S.C. § 1349
(Counts 5, 7-8, Forfeiture)	:	18 U.S.C. § 1623
	:	26 U.S.C. § 7206(1)
Defendants.	:	FORFEITURE

THE GRAND JURY CHARGES THAT:

J. BECKWITH

COUNT ONE

(Mail Fraud Involving Honest Services; 18 U.S.C. §§ 2, 1341 and 1346)

INTRODUCTION

1. From in or about 1973 until 1997, defendant **MICHAEL A. FOX** served as an elected public official in the Ohio House of Representatives. From on or about October 14, 1997 through May 13, 2007, he next served as a public official, first as an appointed and then an elected member of the Butler County, Ohio Board of Commissioners. At certain times during this period he served as the President of the Butler County Board of Commissioners. On or about July 31, 2007, he began his final stint as a public official when he was appointed as the Executive Director of the Butler County Children Services Agency. Defendant **MICHAEL A. FOX** received this last position when the Butler County Board of Commissioners passed a resolution authorizing his appointment.

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2. In 1998, 2000, and 2004, defendant **MICHAEL A. FOX** won general elections to the Butler County Board of Commissioners.

3. As a member of the three-person Butler County Board of Commissioners, defendant **MICHAEL A. FOX** repeatedly swore oaths to honestly perform his public duties. Among the sworn oaths that he took were those administered on December 27, 2000 and December 29, 2004, in which he swore as follows:

I, Michael A. Fox, do solemnly swear (or affirm) that I will support, protect and defend the Constitution of the United States and the Constitution of the State of Ohio, and that I will discharge the duties of my office of County Commissioner[s] with fidelity; that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination, or election (or appointment), except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this State, or procured it to be done by others on my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office other than the compensation allowed by law. So help me God.

4. As a public official in Butler County he received salaries which were derived from taxpayer funds. His County Commissioner annual salary ranged from approximately \$55,000 to approximately \$73,000. His annual salary as the Executive Director of the Butler County Children Services Agency was approximately \$118,000.

5. On or about June 18, 2001, NORMAP Telecommunication, LLC (NORMAP), a Toledo, Ohio based Ohio limited liability company, secured a contract from Butler County Board of Commissioners to design, develop, and construct a fiber optic communications system throughout the county. Under the terms of the contract, Butler County was obligated to pay NORMAP approximately \$2,750,000 to complete the fiber optic communications system. Additionally,

NORMAP was obligated to maintain the fiber optic communications system for twenty years in return for a \$400,000 annual fee from Butler County. Paragraph 7.10 of the contract stated “[N]o public employee or public official of the County shall receive any gift of a thing of value or any other form of compensation whatsoever as a result of the execution or performance of this Agreement.” Defendant **MICHAEL A. FOX** signed this contract as the President of the Butler County Board of Commissioners.

6. Defendant **ROBERT C. SCHULER** is an attorney at law who has owned or controlled numerous Ohio limited liability companies. Among the entities that he has owned or controlled was an Ohio limited liability company known as Anwalt Fiber Holdings, LLC (Anwalt). By March 2002, defendant **ROBERT C. SCHULER** had gained control of NORMAP after Anwalt purchased NORMAP for approximately \$400,000.

7. During 2004, Omni Mobile, LLC (Omni Mobile), was another Ohio limited liability company owned, in part, by defendant **ROBERT C. SCHULER**.

8. Winton Transportation, Inc. (Winton Transport), was an Ohio corporation doing business as Universal Transportation Systems. This business was owned or controlled by an individual whose identity is known to the Grand Jury. During certain times relevant to this Indictment, Winton Transport held contracts with Butler County, Ohio.

9. Noah’s Landscaping was a business owned or controlled by an individual whose identity is known to the Grand Jury. During certain times relevant to this Indictment, Noah’s Landscaping held contracts with Butler County, Ohio.

10. Disaster Services of A-Absolute was an Ohio corporation and/or an Ohio limited liability company. This business (and related entities) was owned or controlled by an individual

whose identity is known to the Grand Jury. During certain times relevant to this Indictment, Disaster Services of A-Absolute held contracts with Butler County, Ohio.

11. Chee Chee Rose Ministries was an Ohio non-profit corporation which claimed charitable organization tax status pursuant to Title 26, United States Code, Section 501(c)(3). This entity was owned or controlled by an individual whose identity is known to the Grand Jury. During certain times relevant to this Indictment, Chee Chee Rose Ministries obtained and maintained Charitable Bingo Licenses issued by the Office of the Ohio Attorney General.

12. Dynus Corporation was a closely held Ohio corporation. This business (and related entities) was owned or controlled by Orlando Carter. During certain times relevant to this Indictment, Dynus Corporation attempted to enter into a business relationship with Butler County. Various Dynus Corporation officials, including Orlando Carter and James Smith, engaged in criminal conduct, including schemes to defraud financial institutions and the Small Business Administration, relating to this effort to enter into a business relationship with Butler County. As a part of the criminal activities associated with Dynus Corporation's schemes to defraud, James Smith and others communicated with and sought the advice and assistance of defendant **MICHAEL A. FOX** relating to the Butler County fiber optic communications system.

13. At all times pertinent to this Indictment, Fox Development and Distribution Services, Inc. (Fox Development), was an Ohio corporation owned and controlled by defendant **MICHAEL A. FOX**.

14. Defendant **MICHAEL A. FOX** and **ROBERT C. SCHULER** have been personal friends in excess of twenty years. They originally met while attending Miami University of Ohio as undergraduates. In June 2001, defendant **MICHAEL A. FOX** found himself in dire financial

straights, and sought assistance from various friends including **ROBERT C. SCHULER** in hopes of resolving his personal financial difficulties. On or about June 6, 2001, **ROBERT C. SCHULER** guaranteed a \$300,000 line of credit issued by Fifth Third Bank on behalf of defendant **MICHAEL A. FOX**.

15. During all times relevant to defendant **MICHAEL A. FOX**'s tenure as both a member of the Butler County Board of Commissioners and member of the Ohio House of Representatives, he was obligated to file annual financial disclosure statements with the Ohio Ethics Commission pursuant to Ohio Revised Code § 102.02.

The Scheme and Artifice to Defraud

16. Beginning in approximately December 2001 and continuing to on or about April 17, 2008, in the Southern District of Ohio, and elsewhere, defendant **MICHAEL A. FOX**, while serving as a member of the Butler County Board of Commissioners, knowingly devised and intended to devise, and participated in a scheme and artifice to defraud through the deprivation of the intangible right of honest services which were owed to the Government of Butler County, Ohio, and the citizens of Butler County, Ohio. Defendant **MICHAEL A. FOX** failed to disclose his material conflicts of interest to the general public, to other Butler County public officials and employees including other members of the Butler County Board of Commissioners, and to the Ohio Ethics Commission while using his official position for wrongful private gain. This scheme and artifice to defraud included the following:

17. It was part of this scheme and artifice to defraud that defendant **MICHAEL A. FOX** exercised influence and abused his authority as a member of the Butler County Board of Commissioners in making public decisions in ways that wrongfully and personally benefitted him.

In particular, he worked as a principal point of contact for Butler County in a proposed county-wide fiber optics/wireless communications system. This involvement by defendant **MICHAEL A. FOX** continued throughout the time period he served as a member of the Butler County Board of Commissioners and included the time period when Orlando Carter and Dynus Corporation attempted to obtain business from Butler County.

18. It was further part of this scheme and artifice to defraud that defendant **MICHAEL A. FOX** accepted financial payments and other benefits from various individuals, businesses, and a purported charitable organization. The defendant **MICHAEL A. FOX** failed to properly disclose his receipt of said payments and other benefits in his annual financial disclosure statements filed with the Ohio Ethics Commission pursuant to Ohio statute. Throughout the time period that defendant **MICHAEL A. FOX** was required to file these annual financial disclosure statements as a member of the Butler County Board of Commissioners, he elected to either omit entirely or mis-characterize the true nature and extent of said payments and other benefits he received. In so doing, defendant **MICHAEL A. FOX** presented a series of false and misleading financial disclosure statements that both individually and, in their entirety, failed to accurately disclose his material conflicts of interest and wrongful personal gains. Additionally, by failing to indicate his material conflicts of interest in his annual financial disclosure statements, defendant **MICHAEL A. FOX** deprived other Butler County public officials and employees, other private individuals and businesses, and the general citizenry of Butler County of relevant information concerning decisions that by law should have been made for the overall public's benefit and well being.

19. It was further part of this scheme and artifice to defraud that defendant **MICHAEL A. FOX** took additional steps to disguise and conceal his improper financial relationships when he falsely filed his annual federal tax returns and submitted various applications for personal loans.

20. It was further part of this scheme and artifice to defraud that defendant **MICHAEL A. FOX** entered into a series of transactions described in this paragraph with co-defendant **ROBERT C. SCHULER** (who is later charged in this Indictment, but not in this count) wherein defendant **MICHAEL A. FOX** wrongfully used his public office for personal gain through the commission of the following acts:

- a. While defendant **MICHAEL A. FOX** served as a member of the Butler County Board of Commissioners, he facilitated and encouraged **ROBERT C. SCHULER** to acquire the ownership of NORMAP knowing NORMAP was then engaged as a Butler County contractor. As a result of the acquisition of NORMAP, **ROBERT C. SCHULER** received approximately \$1,824,281 in monies from Butler County.
- b. Defendant **MICHAEL A. FOX** took other actions in his official capacity as a member of the Butler County Board of Commissioners that personally benefitted **ROBERT C. SCHULER**, including voting on Butler County Board of Commissioners resolutions and informally acting to influence other state, county, and local officials as well as private individuals and businesses to take actions favorable to the business interests of NORMAP and **ROBERT C. SCHULER**. Official actions taken by defendant **MICHAEL A. FOX** included:
 - i. On or about March 7, 2002, signing, as a member of the Butler County Board of Commissioners, Amendment No. 1 to the NORMAP contract with Butler County (described above in paragraph 5), this amendment altered the terms of the contract making them more favorable to NORMAP.

- ii. On or about October 30, 2003, signing, as the President of the Butler County Board of Commissioners, an agreement styled the First Amendment to Amended and Restated Network Construction and Maintenance Agreement that provided for a \$1,500,000 payment from Butler County to NORMAP.
 - iii. In or about December 2003, facilitating efforts to reverse a legal opinion rendered by the Butler County Prosecutor's Office that prohibited Butler County from issuing bonds to finance additional payments to NORMAP.
 - iv. On or about July 26, 2004, voting on a Butler County Board of Commissioners resolution which accepted a donation from **ROBERT C. SCHULER** of twelve fiber optic strands which **ROBERT C. SCHULER** later used as the basis for a charitable deduction used to attempt to reduce his federal income taxes for tax years 2004 through 2007.
- c. Defendant **MICHAEL A. FOX** secretly received financial payments that had been funneled to him by **ROBERT C. SCHULER** as follows:
- i. In or about March 2002, **ROBERT C. SCHULER** arranged to have a business associate, whose identity is known to the Grand Jury (Schuler Business Associate #1), wire transfer \$360,000 to a Key Bank, NA, bank account controlled and maintained by defendant **MICHAEL A. FOX** in the name of Fox Development.
 - ii. In or about March 2002, these funds were used to pay off a \$303,160.82 personal loan in the amount of \$303,160.82 owed by defendant **MICHAEL A. FOX**, which was guaranteed by **ROBERT C. SCHULER**, to Fifth Third Bank.

- iii. In or about May 2002, **ROBERT C. SCHULER** paid \$360,000 to Schuler Business Associate #1. This payment was structured as a \$360,000 offset from a \$628,803 payment made to **ROBERT C. SCHULER** as part of an otherwise unrelated \$300,000,000 business deal involving **ROBERT C. SCHULER**, Schuler Business Associate #1, and others.
- iv. **ROBERT C. SCHULER** failed to disclose the existence of this \$360,000 offset to either his personal accountant or the Internal Revenue Service for tax year 2002.
- v. In or about September 2002, **ROBERT C. SCHULER** arranged to have Schuler Business Associate #1 make another \$100,000 transfer to defendant **MICHAEL A. FOX** using a Fox Development account held at Key Bank, NA. The nature of this transaction was disguised as a purported obligation between **ROBERT C. SCHULER** and Schuler Business Associate #1, rather than a payment from **ROBERT C. SCHULER** to defendant **MICHAEL A. FOX**.
- vi. Between approximately March 2002 and December 2007, defendant **MICHAEL A. FOX** made false and misleading statements to two accountants who assisted in maintaining the books and records of Fox Development. These false and misleading statements disguised the true nature of the transactions where **ROBERT C. SCHULER** paid defendant **MICHAEL A. FOX** a total of \$460,000 in 2002. By making these false and misleading statements, defendant **MICHAEL A. FOX** wrongfully affected how such monies were recorded and treated on the books and records of Fox

Development, and thereby caused the false presentation of his personal income tax returns.

- vii. Defendant **MICHAEL A. FOX** failed to accurately and truthfully report the above-mentioned \$460,000 payments to the Internal Revenue Service.
- viii. Defendant **MICHAEL A. FOX** failed to accurately and truthfully report the above-mentioned financial dealings and payments received from **ROBERT C. SCHULER** (who was doing business with Butler County) when he filed his required annual financial disclosure reports pursuant to Ohio law.
- ix. Defendant **MICHAEL A. FOX** failed to disclose to other public officials, citizens, and businesses his conflict of interest with **ROBERT C. SCHULER**.
- d. Defendant **MICHAEL A. FOX** made efforts to assist **ROBERT C. SCHULER** with the sale of NORMAP.
- e. Between May 21, 2004 and June 1, 2004, **ROBERT C. SCHULER** paid defendant **MICHAEL A. FOX** \$17,000, funneling the payments through Omni Mobile.
- f. Between July 2004 and November 2004, **ROBERT C. SCHULER** arranged for another business associate, whose identity is known to the Grand Jury (Schuler Business Associate #2), to pay defendant **MICHAEL A. FOX** approximately \$35,000. These payments were made by Schuler Business Associate #2 in order to disguise the true source of these funds.

21. It was further part of this scheme and artifice to defraud that defendant **MICHAEL A. FOX** would solicit and accept monies from various individuals and businesses which were Butler County contractors. This aspect of the scheme and artifice to defraud included:

- a. Defendant **MICHAEL A. FOX**'s solicitation of money from the owner of Winton Transport (Contractor #1), a business that had active contracts with Butler County since at least 2001. During said period, defendant **MICHAEL A. FOX** repeatedly voted on various Butler County Board of Commissioners resolutions to approve contracts with Winton Transport. Between 2001 and December 2004, Winton Transport received approximately \$5,800,000 in contract payments from Butler County. On or about December 3, 2004, Contractor #1 gave defendant **MICHAEL A. FOX** \$5,000. The true nature of this payment was disguised and concealed in various ways.
- b. Between on or about November 23, 2004 and on or about October 13, 2005, defendant **MICHAEL A. FOX** received three payments totaling approximately \$5,300 from the owner of Noah's Landscaping (Contractor #2). Noah's Landscaping had received various Butler County contracts during the period of time that defendant **MICHAEL A. FOX** served as a member of the Butler County Board of Commissioners. Defendant **MICHAEL A. FOX** voted to approve a number Noah's Landscaping county contracts. Between February 2002 and October 2005, Noah's Landscaping received approximately \$73,463 in Butler County contract payments.
- c. Defendant **MICHAEL A. FOX** failed to disclose these financial dealings with Contractors #1 and #2 (who were then actively performing contractual business with Butler County) when he filed his required annual financial disclosure reports with the Ohio Ethics Commission.

- d. Defendant **MICHAEL A. FOX** failed to disclose these conflicts of interest to other public officials, citizens, and interested businesses.
- e. Defendant **MICHAEL A. FOX** solicited campaign contributions from James Smith, an executive of Dynus Corporation. On or about December 31, 2004, defendant **MICHAEL A. FOX** spoke with National City Bank on behalf of Dynus Corporation to assist in securing approximately \$4,000,000 in funding related to the scheme to defraud engaged in by Orlando Carter, James Smith, and others. On or about October 4, 2004, James Smith gave defendant **MICHAEL A. FOX** \$3,000. The true nature of this payment was disguised and concealed in various ways.

22. It was further part of the scheme and artifice to defraud that in or about 2003 and continuing through 2004, defendant **MICHAEL A. FOX** solicited the owner of Disaster Services of A-Absolute (Contractor #3) to either provide him funds or assist in the payments of personal expenses. In 2003, defendant **MICHAEL A. FOX** wrongfully provided confidential pre-bid information to Contractor #3. This information facilitated the awarding of a Butler County contract to Contractor #3. Contractor #3 was subsequently paid approximately \$18,530 by Butler County pursuant to this contract. Defendant **MICHAEL A. FOX** voted as a member of the Butler County Board of Commissioners in favor of a resolution approving this contract. Thereafter, responding to solicitations by defendant **MICHAEL A. FOX**, Contractor #3 transferred to or on behalf of defendant **MICHAEL A. FOX** approximately \$13,000 for mortgage payments on defendant **MICHAEL A. FOX**'s personal residence. Contractor #3 also subsequently transferred to, or for the benefit of defendant **MICHAEL A. FOX**, approximately \$27,900 to Fox Development. None of these payments were ever disclosed on defendant **MICHAEL A. FOX**'s annual required financial disclosure forms filed with the Ohio Ethics Commission.

23. It was further part of this artifice and scheme to defraud that between approximately December 2004 and July 2007, defendant **MICHAEL A. FOX** solicited and received, directly and indirectly, certain payments, gifts, and other benefits, including payment of various travel expenses from an individual who owned and operated a Butler County, Ohio-based purported charitable organization known as Chee Chee Rose Ministries. Defendant **MICHAEL A. FOX** additionally solicited a purported charitable donation of a horse named "Fabiano" to Chee Chee Rose Ministries. These payments and other benefits provided to defendant **MICHAEL A. FOX** were valued in excess of \$300,000. These payments and other benefits were not identified by defendant **MICHAEL A. FOX** on his required annual financial disclosure forms filed with the Ohio Ethics Commission.

Execution

24. On or about April 13, 2005, in the Southern District of Ohio, defendant **MICHAEL A. FOX** knowingly and willfully did execute and attempt to execute the aforesaid scheme and artifice to defraud and deprive the Government of Butler County, Ohio and the citizens of Butler County, Ohio of their intangible right of honest services, as set forth above, in that he knowingly caused to be sent and delivered by mail, according to the directions thereon, his Ohio Ethics Commission Financial Disclosure Statement for the calendar year of 2004.

In violation of Title 18, United States Code, Sections 1341, 1346, and 2.

COUNT TWO
(Mail Fraud Involving Honest Services; 18 U.S.C. §§ 1341 and 1346)

25. The allegations contained in paragraphs 1 through 23 above are herein incorporated and realleged for this count of the Indictment as if fully restated.

Execution

26. On or about April 17, 2006, in the Southern District of Ohio, defendant **MICHAEL A. FOX** knowingly and willfully did execute and attempt to execute the aforesaid scheme and artifice to defraud and deprive the Government of Butler County, Ohio and the citizens of Butler County, Ohio of their intangible right of honest services, as set forth above, in that he knowingly caused to be sent and delivered by mail, according to the directions thereon, his Ohio Ethics Commission Financial Disclosure Statement for the calendar year of 2005.

In violation of Title 18, United States Code, Sections 1341, 1346 and 2.

COUNT THREE

(Mail Fraud Involving Honest Services; 18 U.S.C. §§ 1341 and 1346)

27. The allegations contained in paragraphs 1 through 23 above are herein incorporated and realleged for this count of the Indictment as if fully restated.

Execution

28. On or about April 9, 2007, in the Southern District of Ohio, defendant **MICHAEL A. FOX** knowingly and willfully did execute and attempt to execute the aforesaid scheme and artifice to defraud and deprive the Government of Butler County, Ohio and the citizens of Butler County, Ohio of their intangible right of honest services, as set forth above, in that he knowingly caused to be sent and delivered by mail, according to the directions thereon, his Ohio Ethics Commission Financial Disclosure Statement for the calendar year of 2006.

In violation of Title 18, United States Code, Sections 1341, 1346 and 2.

COUNT FOUR
(Mail Fraud Involving Honest Services; 18 U.S.C. §§ 1341 and 1346)

29. The allegations contained in paragraphs 1 through 23 above are herein incorporated and realleged for this count of the Indictment as if fully restated.

Execution

30. On or about April 17, 2008, in the Southern District of Ohio, defendant **MICHAEL A. FOX** knowingly and willfully did execute and attempt to execute the aforesaid scheme and artifice to defraud and deprive the Government of Butler County, Ohio and the citizens of Butler County, Ohio of their intangible right of honest services, as set forth above, in that he knowingly caused to be sent and delivered by mail, according to the directions thereon, his Ohio Ethics Commission Financial Disclosure Statement for the calendar year of 2007.

In violation of Title 18, United States Code, Sections 1341, 1346 and 2.

COUNT FIVE
(Conspiracy to Commit Mail and Wire Fraud; 18 U.S.C. §§ 1341, 1343, 1346 and 1349)

31. Beginning in approximately December 2001 and continuing through the date of this Indictment, in the Southern District of Ohio and elsewhere, defendants **MICHAEL A. FOX** and **ROBERT C. SCHULER** knowingly and willfully did combine, conspire, confederate, and agree with each other, to commit offenses against the United States, to wit: mail fraud and wire fraud which offenses included the deprivation of the intangible right of honest services in violation of Title 18, United States Code, Sections 1341, 1343, 1346 and 1349.

Objects of the Conspiracy

32. The objects of the conspiracy were, among others: (a) to secure personal financial gains to defendant **ROBERT C. SCHULER** by acquiring, owning, selling, and otherwise disposing

of assets of a business known as NORMAP that had a public contract with Butler County, Ohio; (b) to arrange for the wrongful payment of at least \$460,000 to defendant **MICHAEL A. FOX** from defendant **ROBERT C. SCHULER**, as well as other wrongful financial benefits to defendant **MICHAEL A. FOX** from defendant **ROBERT C. SCHULER**; (c) the concealment of the wrongful payment of said monies and the existence of the improper relationship between defendant **ROBERT C. SCHULER** and defendant **MICHAEL A. FOX**; (d) to deprive the Government of Butler County, Ohio and its citizenry of their intangible right of honest services; and (e) to avoid the detection, apprehension, and prosecution for the crimes associated with this conspiracy.

Manner and Means

33. It was part of the conspiracy that defendants **MICHAEL A. FOX** and **ROBERT C. SCHULER** devised and attempted to devise a scheme and artifice to defraud Butler County and its citizens of their intangible right of honest services of defendant **MICHAEL A. FOX** as a Butler County Commissioner. Paragraphs 1 through 7, 13 through 15, and 17 through 20 above are fully incorporated and realleged as part of the Manner and Means of the conspiracy for this count of the Indictment.

34. It was further part of the conspiracy that on or about October 1, 2008, defendant **ROBERT C. SCHULER** testified in a false and misleading manner before a federal Grand Jury concerning payments made by him to defendant **MICHAEL A. FOX** as alleged in Count Eight of the Indictment.

Overt Acts

35. In furtherance of the conspiracy and in order to achieve its objectives, the defendants **MICHAEL A. FOX** and **ROBERT C. SCHULER**, committed the following overt acts, among others, while in the Southern District of Ohio:

- a. On or about December 26, 2001, defendant **ROBERT C. SCHULER** signed a letter of intent to acquire a business named NORMAP which then had a contractual relationship with Butler County.
- b. On or about March 4, 2002, defendant **ROBERT C. SCHULER** signed a contract on behalf of NORMAP with Cincinnati Bell Telephone.
- c. On or about March 6, 2002, defendant **ROBERT C. SCHULER** sent a letter to the President of the Butler County Commission indicating that he had recently acquired NORMAP.
- d. On or about March 7, 2002, defendant **MICHAEL A. FOX** in his capacity as a Butler County Commissioner signed Amendment No. 1 to the contract between NORMAP and Butler County.
- e. On or about March 8, 2002, defendant **MICHAEL A. FOX** received, directly or indirectly, \$360,000.00 by wire transfer from Schuler Business Associate #1.
- f. On or about March 12, 2002, defendant **MICHAEL A. FOX** paid Fifth Third Bank \$303,160.82 to pay off a line of credit which debt was guaranteed by defendant **ROBERT C. SCHULER**.
- g. On or about March 29, 2002, defendant **ROBERT C. SCHULER** received a deposit of \$741,362.50 of funds from Butler County, Ohio relating to the NORMAP contract.
- h. On or about April 5, 2002, defendant **ROBERT C. SCHULER** received a deposit of \$250,000 of funds from Butler County, Ohio relating to the NORMAP contract.
- i. On or about May 9, 2002, defendant **MICHAEL A. FOX** mailed or caused to be mailed a financial disclosure statement for 2001 to the Ohio Ethics Commission.
- j. On or about May 15, 2002, defendant **ROBERT C. SCHULER** received, directly or indirectly, \$268,803 by wire transfer from Schuler Business Associate #1.
- k. In May 2002, on two occasions, defendant **ROBERT C. SCHULER** told his accountant misleading information about the amount of

income he received from a distribution of money paid to him from Schuler Business Associate #1.

- l. On or about September 13, 2002, defendant **ROBERT C. SCHULER** signed a \$100,000.00 promissory note to Schuler Business Associate #1.
- m. On or about September 17, 2002, defendant **MICHAEL A. FOX** received \$100,000 by wire transfer from Schuler Business Associate #1.
- n. On or about October 9, 2002, defendant **ROBERT C. SCHULER** caused an invoice in the amount of \$127,781 to be sent through the mails to Butler County, Ohio.
- o. On or about October 17, 2003, defendant **MICHAEL A. FOX** filed or caused to be filed his 2002 federal income tax return.
- p. On or about October 23, 2002, defendant **ROBERT C. SCHULER** caused a deposit of \$831,568.50 of funds from Butler County, Ohio, relating to the NORMAP contract.
- q. Between October 2002 and November 2002, defendant **MICHAEL A. FOX** submitted a loan application to ABN Ambro Mortgage Group, Inc.
- r. In the Fall of 2002, defendant **MICHAEL A. FOX** met with Joseph Ruscigno and instructed Ruscigno to solicit a \$10,000 campaign contribution from defendant **ROBERT C. SCHULER**.
- s. In or about December 2002, defendant **MICHAEL A. FOX** provided his accountant false information about the true nature of the \$360,000 transaction paid to him by defendant **ROBERT C. SCHULER**.
- t. On or about December 30, 2002, defendant **ROBERT C. SCHULER** contributed and caused to be contributed \$10,000 to defendant **MICHAEL A. FOX**'s campaign fund.
- u. Sometime in the beginning of the year 2003, defendant **ROBERT C. SCHULER** had a conversation with Joseph Ruscigno at the Hamiltonian in Hamilton, Ohio.

- v. On or about April 17, 2003, defendant **MICHAEL A. FOX** mailed or caused to be mailed a financial disclosure statement for 2002 to the Ohio Ethics Commission.
- w. On or about June 2, 2003, defendant **MICHAEL A. FOX** participated in a home mortgage loan closing involving America's Wholesale Lender, a/k/a Countrywide Home.Loans, Inc.
- x. On or about October 30, 2003, defendants **MICHAEL A. FOX and ROBERT C. SCHULER** both signed the First Amendment to Amended and Restated Network Construction and Maintenance Agreement.
- y. In or about December 2003, defendant **MICHAEL A. FOX** sought a legal opinion from a Cincinnati, Ohio law firm regarding the legality of Butler County, Ohio issuing bonds to expand the NORMAP contract.
- z. On or about December 10, 2003, defendant **ROBERT C. SCHULER** filed or caused to be filed an amended 2002 federal income tax return.
- aa. On or about December 16, 2003, defendant **ROBERT C. SCHULER** donated fiber optic strands to Miami University of Ohio.
- bb. Sometime in early 2004, defendants **MICHAEL A. FOX and ROBERT C. SCHULER** met with employees of Cincinnati Bell Telephone in an effort to sell NORMAP to Cincinnati Bell Telephone.
- cc. On or about February 6, 2004, **MICHAEL A. FOX** mailed or caused to be mailed a financial disclosure statement (unsigned) for 2003 to the Ohio Ethics Commission. Thereafter, on or about May 7, 2004, **MICHAEL A. FOX** mailed or caused to be mailed a signed financial disclosure statement for 2003 to the Ohio Ethics Commission.
- dd. In or about May 2004, defendant **ROBERT C. SCHULER** sold NORMAP for approximately \$1,550,000.00.
- ee. On or about May 21, 2004, defendant **ROBERT C. SCHULER**, d/b/a Anwalt, caused a \$10,000 check to be made payable to Omni Mobile.

- ff. On or about May 21, 2004, defendant **ROBERT C. SCHULER** d/b/a Omni Mobile caused a \$10,000 check to be made payable to Fox Development.
- gg. On or about June 1, 2004, defendant **ROBERT C. SCHULER** d/b/a Anwalt caused a \$15,000 check to be made payable to Omni Mobile.
- hh. On or about June 1, 2004, defendant **ROBERT C. SCHULER** d/b/a Omni Mobile caused a \$7,000 check to be made payable to Fox Development and a \$5,000 check to Capital Solutions Group.
- ii. On or about June 30, 2004, defendant **ROBERT C. SCHULER** d/b/a Anwalt caused a \$13,000 check to be made payable to General Consulting Services.
- jj. On or about July 26, 2004, defendant **ROBERT C. SCHULER**, conveyed twelve fiber optic strands to Butler County.
- kk. On or about July 26, 2004, defendant **MICHAEL A. FOX**, in his capacity as a Butler County Commissioner, voted to approve a Resolution accepting the donation of twelve fiber optic strands from defendant **ROBERT C. SCHULER**.
- ll. On or about July 29, 2004, defendant **MICHAEL A. FOX** received via his Fox Development and Distribution Services, Inc., business two payments of \$7,000 each from General Consulting Services.
- mm. On or about August 27, 2004, defendant **ROBERT C. SCHULER** d/b/a Anwalt caused a \$20,000 check to be made payable to General Consulting Services.
- nn. On or about August 27, 2004, defendant **MICHAEL A. FOX** received via his Fox Development and Distribution Services, Inc., business a \$7,000 payment from General Consulting Services.
- oo. In or about September 2004, defendant **ROBERT C. SCHULER** filed his 2003 federal income tax return claiming a charitable contribution relating to the donation of fiber optic strands to Miami University of Ohio.
- pp. On or about October 1, 2004, defendant **MICHAEL A. FOX** received via his Fox Development and Distribution Services, Inc., business a \$7,000 payment from General Consulting Services.

- qq. On or about November 1, 2004, defendant **MICHAEL A. FOX** received via his Fox Development and Distribution Services, Inc., business a \$7,000 payment from General Consulting Services.
- rr. On or about April 13, 2005, defendant **MICHAEL A. FOX** mailed or caused to be mailed a financial disclosure statement for 2004 to the Ohio Ethics Commission.
- ss. In or about October 2005, defendant **ROBERT C. SCHULER** filed his 2004 federal income tax return claiming charitable contributions relating to the donation of fiber optic strands to Miami University of Ohio and Butler County.
- tt. On or about April 17, 2006, defendant **MICHAEL A. FOX** mailed or caused to be mailed a financial disclosure statement for 2005 to the Ohio Ethics Commission.
- uu. In or about October 2006, defendant **ROBERT C. SCHULER** filed his 2005 federal income tax return claiming a carry-over charitable contribution relating to the donation of fiber optic strands to Butler County.
- vv. On or about October 13, 2006, defendant **MICHAEL A. FOX** filed his 2005 federal income tax return which falsely claimed a \$40,000 charitable tax deduction for a purported donation of a horse to Chee Chee Rose Ministries.
- ww. On or about April 9, 2007, defendant **MICHAEL A. FOX** mailed or caused to be mailed a financial disclosure statement for 2006 to the Ohio Ethics Commission.
- xx. In or about October 2007, defendant **ROBERT C. SCHULER** filed his 2006 federal income tax return claiming a carry-over charitable contribution relating to the donation of fiber optic strands to Butler County.
- yy. On or about April 17, 2008, defendant **MICHAEL A. FOX** mailed or caused to be mailed a financial disclosure statement for 2007 to the Ohio Ethics Commission.
- zz. In or about October 2008, defendant **ROBERT C. SCHULER** filed his 2007 federal income tax return claiming a carry-over charitable

contribution relating to the donation of fiber optic strands to Butler County.

- aaa. On or about October 1, 2008, defendant **ROBERT C. SCHULER** testified before a federal Grand Jury in Cincinnati, Ohio.

All in violation of Title 18, United States Code, Section 1349.

COUNT SIX
(Filing False Tax Return; 26 U.S.C. § 7206(1))

36. On or about October 15, 2003, in the Southern District of Ohio, and elsewhere, defendant **MICHAEL A. FOX**, a resident of Hamilton, Ohio, did willfully make and subscribe a joint U.S. Individual Income Tax Return, for the calendar year 2002, which was verified by a written declaration that it was made under the penalties of perjury and which he did not believe to be true and correct as to every material matter. That income tax return, which was filed with the Internal Revenue Service, reported total income on line to 22 of Form 1040 of \$140,421, whereas, as he then and there well knew and believed, he received \$460,000 in addition to the amount stated in the return.

In violation of Title 26, United States Code, Section 7206(1).

COUNT SEVEN
(Filing False Tax Return; 26 U.S.C. § 7206(1))

37. On or about December 10, 2003, in the Southern District of Ohio, and elsewhere, defendant **ROBERT C. SCHULER**, a resident of Dublin, Ohio, did willfully make and subscribe a joint Amended U.S. Individual Income Tax Return, for the calendar year 2002, which was verified by a written declaration that it was made under the penalties of perjury and which he did not believe to be true and correct as to every material matter. That income tax return, which was filed with the Internal Revenue Service, reported adjusted gross income (correct amount) on line 1 of Form 1040X

of \$1,162,087, whereas, as he then and there well knew and believed, he received \$360,000 in business income in addition to the amount stated in the return.

In violation of Title 26, United States Code, Section 7206(1).

COUNT EIGHT
(False Declarations Before a Grand Jury; 18 U.S.C. § 1623)

38. On or about October 1, 2008, in the Southern District of Ohio, defendant **ROBERT C. SCHULER**, while under oath and testifying in a proceeding before a Grand Jury of the United States in the Southern District of Ohio, knowingly did make false material declarations, concerning the facts and circumstances surrounding a March 8, 2002 wire transfer of \$360,000 to defendant **MICHAEL A. FOX** from an intermediary of defendant **ROBERT C. SCHULER** whose identity is known to the Grand Jury and was previously called Schuler Business Associate #1, but referred to here as "S.S."

39. At the aforesaid time and place, the grand jury was conducting an investigation to determine whether violations of Title 18, United States Code, Sections 371, 1341, 1346 and 1348 and Title 26, United States Code, Section 7206(1) had been committed, and to identify the person(s) who had committed, caused the commission of, and conspired to commit such violations. It was material to the said investigation that the grand jury ascertain whether defendant **ROBERT C. SCHULER** directly or indirectly guaranteed repayment of this \$360,000, whether the money was provided as a loan or gift, and whether it was a concealed bribe/kickback from defendant **ROBERT C. SCHULER** to defendant **MICHAEL A. FOX** who then served as a publicly elected official for Butler County with whom defendant **ROBERT C. SCHULER** had a contract.

40. At the time and place alleged, defendant **ROBERT C. SCHULER** appearing as a witness under oath at a proceeding before the grand jury knowingly made the following declarations in response to questions with respect to the material matter alleged in paragraph 38 as follows:

Q. Then how was "S.S." going to get paid back?

A. Mike was supposed to pay "S.S." back.

Q. Who tells Mike this?

A. Mike was engaged in this discussion. Mike fully knew this was an obligation he had to pay back.

Q. To whom?

A. "S.S."

Q. And this was a gift, a loan?

A. It was a loan. In my mind it's a loan that Mike still owes "S.S."

41. The aforesaid testimony of defendant **ROBERT C. SCHULER**, as he then and there well knew and believed, was false in that defendant **ROBERT C. SCHULER** had directly or indirectly guaranteed the repayment of the said \$360,000 to defendant **MICHAEL A. FOX**, not "S.S.," as a bribe/kickback for the contract defendant **ROBERT C. SCHULER** had with Butler County. Defendant **ROBERT C. SCHULER** well knew and believed that the money was a gift.

In violation of Title 18, United States Code, Section 1623.

FORFEITURE ALLEGATION

1. The allegations of Counts One through Five are realleged and by this reference fully incorporated herein for the purpose of alleging forfeitures to the United States of America pursuant to 18 U.S.C. § 982(a)(2).

2. As a result of each of the offenses in Counts One (1) through Five (5) of the Indictment, **MICHAEL A. FOX** and **ROBERT C. SCHULER**, shall each forfeit to the United States under 18 U.S.C. § 982(a)(2) any property, real or personal, which constitutes or is derived from proceeds traceable to the offenses alleged in such counts, including but not limited to a sum

of money equal to \$460,000.00 in United States currency which represents the Mail Fraud Involving Honest Services and the Conspiracy to Commit Mail and Wire Fraud as outlined in Counts One (1) through Five (5) of the Indictment in the form of a forfeiture money judgment.

Substitute Assets

3. If any of the above-described forfeitable property in the Forfeiture Count, as a result of any act or omission of the defendants, **MICHAEL A. FOX** and **ROBERT C. SCHULER**,

- (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;

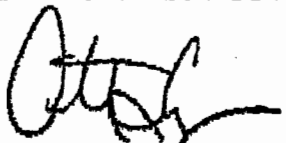
it is the intent of the United States, pursuant to 21 U.S.C. § 853(p) as incorporated by 18 U.S.C. § 982(b), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above, that is \$460,000.00 in United States currency.

A TRUE BILL:



FOREPERSON

CARTER M. STEWART
UNITED STATES ATTORNEY



ANTHONY SPRINGER
Deputy Criminal Chief