



December 5, 2010

Man Tries to Cash IRS Check

Eric Friedman, a resident of Rockaway Township received a check of \$158,174 from the IRS that was meant for his former company Fuel: Bio One LLC. Friedman subsequently attempted to cash the check. As a result, he was charged with theft and theft of property lost, mislaid or delivered by mistake. Friedman pleaded guilty to all charges.

Although the State Superior Court judge in Morristown did not sentence Friedman to jail, he was given a 2-year probation.

Years ago, Friedman and his partner formed Fuel: Bio One LLC and obtained millions of dollars in funding. Subsequently, a new partner was brought in and investors added. When Friedman disagreed with some business decisions, he was terminated and his equity in the company forfeited. Friedman did not sue the company but did feel he was right in holding on to the tax rebate check of \$158,174 from the IRS which was delivered to his address instead of the company's.

Between June 10, 2008 and February 25, 2009, Friedman received and tried to cash the check. He has since repaid the amount in full. Friedman's defense attorney, Pamela Brause told the judge that her client initially believed he was entitled to the money but subsequently realized his error

according to the concept of 'claim of right'.

Morris County Assistant Prosecutor Robert Shwartz requested the judge to impose a probationary period and up to a 364-day jail term. According to the law, such an offence in New Jersey warrants a punishment of up to 10 years in prison, as theft of amounts in excess of \$75,000 are considered second degree crimes. While Schwartz agreed that Friedman made "an error in judgment", he said Friedman already got a break when the state agreed to treat him as a third-degree offender and not a second-degree offender.

The judge, however, said that there were several mitigating factors in Friedman's case and so declined to order a jail term, deciding instead to impose probation. However the judge did fine Friedman \$1,150. The judge said Friedman exercised extremely poor judgment when he kept and cashed the check but was impressed by Friedman's actions of returning the money and the regret he showed.

The judge said, "He certainly chose the wrong vehicle to get what he thought was his just compensation".