

BUSINESS

Beanie Babies Creator Sentenced to Probation for Tax Evasion

Billionaire Ty Warner Avoids Prison Time in High Profile Case

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What's News: Judge sentences Ty Inc. CEO Ty Warner to two years of probation for tax evasion. Federal appeals court strikes down FCC's 'net neutrality' rules. Charter makes \$37.4 billion offer for Time Warner Cable. Joanne Po reports.

CHICAGO—A federal judge sentenced the creator of Beanie Babies plush toys to probation Tuesday, with the billionaire avoiding prison time in one of the highest-profile cases in the government crackdown on undeclared offshore accounts.

Prosecutors argued for at least a year in prison for Ty Warner, saying the chief executive of Ty Inc. had an undeclared Swiss bank account that earned nearly \$25 million in income and came forward only when federal authorities were closing in.

But U.S. District Judge Charles Kocoras described Mr. Warner as "very unique," saying the 69-year-old has done considerable good in his life and has suffered public humiliation and paid a likely record monetary penalty for his crime. He sentenced him to two years of probation and 500 hours of community service.



"Society will be best served to allow him to continue his good works," said Judge Kocoras after reading letters aloud detailing Mr. Warner's charitable works.

Before being sentenced, Mr. Warner apologized and talked of his feelings of shame and embarrassment. He pleaded guilty to a felony count of federal tax evasion last fall. Federal sentencing guidelines had recommended prison time of 46

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Ty Warner, the creator of Beanie Babies, in Chicago Tuesday after being sentenced to probation.
Associated Press

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Mr. Warner, reached through a spokesman, declined to comment further.

The federal government's efforts to crack down on undeclared offshore accounts intensified in 2009 after Swiss banking giant UBS AG admitted it helped U.S. taxpayers hide money abroad. The bank paid \$780 million and turned over more than 4,000 names to U.S. authorities to avoid criminal charges. Lawyers for Mr. Warner said he is among about 100 U.S. taxpayers who have been criminally charged.

According to prosecutors, Mr. Warner evaded an estimated \$5.6 million in taxes over nearly a decade. He first set up an account at UBS in 1996, and, in 2002, when the account had an approximate balance of \$94 million, he moved it to Zürcher Kantonalbank, another Swiss bank. The Zürcher account was held under the name Molani Foundation to conceal Mr. Warner's identity, prosecutors said.

As part of his plea agreement, Mr. Warner paid the government \$53.6 million, believed to be the largest offshore-account penalty ever reported, and \$27 million in back taxes and interest. Prosecutors described Mr. Warner as a shrewd businessman who concealed the offshore account from his own accountants and lied on federal tax forms, arguing a prison sentence was appropriate in part as a deterrent to others.

"The perception can't be a wealthy felon can just write a check," Assistant U.S. Attorney Michelle Petersen said.

Lawyers for Mr. Warner argued the tax fraud was an aberration in an otherwise wildly successful career in which he took a toy company started in his suburban Chicago condominium in 1985 and built it into a pop-culture phenomenon known globally. Along the way, he gave tens of millions of dollars of toys and money to charities and provided jobs for people here and abroad.

Mr. Warner's lawyers said that he tried to enter the IRS's Offshore Voluntary Disclosure Program for people with undeclared offshore accounts in 2009 but was rejected, unaware that UBS had already turned over his name with those of 284 others. More than 38,000 U.S. taxpayers have entered the voluntary-disclosure program, which imposes substantial penalties but offers protection against criminal prosecution.

Prosecutors saw it differently, saying Mr. Warner only came forward after the investigation of UBS became public and his asset manager was indicted, increasing the possibility Mr. Warner would be caught.

Experts were surprised that Mr. Warner wasn't sentenced to prison. Bryan Skarlatos, a lawyer with Kostelanetz & Fink in New York, specializing in criminal tax issues, said the sentence shows courts are willing to believe people with foreign bank accounts didn't think they had to report them to the government and relied on advice from overseas bankers.

In his defense, Mr. Warner's attorneys stressed that he had never withdrawn any funds from the offshore account and lacked sophistication in tax matters, including not having a current will.

Outside experts and Mr. Warner's lawyers also noted that prison sentences in offshore-account cases typically have been shorter than allowed under federal sentencing guidelines. His lawyers said that nearly two-thirds of 47 defendants sentenced so far have received probation, with many others receiving prison time of six months or less.

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Edward Robbins, a criminal tax lawyer with Hochman, Salkin, Rettig, Toscher & Perez in Los Angeles, said that in imposing lighter sentences, judges appear to be taking into account large penalties paid by defendants.

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