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March 25, 2024

Mr. Michael P. Harvey
MICHAEL P. HARVEY CO., L.P.A.
311 Northcliff Drive
Rocky River, Ohio 44116-1344

RE: Your client, Mark Bennett

Dear Mr. Harvey,

Prior to my upcoming appearance on the Seeking Justice show scheduled for March 27th, I reviewed your letter threatening to sue the creators of the Seeking Justice series as well as their response. In reviewing your letter on behalf of your client, Mark Bennett, and because I will be interviewed on the show this coming week, I am submitting this letter for two reasons.

First of all, this letter also serves as a formal request you and to Mr. Bennett to report misconduct described in your letter to the Ohio Supreme Court's Office of Disciplinary Counsel. Your recent letter to Seeking Justice contains stunning admissions that Mr. Bennett was aware that Dawn Pasela was wearing a wire and intruding into the sixth amendment right to counsel prior to the commencement of the federal trial, USA vs. Viola, 08-cr-506, N.D. Ohio. This admission is at variance with previous statements by Mr. Bennett that he was unaware of any voice recordings with my voice on them. Moreover, I have written confirmation that no voice recordings were ever provided to my legal counsel at any time. Finally, since the Cuyahoga County Sheriff's office has stated in writing that he is reviewing the suspicious death of Dawn Pasela, any information that is in Mr. Bennett possession should be provided to the proper authorities at once. Should you wish to confirm that Detective John Morgan is conducting a review of the death of Dawn Pasela, please review the documents posted on the www.JusticeForDawn.com website.

Your recent letter also contains a statement that Mr. Bennett directed the FBI to provide voice recordings to the undersigned – but it is the duty of a federal prosecutor to comply with all Brady obligations as well as provide any voice recordings, pursuant to Fed. R. Crim. P. 16. Accordingly, you have (perhaps inadvertently) admitted that Bennett failed to comply with his constitutional responsibilities. Pursuant to Kyles v. Whitley, 514 U.S. 419, 432-37 (1995), it is

the obligation of **federal prosecutors**, in preparing for trial, to seek all exculpatory and impeachment information from all the members of the prosecution team. Members of the prosecution team include federal, state, and local law enforcement officers and other government officials participating in the investigation and prosecution of the criminal case against the defendant. Also see *US Department of Justice, JUSTICE MANUAL*, Title 9: Criminal 9-5.000 - Issues Related to Discovery, Trials, And Other Proceedings.

Let's assume, for the sake of argument, that Mr. Bennett never hired Dawn Pasela, did not order her to intrude into the Sixth Amendment right to counsel by recording trial preparation or order her to donate funds towards my legal fees. Even in that case, Bennett is obligated to report what he knows to the Disciplinary Counsel if Prosecutor Dan Kasaris directed this illegal scheme. As you know, Rule 8.3 requires a lawyer to report misconduct only when the lawyer possesses unprivileged knowledge that raises a question as to any lawyer's honesty, trustworthiness, or fitness in other respects. Second, Rule 8.3 requires a lawyer to self-report. And since the tapes made by Ms. Pasela are exculpatory (i.e. the government failed to record me making incriminating statements, but simply recorded me preparing for trial), the failure to provide these voice recordings constitute a Brady violation, as well as proof of an illegal government intrusion into the right to counsel following an indictment.

In addition to the illegal voice recordings and intrusion into a defendant's right to prepare for trial, Mr. Bennett has also make materially false statements that I executed a "conflict of interest" waiver to joint defense at trial, and to the representation of Kathryn Clover and Matt Fairfield by attorneys in my joint defense – when such is not the case. To review Bennett's false statements about the existence of a conflict of interest inquiry due to joint defense and multiple representation, please see the 2017 litigation, Viola v. Bennett, No. 1:2017cv00456 - Document 10 (N.D. Ohio 2017)

In addition, kindly note that multiple attorneys have confirmed to me that Mr. Bennett was fully aware that Prosecutor Daniel Kasaris was having an affair with government witness Kathryn Clover. Mr. Bennett previously committed a violation of Napue v. Illinois, 360 U.S. 264 (1959) by knowingly utilizing Clover's perjured testimony (see Bennett's filing in USA v. Clover, 10-cr-75, Document # 46, page 2 and the Clover PSI report, where prosecutors claimed it was "in the interests of justice" to use perjured trial testimony in order to "win" the case against me.) It is long past time for Mr. Bennett to follow his lawful obligations and report his knowledge of the Clover perjury and the Kasaris-Clover affair to the proper authorities.

As you may know, there is ongoing litigation in which both the FBI and Justice Department blame Mr. Bennett for making material misrepresentations about evidence in the criminal case, Viola v. U.S. Department of Justice, et. al., 15-cv-242, WD Pa, document numbers 99 and 164. Moreover, in this same

litigation, in which I am represented Yale University Law School, new evidence further substantiates that Mr. Bennett was well aware that an actual conflict of interest existed and was unresolved (please see **Exhibit A**, attached hereto) as well as Viola v. Department of Justice, et. al., case number 22-2186, U.S. Court of Appeals for the Third Circuit.

Pursuant to Rule 3.3 of the Rules of Professional Conduct - Candor toward the Tribunal (a) A lawyer shall not knowingly do any of the following: (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer. Given the foregoing, along with the newly obtained email written by Mr. Bennett stating that conflicts in my case exist and were never resolved, I am now requesting a letter from Mr. Bennett that unequivocally states that the trial court in my case never conducted any conflict of interest inquiry and that I never signed or executed any "conflict waivers."

I trust you are familiar with the Department of Justice's investigation into Mr. Bennett's wrongdoing, including statements in the OIG report that he "lacked candor" when speaking with government investigators. If Mr. Bennett is remorseful for past transgressions, which he claims to be, this is an ideal time to "clear the decks" and make a fresh statement detailing what he knows about the Clover perjury, lack of conflict of interest waivers and the illegal voice recordings made by Dawn Pasela, please see Rules 8.4, 3.6, 4.2, 4.3, 5.1, and 5.3.

If I do not receive confirmation within the next 10 days that you and/or Mr. Bennett have notified The Office of Disciplinary Counsel about recordings made by Dawn Pasela and a statement that previously, Mr. Bennett falsely informed the judiciary that I executed a conflict of interest waiver, I will retain legal counsel for the limited purpose of filing a complaint alleging violations of the Ohio Rules of Professional Conduct. Mr. Harvey, please be advised that that this complaint may also allege that you have an independent duty to report the wrongdoing outlined in your letter and in the Yale Law School case to the appropriate authorities as well. That same complaint may also allege that your letter threatening litigation against Seeking Justice without acknowledging that Mr. Bennett is a public figure who used his powerful governmental position to seek the limelight may also be an abuse of authority designed to chill First Amendment freedoms of speech. I am not accusing you of this, but I am informing you that, absent a settlement, I will be retaining counsel to research this point of law and provide advice as to any appropriate steps.

In the second part of this letter, I am providing you with an opportunity to review previous media appearances as well as the FREETONYVIOLA.com website to inform me if there any statements that you believe are false or if there are any documents that you do not believe are authentic.

Kindly review my most recent appearances and interviews and state in writing which statements you contest or which documents I cite that are not authentic. In addition, I frequently cite Mr. Bennett's own documents (for example, that he used Kathryn Clover's perjured testimony or his false statements that I executed a conflict of interest waiver, or that affidavits by the Pasela family were false) so kindly also review these filings by Mr. Bennett and let me know if you disagree with those citations.

One reason I raise this issue is that multiple news outlets, documentary filmmakers including Netflix and several podcasters are considering creating movies, films or simply covering this story in the near future. Because increased attention will be focused on these matters, I felt I should give you the chance to contest any statements or the contents of the FreeTonyViola.com website.

Recent interviews that describe misconduct by Mr. Bennett include:

- <https://www.youtube.com/@SeekingJusticeShow>
- Broken System Podcast: <https://podcasts.apple.com/us/podcast/the-broken-system-podcast/id1669326661>
- FreeTonyViola.com/Press has all coverage of the case, Mr. Bennett's disbarment proceedings as well as his own press conferences and statements to the media about my case.

TEN DAY NOTIFICATION OF REQUEST FOR INFORMAL RESOLUTION

Prior to retaining counsel to file the appropriate complaints, and pursuing other potential remedies, I am extending a ten-day window to informally resolve all matters and discuss all open issues with you. In that spirit, I would be happy to discuss this matter with you and/or Mr. Bennett informally in the next ten days – either in person, via telephone or a virtual meeting. If this is an avenue you wish to explore, kindly let me know what times work best for you and I'll make myself available. During these discussions, everything is on the table and I would work earnestly and in good faith to resolve all open issues and chart a course for next steps.

If you do not wish to have any discussions but simply wish to report the misconduct mentioned above, and provide a statement that prior statements that I executed a conflict of interest waiver and/or that the trial court conducted a conflict inquiry were incorrect, simply provide a statement and written confirmation that the Disciplinary Counsel has been alerted concerning all issues, including the Clover-Kasaris affair and her perjury.

If I do not hear back from you, I will retain counsel for the sole purpose of providing your letter to the Disciplinary Counsel and asking that body whether Mr. Bennett failed to follow Rule 8.3 and report wrongdoing concerning Dawn Pasela, Kathryn Clover and this conflict issue.

I hope to hear from you before Friday, April 4, 2024. If you feel this deadline does not provide adequate time to review the issues outlined above, and you would like more time, simply let me know how much time you believe is required and any deadlines will be extended.

Thank you for reviewing this important submission.

Very Truly Yours,



Tony Viola

Exhibit A



From: "Bennett, Mark (USAOHN)" <[REDACTED]>
Date: Sat, 23 Oct 2010 13:47:35 -0400
To: <[REDACTED]>; Daniel Kasaris<dkasaris@cuyahogacounty.us>
Cc: Siegel, John (USAOHN)<[REDACTED]>; Micah R. Ault<Micah.Ault@ohioattorneygeneral.gov>; Bennett, Mark (USAOHN)<[REDACTED]>
Subject: RE: fts files

(B)(6)

(B)(6)

Michael,

I understand your desire to obtain these records, but I also have no reason to believe that Dan is not doing all he can to produce the requested documents. In addition, I understand what you have told me as to why you want these files, but I have not, and will continue not to, agree with you that this is a "major issue". As I have said in the past, as I understand it, you are looking for these files in order to argue that Family Title and [REDACTED] were involved in fraudulent activity before meeting [REDACTED] and after no longer working with [REDACTED]. And I have continuously stated the following in response: (1) It is anticipated [REDACTED] will take the stand and admit to his role in this case, as well as admit to any other alleged fraudulent activity that you are going to cross-examine him on, and (2) you can use the almost 200 files that I understand Dan has already produced to do that. You do not need, nor do I believe Judge Nugent will allow, the defense to cross-exam him on all 400+ files in order to establish the other allegedly fraudulent activity he was involved in with individuals other than [REDACTED]

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So, I do not think this is a "major issue", or a reason that will make us have to "try this case twice" (to reiterate and clarify my reference to not wanting to try this case twice was in relation to the conflict issue created by your previous representation of [REDACTED] and your discussion of the factual allegations of this case with her, including [REDACTED], when you represented [REDACTED] and did not advise her of



that fact -- which I am still not certain we have resolved the conflict issue). With regard to the properties charged in the Superseding Indictment, you have had the pertinent documents relative to these properties for well over a year. We have provided any supplemental information that might be relevant as soon as it was bates stamped and ready to go, and that was months ago after meeting with all defense counsel and showing you everything we have. As we are meeting with various witnesses and being provided with additional documents, we are organizing those, bates stamping and will be producing.

I have lost track of the tens of thousands of pages of documents we have produced and, as I understand it, the hundreds of thousands of pages of documents you have received in electronic format from the County. So, no one is asking you to say "oh well" with regard to this issue or discovery in general in this case, or not doing everything we can to give you these outlying Family Title files for your review.

If Dan is able to attend on Tuesday, we would welcome his attendance. But, our plan on Tuesday is to be able to discuss what documents we can agree to the production of at trial via stipulation, provide you with a draft of our exhibit list, our witness list and an initial 404B notice, as we work towards starting the trial of this case on November 29, 2010. I am happy to discuss the issue of the remaining FT closing files that you would like from the County, but I do not want to get sidetrack completely from the task at hand.

Mark S. Bennett
Assistant United States Attorney
801 W. Superior Ave., Suite 400
Cleveland, Ohio 44113
216.622.3878 (direct)
216.522.2403 (fax)
[REDACTED] (cell)

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