

Federal Prosecutors hid Proof of Tony's Innocence


Prosecutors Mark Bennett and Dan Kasaris possessed proof of Tony's innocence before the first trial, but lied in writing about the existence of this information. Prosecutors claimed that Tony tricked banks into making 'no money down' mortgage loans that didn't meet the bank's lending guidelines. But the lender executive who testified at both trials told the government bank employees were allowed to waive conditions and approve the very loans Tony supposedly tricked them into making.

The attached documents confirm the government's case was based on an erroneous theory. So far, the federal courts have allowed this type of evidence suppression to take place. Please post your comments on our blog and let us know what you think!

RE: Newcomb 302 request from Tony Viola

Page 1 of 1

From: Bennett, Mark (USAOHN) (USAOHN) <Mark.Bennett2@usdoj.gov>
 To: tonytopaz <tonytopaz@aol.com>
 Cc: Daniel Kasaris (pd4dk@cuyahogacounty.us) <pd4dk@cuyahogacounty.us>
 Subject: RE: Newcomb 302 request from Tony Viola
 Date: Sun, Apr 8, 2012 8:45 pm

I have checked the system and do not have a 302 for Mr. Newcomb. I have inquired with the agents and other AUSA's on the case to see if one was created and they can provide. I will not be in the office next week. But they can respond directly to Mr. Kasaris. 

Mark S. Bennett
 Assistant United States Attorney
 801 W. Superior Ave., Suite 400
 Cleveland, Ohio 44113
 216.622.3878 (direct)
 216.522.2403 (fax)
mark.bennett2@usdoj.gov

From: tonytopaz@aol.com [mailto:tonytopaz@aol.com]
 Sent: Sunday, April 08, 2012 6:20 PM
 To: Bennett, Mark (USAOHN)
 Subject: Re: Newcomb 302 request from Tony Viola

Mr. Kasaris says he does not have Mr. Newcomb's 302, if possible, kindly reforward that, thank you.

Tony

-----Original Message-----

From: Bennett, Mark (USAOHN) (USAOHN) <Mark.Bennett2@usdoj.gov>
 To: 'tonytopaz@aol.com' <tonytopaz@aol.com>; 'dkasaris@cuyahogacounty.us' <dkasaris@cuyahogacounty.us>
 Sent: Sun, Apr 8, 2012 10:31 am
 Subject: Re: Newcomb 302 request from Tony Viola

Mr. Viola,

I have provided those to Mr. Kasaris. I am sure he will provide pursuant to local rule and the Court's trial order.

Mark Bennett

From: tonytopaz@aol.com [mailto:tonytopaz@aol.com]
 Sent: Saturday, April 07, 2012 03:47 PM
 To: Bennett, Mark (USAOHN); dkasaris@cuyahogacounty.us <dkasaris@cuyahogacounty.us>
 Subject: Newcomb 302 request from Tony Viola

Mr Bennett - I am respectfully requesting that you e mail me a copy of the Argent witness, Mr. Steve Newcomb, his 302 statement summary. He testified on direct exam on Friday and will resume this coming week. Thank you.

Tony Viola

and this was my response to mark
I do not have any newcomb 302



dan

Daniel J. Kasaris
Assistant County Prosecutor
Cuyahoga County, Ohio
1200 Ontario ST. 9th Floor
216-443-7863
216-698-2270 (fax)

Attached Message

From: Daniel Kasaris <dkasaris@cuyahogacounty.us>
To: Mark (USAOHN) Bennett <Mark.Bennett2@usdoj.gov>
Cc: Jeffrey P. (FBI) Kassouf <Jeffrey.Kassouf@ic.fbi.gov>, John (USAOHN) Siegel <John.Siegel@usdoj.gov>
Subject: Re: Viola - 302s of lender, Rich and Calo
Date: Sun, 08 Apr 2012 12:56:01 -0400

mark
this is what you sent
I do not have a 302 for steve newcomb
thx
dan

Daniel J. Kasaris
Assistant County Prosecutor
Cuyahoga County, Ohio
1200 Ontario ST. 9th Floor
216-443-7863
216-698-2270 (fax)

>>> "Bennett, Mark (USAOHN)" <Mark.Bennett2@usdoj.gov> 2/29/2012 5:25 PM >>>

Dan,

I have not found the interview of Steve Newcomb from Argent, but you probably already have that one. In addition, please be advised that we have put all of our trial exhibits on a disk and will send that disk, along with the Colley disk out tomorrow.



Thanks,
Mark

Mark S. Bennett
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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 02/22/2011

On February 18, 2011, SCOTT NEWCOMBE, was telephonically interviewed, by Forensic Accountant Ron Saunders, Special Agent Jeffrey Kassouf and Special Assistant United States Attorney Micah Ault, after being advised of the nature of the interview and the identity of the interviewing personnel, NEWCOMBE provided the following information:

NEWCOMBE worked at ARGENT MORTGAGE, and transferred over to Citigroup Global once Argent was sold to Citigroup. NEWCOMBE is involved in ACC Capital as they wind down Argent.

Argent was a loan originator.

During the years 2005-2006 Argent processed a significant number of loans.

Argent required the borrower provide a down payment, which was generally provided through a cashiers check.

Argent had a stated loan program. These loans were typically higher risk, so they carried a higher interest rate on the loan. In the stated income loan program, the borrower states their income on the loan application, also known as a 1003. Argent required the borrower to sign a certification or letter as to their income.

Argent originated their loans through mortgage brokers. The mortgage brokers were required to go through an approval process before Argent would accept any loans.

The loans were assigned to the underwriting department if the loan met the underwriting guidelines a conditional loan approval with various terms was issued.

Final approval on the loan would be issued after the loan conditions were met.

Argent would send various loan documents to the title company to be signed at closing. Once the title company closed the loan and completed the documents, they would send the completed

Investigation on 02/18/2011 at Cleveland, Oh

File # 329A-CV-71645

Date dictated _____

by SA Jeffrey P. Kassouf

329A-EV-71645

Continuation of FD-302 of SCOTT NEWCOMBE . On 02/18/2011 . Page 2

documents back to Argent. Once this was done Argent would fund the loan.

The account executive, was the sales representative in the field who dealt with the mortgage brokers.

The account manager oversaw the underwriter and funding processes.

Underwriting approved the loans; if there were any exceptions or conditions not met the account manager could override or waive a condition, if it made good business sense.



It was important to underwriting to pull the borrower's credit report. The credit score drove the loan process.

The borrower's income was important to assess the risk of repayment.

A debt to income ratio was calculated based upon the income provided in the 1003.

Purchase loans required proof of the down payment.

The appraisal was required to be done by a disinterested third party.

The appraiser dealt with the mortgage broker, who submitted the appraisal report to Argent. Once received the appraisal would be sent for a desk review. If any followup by the desk review was needed they could call the appraiser.

The Account Manager and Underwriter placed heavy reliance that the 1003 was completed accurately and truthfully.

If the borrower was self employed a third party letter from a Certified Public Accountant was needed.

Argent required 5% of the down payment must be from the borrowers own funds, regardless of the Loan to Value.

Gift funds had to come from an immediate family member. If a gift was provided a gift letter was required, stating the funds were given truly as a gift and no repayment was required.

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Continuation of FD-302 of SCOTT NEWCOMBE, On 02/18/2011, Page 3

Argent did not accept third party down payments from a down payment provider.

Argent accepted seller second mortgages, also known as seller carry backs. The loan contract stating the terms and conditions was required to be provided to Argent. If a seller second was entered into Argent expected this was a legitimate transaction which would be repaid.

At one point Argent allowed only the buyer HUD Settlement Statement, however, their policy switched to requiring both the buyer and seller side. Argent switched this policy when it was discovered unauthorized third party disbursements were being made on the loans.

Closing costs were based upon the purchase agreement. The closing costs were capped at a certain percentage. Therefore the seller could only provide a certain maximum percentage.

Any money going to the buyer would need to be disclosed to Argent.


Argent Mortgage Company

BORROWER'S DISBURSEMENT AUTHORIZATION

SETTLEMENT/CLOSING AGENT TITLE NETWORK OF AMERICA LLC 35401 EUCLID AVENUE SUITE 215 WILLOUGHBY, OH 44094		BORROWER(S) KATHRYN CLOVER
PROPERTY ADDRESS 3233 DELLWOOD ROAD, CLEVELAND HEIGHTS, OH 44118		SELLER(S)
CLOSING DATE 06/30/2005	FUNDING DATE 06/30/2005	LEGAL DESCRIPTION LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF:
LOAN NUMBER 0082568999 - 9703		
LOAN PURPOSE Purchase		

FROM: Argent Mortgage Company, LLC - Division 03 - Reg 05 Sales PHONE NO. (800)369-5117 FAX
FUNDING CONTACT:

INSTRUCTIONS TO SETTLEMENT/CLOSING AGENT:

BELOW IS A LIST OF ALL SETTLEMENT CHARGES AND DISBURSEMENTS APPLICABLE TO THIS LOAN. YOU MUST USE THESE FIGURES TO PREPARE YOUR SETTLEMENT STATEMENT. YOU CANNOT DEVIATE FROM THESE FIGURES WITHOUT PRIOR WRITTEN AUTHORIZATION FROM Denise Obrock. ANY AMOUNTS MARKED WITH AN "*" ARE PREPAID FINANCE CHARGES AND CANNOT BE INCREASED OR ADDED ONCE LOAN DOCUMENTS HAVE BEEN PREPARED UNLESS NEW LOAN DOCUMENTS ARE GENERATED. 

Settlement Charges

LOAN AMOUNT: \$ 161,500.00

Item Payable	Pay to	Paid Outside of Closing (POC)	Paid by Borrower	Paid by Lender	Paid by Seller	Total Amount Paid
Underwriting Fee to Lender	Argent Mortgage Company, LLC	\$0.00	\$550.00	\$0.00	\$0.00	\$550.00 *
Interest 1 days @ 36.06	Argent Mortgage Company, LLC	\$0.00	\$36.06	\$0.00	\$0.00	\$36.06 *
Origination Fee to Broker 2.477%	Central National Mortgage (W)	\$0.00	\$4,000.36	\$0.00	\$0.00	\$4,000.36 *
Appraisal Fee	HUDAK APPRAISAL (W)	\$0.00	\$350.00	\$0.00	\$0.00	\$350.00
Tax Related Service Fee	Argent Mortgage Company, LLC	\$0.00	\$70.00	\$0.00	\$0.00	\$70.00 *
Flood Search Fee	Argent Mortgage Company, LLC	\$0.00	\$9.00	\$0.00	\$0.00	\$9.00 *
Hazard Insurance Premium	INSURANCE OFFICE OF (W)	\$0.00	\$860.50	\$0.00	\$0.00	\$860.50
Closing/Remote Close/Trip	FAMILY TITLE SERVICES INC (W)	\$0.00	\$450.00	\$0.00	\$0.00	\$450.00 *
Title Ins/Endorsements/Survey	FAMILY TITLE SERVICES INC (W)	\$0.00	\$576.25	\$0.00	\$0.00	\$576.25
Recording/Recording	FAMILY TITLE SERVICES INC (W)	\$0.00	\$200.00	\$0.00	\$0.00	\$200.00
Courier/Wire/E-Mail Fee	FAMILY TITLE SERVICES INC (W)	\$0.00	\$115.00	\$0.00	\$0.00	\$115.00 *
TOTAL CHARGES						\$7,217.17

ESCROW ACCOUNTS

	Annual Amount	Monthly Amount	Number of Months	Total Charge
TAXES	\$0.00	\$0.00	0	\$0.00
HAZARD INSURANCE	\$0.00	\$0.00	0	\$0.00
FLOOD INSURANCE	\$0.00	\$0.00	0	\$0.00
EARTHQUAKE INSURANCE	\$0.00	\$0.00	0	\$0.00
WINDSTORM INSURANCE	\$0.00	\$0.00	0	\$0.00
INITIAL DEPOSIT				\$0.00

