

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

Anthony Viola,	)	Case # 1:16-cv-1411-TSC
	)	
Plaintiff	)	Hon. Tanya Chutkan
	)	
-vs.-	)	
	)	<b>OPPOSITION TO</b>
US Department of Justice, et. al.	)	<b>GOVERNMENT MOTION</b>
	)	<b>FOR SUMMARY JUDGMENT</b>
Defendants	)	

Defendants' request for summary judgment should be denied for multiple reasons, including:

1. The government's own documents establish that its search for records concerning Paul Tomko was inadequate because records from 2006-2009 were never searched and the name of Tomko's mortgage businesses were excluded from search terms;
2. Exemptions cited do not apply, as an informant who was subsequently prosecuted on multiple occasions in public proceedings, was named in multiple government press releases and wrote a "tell all" book about the entire affair does not have any "expectation of privacy;" and

3. As more fully set forth below, multiple material facts are in dispute, and summary judgment is therefore inappropriate.

**PART ONE: THE FBI'S OWN PRESS RELEASES ESTABLISH THAT IT FAILED TO SEARCH FOR TOMKO RECORDS CREATED BETWEEN 2006 AND 2009**

The FBI informed this Court its search for Tomko records was adequate, claiming “The FBI searched for and processed records from 2009 to 2015” page 9 of the government’s filing. However, a review of the FBI’s own press release, attached hereto as **Exhibit A**, states that “In 2007, Tomko had signed a paid cooperation agreement.” Summary judgment should be denied on this basis alone – at least two years’ worth of Tomko records have never even been searched. Moreover, the FBI does even bother to explain why it began its search several years after Tomko began to “assist” law enforcement, or why its earlier searches failed to uncover the FBI’s own press releases about Mr. Tomko.

Further confirming the inadequacy of the FBI’s search is the Superseding Indictment of Mr. Tomko, which is attached hereto as **Exhibit B**, and which states on page 6 that “In 2006, Defendant Paul R. Tomko agreed with a federal law enforcement agency” to cooperate with the government. This document indicates that the government’s search overlooked THREE YEARS worth of records.

The charging document and the FBI’s own press release each establish that the government’s search – which started with records

in 2009 and excluded 2-3 years of records -- was not “reasonably calculated to uncover all relevant documents.” Morley v. Central Intelligence Agency, 508 F.3d 1108, 1114 (D.C. Cir. 2007). It was not “tailored to the nature of [Viola’s] particular request,” Campbell v. DOJ, 164 F.3d 20, 28 (D.C. Cir. 1998), since it “unreasonably limit[ed] the scope of the search . . . in a manner inconsistent with the request,” Coffey v. Bureau of Land Mgmt., 249 F. Supp. 3d 488, 498 (D.D.C. 2017).

For this reason alone, and because between two and three additional years of Tomko records exist, the government’s motion fails and summary judgment should be denied. After nearly a decade of litigation, the Court should not only deny the summary judgment motion but also simply order the FBI to search ALL records in its possession concerning Mr. Tomko, then make any appropriate disclosure determinations.

**PART TWO: THE FBI’S SEARCH FOR TOMKO RECORDS WAS INADEQUATE BECAUSE IT FAILED TO SEARCH FOR RECORDS CONCERNING PAUL TOMKO’S MORTGAGE COMPANY**

FBI press releases and criminal charges against Mr. Tomko state that the FBI and Tomko established or used mortgage companies to identify (or perhaps entrap) citizens engaging in mortgage fraud. These companies, Okmot Mortgage and The Mortgage House – are listed in press releases and charging documents referenced above, yet the government never searched for any documents concerning these entities.

On page 8 of its filing, the government describes its search as follows:

Further evidence of FBI's intention to capture all reasonably responsive records is manifest in the attention paid to variations on Tomko's name, as a means of minimizing the chance that an idiosyncratic usage might leave responsive records undiscovered. *Id.* ¶ 31. For instance, FBI not only searched for "Tomko, Paul, R," the normal convention to filing matters for future retrieval, but also for "Paul R. Tomko," "Paul Tomko," and "Tomko, Paul." Seidel Decl. ¶ 33. In addition, it used a "three-way phonetic breakdown" of Tomko's name. *Id.*

The foregoing are inadequate search parameters, and a new search for responsive records should be conducted seeking records related to the Tomko mortgage businesses. "Under the FOIA, an agency has a duty to conduct a reasonable search for responsive records." Abdelfattah v. United States Dep't of Homeland Sec., 488 F.3d 178, 182 (3d Cir. 2007). "To prevail on summary judgment, then, the agency must show beyond material doubt" that its search was "reasonably calculated to uncover all relevant documents," Morley v. C.I.A., 508 F.3d 1108, 1114 (D.C. Cir. 2007) (cleaned up), and "cannot limit its search" to certain places if there are additional sources "that are likely to turn up the information requested," Oglesby v. United States Dep't of the Army, 920 F.2d 57, 68 (D.C. Cir. 1990) (Oglesby I). The searches described in the FBI's declarations do not meet that standard because he FBI did not search for records relating to Tomko's companies, Okmot and The Mortgage House. – and these businesses were used by Tomko and the FBI to

obtain incriminating information so the government could prosecute more individuals for “mortgage fraud.” There is public interest in this botched FBI operation, yet the search was not “reasonably calculated to uncover **all** relevant documents” and summary judgment is inappropriate. Valencia-Lucena v. U.S. Coast Guard, 180 F.3d 321, 325 (D.C. Cir. 1999) (emphasis added); see also Coffey v. Bureau of Land Mgmt., 249 F. Supp. 3d 488, 498 (D.D.C. 2017) (search terms inadequate where government “unreasonably limit[ed] the scope” of its “search to communications regarding a single subject . . . in a manner inconsistent with the request”); Eberg v. U.S. Dep’t of Defense, 193 F. Supp. 3d 95, 110 (D. Conn. 2016) (search inadequate when declaration did not “explain why” the government “exclude[d] keywords from Plaintiff’s FOIA request”).

**PART THREE: THE FBI IS WITHHOLDING INFORMATION IT PROVIDED IN ITS OWN PRESS RELEASES.**

On Page 46 of its filing, the FBI withholds information about “CHS payments” due to privacy concerns but those payments were already listed in the June 27, 2012 FBI press release (“Tomko was paid approximately \$19,500 in 2007 and \$7,500 in 2008.”) Pursuant to Cox Broad. Corp. v. Cohn, 420 U.S. 469, 494–95 (1975), “interests in privacy fade when the information involved already appears on the public record.”

**PART FOUR: NEW EVIDENCE CONCERNING JIMMY DIMORA  
AND FRANK RUSSO UNDERMINE PREVIOUSLY UTILIZED  
EXEMPTIONS**

The law of the case does not apply to earlier decisions concerning Jimmy Dimora documents, as the decade long litigation has seen a material change in circumstances. The Law of the Case doctrine holds that "Unless the trial court's rulings were clearly in error or there has been an important change in circumstances, the court's prior rulings must stand." United States v. Estrada-Lucas, 651 F.2d 1261, 1263 (9th Cir.1980); Smith v. United States, D.C. App., 406 A.2d 1262 (1979).

Previously, the government has refused to release information concerning James Dimora because "releasing the records would interfere with outstanding appeals," Government Motion, Document 55, page 8, 10/30/2019. However, as the attached news article makes clear, **Exhibit C**, Dimora has been released from prison and his appeals are concluded. Therefore, the government should produce any releasable Dimora records since the exemptions it cited no longer apply. Specifically, any FBI notes concerning Dimora's interaction with Judge Donald Nugent as Nugent sought employment for his romantic partner are now subject to release.

In addition, the death of Frank Russo (obituary attached as **Exhibit D**) confirms that records concerning Russo, or portions of transcripts with Russo's statements should be released – even if records concerning other parties are redacted, see Warren v. Colvin, 744 F.3d 841, 843-44 (2d Cir. 2014) ("[plaintiff] correctly asserts that

deceased individuals generally do not enjoy rights under the Privacy Act”); also see Whitaker v. CIA, 31 F. Supp. 3d 23, 48 (D.D.C. 2014).

While the dead Russo has no privacy rights, the living Frank Russo never had any “privacy” rights after his public indictment and widely publicized decision to assist prosecutors. Russo testified in a dozen trials on behalf of the government, and that testimony was widely covered in the news media, **Exhibit E**, and available on state and federal court websites. Moreover, Mr. Russo’s Rule 35 motion and hearing reducing his sentence is also publicly available.

If this Court wishes to rule that the dead Russo still has privacy rights in light of the foregoing, the undersigned will gladly present this matter to the DC Court of Appeals in a subsequent pleading.

**PART FIVE: NEW EVIDENCE ALSO CONFIRMS THE FBI  
RELOCATED FEDERAL RECORDS TO A TASK FORCE  
LOCATION AND NEW INFORMATION ESTABLISHES THAT THE  
TASK FORCE’S OFFICE MANAGER, DAWN PASELA, POSSESSED  
FEDERAL DOCUMENTS**

Both the FBI and this Court are surprisingly cavalier about FBI records ending up in the apartment of Dawn Pasela, then apparently vanishing after her death. More and more individuals have contacted the undersigned, and our legal and investigative team (led by Attorney Kim Corral and Yale Law School), with information stating that federal records were inappropriately removed from the Task Force location:

- FBI receipts make clear that relocated federal records to a multi-jurisdictional task force location, **Exhibit F**.
- The Task Force Chairman stated that Dawn Pasela absconded with “federal” records on hard drives, **Exhibit G**.
- Friends of Ms. Pasela claim federal records were provided to other individuals, **Exhibit H**.
- Recent news articles discuss Ms. Pasela’s suspicious death and the fact that her computer (containing federal records and evidence) is missing, **Exhibit I**.

Clearly, the Task Force is under the FBI’s “constructive control.” Competitive Enter. Inst. v. Off. of Sci. & Tech. Policy, 827 F.3d 145, 149 (D.C. Cir. 2016) and FBI Agent Jeff Kassouf testified any federal official could obtain evidence at the Task Force location “anytime,” USA v. Viola, 08-cr-506, ND Ohio. At the very minimum, the FBI was required to explain why it did not search the task force location, (where the FBI put federal records) or why doing so would be unduly burdensome. FOIA requires the FBI to search “all locations ‘likely’ to contain” responsive documents, not just “the locations ‘most likely’ to contain” such documents. DiBacco v. U.S. Army, 795 F.3d 178, 190 (D.C. Cir. 2015). Because the FBI failed to explain why “no other record system was likely to produce responsive documents,” summary judgment is inappropriate. Oglesby v. U.S. Dep’t of Army, 920 F.2d 57, 68 (D.C. Cir. 1990). And since federal records were removed from the task force location and mishandled, counsel for the



government should report this issue to the DOJ Inspector General, 28 CFR § 45.11 - Reporting to the Office of the Inspector General.

**PART SIX: THE GOVERNMENT SHOULD BE SANCTIONED FOR PROVIDING A “GLOMAR” RESPONSE FOR RECORDS DESCRIBED IN FBI PRESS RELEASES**

This case is littered with the government making false statements and withdrawing summary judgment motions and, in this pleading, the FBI reviews the procedural history, stating on Page 4, footnote 4 that the 2015 FOIA request contained “a newspaper article ... titled Former FBI Informant Indicted.” The responded with a ‘Glomar’ response, refusing to confirm or deny Tomko was an informant because the Plaintiff failed to “provide any specific evidence the FBI ever officially acknowledged an informant relationship with Paul Tomko.”

The government’s response was disingenuous at best. Despite being imprisoned after establishing innocence at a second trial, the Plaintiff exercised diligence seeking records for a subsequent habeas petition and provided proof that Paul Tomko’s status as an informant was widely known. In Viola v. Department of Justice, 15-cv-242, WD Pa., the FBI claimed it was unaware of records in its own records system. In this case, the FBI is essentially informing this Court that it’s unaware of the content of its own press releases.

This behavior has delayed the final adjudication of proceedings to vacate the Plaintiff’s conviction and should no longer be tolerated by this Court. Plaintiff requests that the costs of this litigation be

paid by the government because this matter has dragged on for years due to government bad faith. Using a “Glomar” response when Tomko documents were initially requested (and criticizing the news article attached to the initial FOIA complaint about Tomko’s role as an informant who actually was stealing identities inside the FBI and pocketing funds from fraudulent loans) was inappropriate, because the FBI’s own press releases revealed to the public that Tomko was an FBI informant.

A Glomar response is not appropriate when materials are already part of the public record. That is because “materials normally immunized from disclosure under FOIA lose their protective cloak once disclosed and preserved in a permanent public record.” Cottone v. Reno, 193 F.3d 550, 554 (D.C. Cir. 1999).

**PART SEVEN: THE FBI’S FAKE CONCERNS ABOUT PRIVACY ARE UNDERMINED BY ITS OWN PRESS RELEASES AND PUBLIC CRIMINAL PROCEEDINGS**

The FBI claims it cannot reveal the names of its “special agents” and that FBI agents may be damaged if their names are revealed, (government motion, page 22) but many testified at mortgage fraud trials, see Agent Jeff Kassouf’s testimony in USA v. Viola, 08-cr-506, ND Ohio, available on the Pacer system. Prior to citing this exemption, the FBI should have cross referenced trial testimony or other publicly available information.

The government also claims that “The information provided by Tomko relative to the other third parties was **NOT** (emphasis added)

in confidence as an FBI informant, but confidentiality can be implied” – page 5 of declaration. The FBI’s invocation of Exemption 7(D) thus relies only on implied assurances of confidentiality. When the government relies on such an implied assurance, it must “point to . . . narrowly defined circumstances that will support” that inference. U.S. Dep’t of Just. v. Landano, 508 U.S. 165, 170 (1993). The FBI’s boilerplate assertion that it is reasonable to infer that each individual who provided information to the FBI did so under circumstances from which an assurance of confidentiality may be implied does not satisfy that burden.

The government’s supposed concern about Tomko’s “personal privacy interests” page 7, citing exemption 7(C) and “unwarranted invasions of personal privacy” Page 16, are undermined by:

- The government’s own press releases alerting the public about Tomko’s role as an informant who stole identities while inside the FBI and US Attorney’s Office;
- Mr. Tomko himself wrote a “tell all” book about his role as an FBI informant (a fact not called to the Court’s attention by the FBI), please see **Exhibit J**.
- On Page 17 of its filing, the FBI says it doesn’t disclose identity of personnel because “For special agents, publicity could lead to an interruption or compromising of important official duties.” But the government never addresses the impact of public testimony at trials in making this claim.

On Page 12 of its filing, the FBI discusses “its categorical withholding of the Tomko informant files” because there is no “overriding public interest in disclosure” – but if that is the case, why did the FBI issue a press release about Tomko on multiple occasions? This court should reject arguments that the government is “protect[ing] Tomko from suffering” by making records public because Tomko was prosecuted on multiple occasions and named in multiple press releases, see Page 13, government motion. Likewise, on page 50, the FBI states that it must protect information because of its “potential use in future prosecutions,” but this statement borders on the nonsensical. First, any statute of limitations has long since expired and, despite the FBI’s love of its informants, this informant has been prosecuted multiple times, and one would hope that the FBI would deem any “information” from Tomko wholly unreliable.

The government also claims to be concerned about the privacy interests of “individuals mentioned” in Tomko records (page 20) but if these individuals were prosecuted, these materials may be exculpatory to them, as Tomko may have been duping the FBI by providing falsely providing “information” as an excuse to steal identities and further his own schemes. Contrary to the government’s fake privacy concerns, anyone prosecuted (whose reputation the government ruined) would benefit if documents produced were relevant to their cases.

At the very least, summary judgment should be denied and the FBI should be required provide a list of public prosecutions where

Tomko “assisted” because citing exemptions require a balancing test, in which courts must weigh the extent of the invasion into the privacy interest against the public benefit that would result from the disclosure of the information. See U.S. Dep’t of Def. v. Fed. Lab. Rels. Auth., 510 U.S. 487, 495 (1994)

Clearly, the FBI doesn’t WANT to produce the records, but it completely failed to discuss the public interest in additional disclosures. And when determining whether an assurance of confidentiality had been given, these explanations should have included a discussion of the impact of any subsequent public disclosures made by the source.

**PART EIGHT: THIS COURT HAS NEVER RULED ON THE  
REQUEST FOR NOTES OF THE FBI INTERVIEW WITH DON  
NUGENT**

The initial FOIA request is attached hereto as **Exhibit K**. While the court ruled the tapes of Nugent seeking favors from corrupt political leaders were said to be under seal, the FBI’s interview summaries and notes were not – and now that the Court has been provided with the Russo obituary, any portion of the Russo-Nugent notes or transcripts should be released, even if the Nugent portions remain redacted.

**PART NINE: MISCONDUCT AND CRIMINAL ACTIVITIES INSIDE  
THE CLEVELAND FBI OFFICE AND US ATTORNEY’S OFFICE IN  
CLEVELAND SUPPORT MAXIMUM PUBLIC DISCLOSURE IN  
THIS CASE**

Misconduct in the US Attorney's Office in Cleveland and the Cleveland FBI Office includes (but is not limited to) the following:

- WHISTLEBLOWER DAWN PASELA WAS FOUND DEAD AS SHE WAS ABOUT TO TESTIFY ABOUT FBI AND DOJ MISCONDUCT, details at [www.JusticeForDawn.com](http://www.JusticeForDawn.com)
- DISGRACED FEDERAL PROSECUTOR MARK BENNETT IS UNDERGOING DISBARMENT
- FBI ADMITS IT MADE MATERIALLY FALSE STATEMENTS
- AN AFFAIR BETWEEN PROSECUTOR DAN KASARIS AND GOVERNMENT WITNESS KATHRYN CLOVER HAS BEEN IGNORED, read 600 pages of Kasaris-Clover emails at [FreeTonyViola.com](http://FreeTonyViola.com)
- FEDERAL RECORDS AT A TASK FORCE PLACED ON HARD DRIVES THEN DISAPPEAR

As this case enters its second decade, the Justice Department's "win at all costs" style of litigation and refusal to follow its statutory obligations are readily apparent, while this Court's attempt to ignore the fact that a federal judge was caught on tape seeking favors for his girlfriend does not bolster the public's confidence in the fair administration of justice.

The way this case has been litigated and the government's own filings are proof that the FBI uses illegal tactics and does whatever it wants, to whoever it wants, for as long as it wants, without consequence or accountability.

## **CONCLUSION**

Congress enacted the Freedom of Information Act (FOIA) to “open agency action to the light of public scrutiny” by imposing “a general philosophy of full agency disclosure,” U.S. Dep’t of Just. v. Tax Analysts, 492 U.S. 136, 142 (1989). Nearly a decade into this FOIA case, that purpose has not been fulfilled.

**WHEREFORE**, Plaintiff requests the following:

- (1) The Motion for Summary Judgment should be denied;
- (2) The Court refer the case file about the actions of Don Nugent to the Judicial Conference;
- (3) The Court should recommend the DOJ Attorneys in Washington DC report misconduct in this case to the Inspector General; and
- (4) The costs of litigating this case be assigned to the FBI.

Respectfully Submitted,



---

Anthony Viola  
2820 Mayfield # 205  
Cleveland Heights, OH 44118  
MrTonyViola@ICloud.com  
(330) 998-3290  
December 29, 2023

**CERTIFICATE OF SERVICE**

I, Anthony Viola, hereby swear and affirm that I caused a copy of the foregoing Opposition to Supplemental Motion for Summary Judgment to be served upon the following office, via regular U.S. mail, postage prepaid, and email, on this 29th day of December, 2023:

Office of the U.S. Attorney  
For the District of Columbia  
555 4th St NW  
Washington, DC 20530

Respectfully Submitted,



---

Anthony Viola



---

# **Exhibit A**

---



## Cleveland Division

Home • Cleveland • Press Releases • 2012 • Cleveland Man Indicted on Charges Related to Mortgage and Student Aid Fraud

### Cleveland Man Indicted on Charges Related to Mortgage and Student Aid Fraud

U.S. Attorney's Office  
June 27, 2012

Northern District of Ohio  
(216) 622-3600

An eight-count indictment was filed against Paul R. Tomko, a former paid cooperator for a federal law enforcement agency, said Steven M. Dettelbach, United States Attorney for the Northern District of Ohio.

Tomko, age 39, of Cleveland, Ohio, was charged with one count of conspiracy to commit wire fraud and two counts of wire fraud in connection with a mortgage fraud scheme, one count of student aid fraud, and four counts of making false statements to the Probation Department for the United States District Court for the Northern District of Ohio.

Tomko pleaded guilty in 2009 to charges related to a mortgage fraud scheme and was sentenced to three years' probation in the United States District Court for the Northern District of Ohio in Case No.1:09CR29, according to the indictment.

The indictment charges that thereafter, Tomko made false statements to the Probation Department during the course of the preparation of his Pre-Sentence Report (PSR), a report containing personal, financial, and other information designed to assist the court in sentencing. He also made false statements to the Probation Department after he was sentenced.

In 2007, Tomko had signed a paid cooperation agreement with a federal law enforcement agency wherein Tomko was to take full responsibility and make full disclosure of his own mortgage fraud-related violations and assist that agency in other mortgage fraud investigations. The indictment charges that Tomko was paid approximately \$19,500 in 2007 and \$7,500 in 2008 by that agency under their agreement. Tomko concealed this income from the Probation Department and also falsely stated that the law enforcement agency had approved Tomko operating a mortgage business (The Mortgage House) from his residence.

In the conspiracy and wire fraud charges, it is alleged that Tomko, through his company OKMOT (Tomko backwards) Real Estate Company, recruited his housekeeper to apply for fraudulent mortgage loans for four properties between 2006 through 2007. Tomko falsely inflated the income and assets of his housekeeper in order for her to qualify for these loans, according to the indictment.

Once the loans closed, Tomko fraudulently received approximately \$100,000 of the proceeds by filing mechanics liens for work not performed and directing funds to himself and/or companies he owned and controlled, as well as to others not charged in this conspiracy.

The indictment further alleges that Tomko concealed income he received as a cooperator from a federal law enforcement agency, in order to fraudulently obtain student aid and grants from the United States Department of Education.

An indictment is only a charge and is not evidence of guilt. A defendant is entitled to a fair trial in which it will be the government's burden to prove guilt beyond a reasonable doubt. If convicted, the defendant's sentence will be determined by the court after review of factors unique to this case, including the defendant's prior criminal record, if any, the defendant's role in the offense and the characteristics of the violation. In all cases, the sentence will not exceed the statutory maximum, and in most cases, it will be less than the maximum.

The case is being prosecuted by Assistant U.S. Attorney Christian H. Stickan, following investigation by agents of the FBI-Cleveland Office and the Office of the Inspector General for the United States Department of Education.

This content has been reproduced from its original source.

[Accessibility](#) | [eRulemaking](#) | [Freedom of Information Act](#) | [Legal Notices](#) | [Legal Policies and Disclaimers](#) | [Links](#) | [Privacy Policy](#) | [USA.gov](#) | [White House](#)  
FBI.gov is an official site of the U.S. government, U.S. Department of Justice

Close

#### Cleveland Division Links

[Cleveland Home](#)

**Contact Us**

- [Overview](#)
- [Territory/Jurisdiction](#)

**News and Outreach**

- [Press Room | Stories](#)
- [In Your Community](#)

**About Us**

- [Our People & Capabilities](#)
- [What We Investigate](#)
- [Our Partnerships](#)
- [Cleveland History](#)

**Wanted by the FBI - Cleveland**

**FBI Jobs**



## Cleveland Division

Home • Cleveland • Press Releases • 2013 • Cleveland Man Sentenced to Four Years in Prison for Mortgage Fraud, Other Crimes

### Cleveland Man Sentenced to Four Years in Prison for Mortgage Fraud, Other Crimes

U.S. Attorney's Office  
September 20, 2013

Northern District of Ohio  
(216) 622-3600

A former paid cooperator for a federal law enforcement agency was sentenced to more than four years in prison today for a variety of crimes related to a mortgage-fraud scheme, said Steven M. Dettelbach, United States Attorney for the Northern District of Ohio, and Stephen D. Anthony, Special Agent in Charge of the FBI's Cleveland Field Office.

Paul R. Tomko, age 40, of Cleveland, pleaded guilty in March to one count of conspiracy to commit wire fraud and wire fraud, two counts of wire fraud, one count of student loan fraud, and one count of concealment.

U.S. District Judge Christopher Boyko sentenced Tomko to 52 months in prison and ordered him to pay \$327,044 in restitution.

"Paul Tomko has been sentenced, yet again, for being a fraudster to the tune of hundreds of thousands of dollars," Anthony said. "The FBI hopes he has finally learned his lesson."

Tomko pleaded guilty in 2009 to charges related to a mortgage fraud scheme and was sentenced to three years' probation in the United States District Court for the Northern District of Ohio, in Case No. 1:09CR29, according to court documents.

In 2007, Tomko had signed a paid cooperation agreement with a federal law enforcement agency wherein Tomko was to take full responsibility and make full disclosure of his own mortgage fraud-related violations and assist that agency in other mortgage fraud investigations. Tomko was paid approximately \$19,500 in 2007 and \$7,500 in 2008 by that agency under their agreement. Tomko concealed this income from the Probation Department and also falsely stated that the law enforcement agency had approved Tomko operating a mortgage business (The Mortgage House) from his residence, according to court documents.

Tomko, through his company, OKMOT ("Tomko" backwards) Real Estate Company, recruited his housekeeper to apply for fraudulent mortgage loans for four properties between 2006 through 2007. Tomko falsely inflated the income and assets of his housekeeper in order for her to qualify for these loans, according to court documents.

Once the loans closed, Tomko fraudulently received approximately \$100,000 of the proceeds by filing mechanics liens for work not performed and directing funds to himself and/or companies he owned and controlled, as well as to others not charged in this conspiracy, according to court documents.

Tomko concealed income he received as a cooperator from a federal law enforcement agency, in order to fraudulently obtain student aid and grants from the United States Department of Education, according to court documents.

The case is being prosecuted by Assistant U.S. Attorneys Christian H. Stickan and Christos M. Georgalis, following investigation by agents of the FBI, Cleveland Office and the Office of the Inspector General for the United States Department of Education.

This content has been reproduced from its original source.

[Accessibility](#) | [eRulemaking](#) | [Freedom of Information Act](#) | [Legal Notices](#) | [Legal Policies and Disclaimers](#) | [Links](#) | [Privacy Policy](#) | [USA.gov](#) | [White House](#)  
FBI.gov is an official site of the U.S. government, U.S. Department of Justice

#### Cleveland Division Links

[Cleveland Home](#)

#### Contact Us

- [- Overview](#)
- [- Territory/Jurisdiction](#)

#### News and Outreach

- [- Press Room | Stories](#)
- [- In Your Community](#)

#### About Us

- [- Our People & Capabilities](#)
- [- What We Investigate](#)
- [- Our Partnerships](#)
- [- Cleveland History](#)

#### Wanted by the FBI - Cleveland

#### FBI Jobs

Close



## Cleveland Division

Home • Cleveland • Press Releases • 2009 • Ohio Man Charged in Mortgage Fraud Scheme

### Ohio Man Charged in Mortgage Fraud Scheme

**U.S. Attorney's Office**  
June 23, 2009

**Northern District of Ohio**  
(216) 622-3600

William J. Edwards, United States Attorney for the Northern District of Ohio, announced today that an information has been filed against Paul R. Tomko charging him with one count of mail fraud in connection with mortgage loans that were obtained fraudulently. According to court records, Tomko, age 36, resides in Middleburg Heights, Ohio.

The information alleges that from August 2003 through January 2005, Tomko and others who were not named executed a scheme to defraud Homecoming Financial Network and People's Choice Home Loans in connection with twelve mortgage loans. The information further alleges that Tomko and others caused fraudulent loan applications to be processed through mortgage brokers, including CMS Home Loans in Elyria, Ohio, and Allstate Financial Group in Beachwood, Ohio. The information charges that Tomko utilized straw buyers to purchase properties and to obtain financing in their names. The information further charges that Tomko caused fraudulent appraisals to be prepared which falsely and artificially inflated the true values of the properties that were acquired and financed.

The information also alleges that the loan application packages that were submitted to the lenders included some or all of the following false and fraudulent documentation and information: inflated appraisals, source of down payment, rental income, lease agreements, and forged signatures. The information charges that Tomko and others fraudulently obtained twelve mortgage loans totaling nearly \$1.2 million on properties located in the Cleveland, Ohio, area. It is further alleged that Homecomings Financial Network and People's Choice Home Loans sustained significant losses as these mortgage loans went into default and the properties were sold through foreclosure.

If convicted, the defendant's sentence will be determined by the Court after review of factors unique to this case, including the defendant's prior criminal record, if any, the defendant's role in the offense and the characteristics of the violation. In all cases the sentence will not exceed the statutory maximum and in most cases it will be less than the maximum.

This case is being prosecuted by Assistant United States Attorney John D. Sammon, following a joint mortgage fraud investigation by the Cleveland Offices of the Federal Bureau of Investigation and the Department of Housing and Urban Development, Office of the Inspector General.

An information is only a charge and is not evidence of guilt. A defendant is entitled to a fair trial in which it will be the government's burden to prove guilt beyond a reasonable doubt.

This content has been reproduced from its original source.

[Accessibility](#) | [eRulemaking](#) | [Freedom of Information Act](#) | [Legal Notices](#) | [Legal Policies and Disclaimers](#) | [Links](#) | [Privacy Policy](#) | [USA.gov](#) | [White House](#)  
FBI.gov is an official site of the U.S. government, U.S. Department of Justice

Close

#### Cleveland Division Links

##### Cleveland Home

##### Contact Us

- Overview
- Territory/Jurisdiction

##### News and Outreach

- Press Room | Stories
- In Your Community

##### About Us

- Our People & Capabilities
- What We Investigate
- Our Partnerships
- Cleveland History

##### Wanted by the FBI - Cleveland

##### FBI Jobs

---

# Exhibit B

RECEIVED  
2012 AUG 27 A 2:54  
U.S. ATTORNEY'S  
CLEVELAND, OHIO

2012 AUG 23 PM 4:23

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	<u>SUPERSEDING INDICTMENT</u>
	)	
Plaintiff,	)	CASE NO. 1:12CR311
	)	
-vs-	)	JUDGE CHRISTOPHER A. BOYKO
	)	
	)	Title 18, United States Code,
	)	Sections 371, 1001, 1343 and 2;
PAUL R. TOMKO,	)	Title 20, United States Code
	)	Section, 1097(a)
Defendant.	)	

COUNT 1

The Grand Jury charges:

1. At all times material herein, Defendant PAUL R. TOMKO resided in the Cleveland, Ohio area.
2. At all times material herein, Defendant PAUL R. TOMKO (hereinafter "TOMKO") owned and controlled OKMOT ("TOMKO" backwards) Real Estate Company, an Ohio company with its office located in Cleveland, Ohio. The purpose of OKMOT was to acquire properties in the Northern District of Ohio. TOMKO recruited at least one buyer to

NOT REVIEWED

purchase OKMOT properties and arranged to secure mortgage loans to finance the purchases of these properties.

3. At all times material herein, the HUD-1 Form was a form commonly used in real estate transactions, which form and its contents were developed by and within the jurisdiction of the United States Department of Housing and Urban Development ("HUD"), a department and agency of the United States and a part of the Executive Branch of United States government. The HUD-1 Form disclosed how the loan proceeds were disbursed and reflected whether any funds were provided by the borrower as a down payment on the purchase of the property.

4. From in or around August 2006 through at least April 2007, the exact dates being unknown to the Grand Jury, in the Northern District of Ohio, Eastern Division, and elsewhere, Defendant PAUL R. TOMKO, and others not charged herein, knowingly and voluntarily did conspire, confederate and agree together and with each other, and with others, to violate the laws of the United States, to wit: mail fraud in violation of Title 18, United States Code, Section 1341 and wire fraud, in violation of Title 18, United States Code, Section 1343.

#### Objects of the Conspiracy

5. The objects of the conspiracy were to devise a scheme to defraud and obtain money from mortgage lenders by means of false and fraudulent pretenses representations and promises, that is, by fraudulently inflating the price of real properties and financing the purchase of these properties through the use of false information submitted to the lending companies, as described herein, and by using interstate wire communications in furtherance of the scheme, in order to obtain loan proceeds with which Defendant PAUL R. TOMKO could enrich himself.

Manner and Means

6. It was part of the conspiracy that:

A. TOMKO recruited A.G. (not charged herein), who was Defendant's housekeeper, to apply for various loans from lenders to purchase OKMOT properties owned and controlled by TOMKO, and others not charged herein.

B. TOMKO then caused to be prepared and submitted false and fraudulent mortgage loan applications which falsely inflated the income and assets of A.G. in order to qualify for the above-mentioned loans.

C. TOMKO falsely directed, and caused to be directed, the disbursement of loan proceeds to various companies he owned and controlled to purportedly pay these companies for improvements made to various properties, when, in fact, as TOMKO then well knew, no such improvements were made.

D. It was a part of the conspiracy that TOMKO caused to be prepared and submitted, false loan applications, HUD-1 Forms, and other documents, for the following mortgage loans:

Date	Lender	Property	Amount of Loan
August 15, 2006	New Century Mortgage Corporation	2709 Wade Avenue, Cleveland, Ohio	\$76,000.00
November 28, 2006	New Century Mortgage Corporation	1499 Lakewood Avenue, Lakewood, Ohio	\$99,000.00
December 28, 2006	Saxon Mortgage Services, Inc.	1043 W. 18 <sup>th</sup> Street, Lorain, Ohio	\$62,050.00
April 24, 2007	Delta Funding Corp.	10741 Bellaire Rd., Cleveland, Ohio	\$191,250.00

E. It was a further part of the conspiracy that TOMKO filed mechanics liens for work not performed and would direct funds from the closing of the above-mentioned loans to



himself and companies that he owned and/or controlled in the amount of approximately \$100,000.00.

Overt Acts

7. In furtherance of the conspiracy and to effect its unlawful objects, Defendant PAUL R. TOMKO, and others known and unknown to the Grand Jury, committed the following overt acts, among others, in the Northern District of Ohio, Eastern Division, and elsewhere:

A. On or about December 28, 2006, TOMKO signed, and caused to be signed, and submitted, and caused to be submitted, the mortgage loan application and HUD-1 Form with Saxon Mortgage Services, Inc., for 1043 W. 18<sup>th</sup> Street, Lorain, Ohio.

B. On or about April 24, 2007, Defendant signed, and caused to be signed, and submitted, and caused to be submitted, the mortgage loan application and HUD-1 Form with Delta Funding Corporation for 10741 Bellaire Road, Cleveland, Ohio.

All in violation of Title 18, United States Code, Section 371.

COUNT 2

The Grand Jury further charges:

1. Paragraphs 1 through 3 and 6 through 7 of Count 1 are incorporated as if fully rewritten herein.

2. From in or around August 2006 through in or around April 2007, the exact dates being unknown to the Grand Jury, in the Northern District of Ohio, Eastern Division, and elsewhere, Defendant PAUL R. TOMKO, and others known and unknown to the Grand Jury, knowingly devised, and intended to devise, a scheme and artifice to defraud and to obtain money

and property by means of false and fraudulent pretenses, representations, and promises, from various lenders.

3. From in or around November 2006, to on or about December 28, 2007, the exact dates being unknown to the Grand Jury, for the purpose of executing such scheme and artifice, Defendant PAUL R. TOMKO sent, and caused to be sent, by wire and radio communication, from the Northern District of Ohio, to Saxon Mortgage Services, Inc. in Fort Worth, Texas, various documents related to the application for a loan and wherein the lender sent by wire and radio communication loan documents and funds from its location outside the State of Ohio, to the Northern District of Ohio, to prepare and close on this loan.

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 3

The Grand Jury further charges:

1. Paragraphs 1 through 3 and 6 through 7 of Count 1 are incorporated as if fully rewritten herein.
2. From in or around August 2006 through in or around April 2007, the exact dates being unknown to the Grand Jury, in the Northern District of Ohio, Eastern Division, and elsewhere, Defendant PAUL R. TOMKO, and others known and unknown to the Grand Jury, knowingly devised, and intended to devise, a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, from various lenders.
3. From in or around March 2007, to on or about April 24, 2007, the exact dates being unknown to the Grand Jury, for the purpose of executing such scheme and artifice,

Defendant PAUL R. TOMKO sent, and caused to be sent, by wire and radio communication, from the Northern District of Ohio, to the Delta Funding Corporation in Woodbury, New York, various documents related to the application for a loan and wherein the lender sent loan documents and funds from its location outside the State of Ohio, to the Northern District of Ohio, to prepare and close on this loan.

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 4

The Grand Jury further charges:

1. Beginning in or around March 2008 and continuing through in or around July 2009, the exact dates being unknown to the Grand Jury, in the Northern District of Ohio, Eastern Division, and elsewhere, Defendant PAUL R. TOMKO, did knowingly and willfully misapply, steal and obtain by fraud, false statements and forgery, and attempt to obtain by fraud, false statements and forgery, for himself and for others, federal student loans and Grants funds, assets and property with a value in excess of \$200.00 provided and insured by the United States Department of Education pursuant to Title IV of the Higher Education Act of 1965, under subchapter IV of chapter 28, of Title 20 of the United States Code, and Part C of subchapter I of chapter 34 of Title 42 of the United States Code.

All in violation of Title 20, United States Code, Section 1097(a) and Title 18, United States Code, Section 2.

COUNT 5

The Grand Jury further charges:

1. In 2006, Defendant PAUL R. TOMKO agreed with a federal law enforcement agency to take full responsibility for, and make full disclosure of, his involvement, and the



TOMKO was required to furnish truthful and complete information as requested by the probation officer, including financial information.

4. On or about October 27, 2009, TOMKO was sentenced to three years of probation which required that Defendant be supervised by a probation officer. This supervision involved, among other things, a home visit by the probation officer and required truthful and complete responses by TOMKO to the probation officer's inquiries made in the course of that supervision.

5. From on or about July 27, 2009, to on or about October 27, 2009, the exact dates being unknown to the Grand Jury, Defendant PAUL R. TOMKO, did willfully and knowingly falsify, conceal, and cover up, by trick, scheme, and device a material fact, in a matter within the jurisdiction of the judicial branch of the Government of the United States, namely the United States District Court for the Northern District of Ohio, in that TOMKO, in providing financial information to the Probation Office to prepare the PSR, and not as part of a judicial proceeding, concealed income he had received in 2009.

All in violation of Title 18, United States Code, Sections 1001 and 2.

COUNT 6

The Grand Jury further charges:

1. Paragraphs 1 through 4 of Count 5 are incorporated as if fully rewritten herein.
2. On or about November 5, 2009, in the course of supervision, a probation officer made a home visit TOMKO and noticed that there was a sign for a company named The Mortgage House in an office in TOMKO's house. The probation officer requested that TOMKO explain what this business was doing. At that time, TOMKO stated that this company was part of an undercover operation that he was conducting with a law enforcement agency and that this agency had authorized him to operate this business. TOMKO repeated this statement to his

probation officer on or about November 18, 2009.

3. On or about November 2, 2009 and November 18, 2009, the exact dates being unknown to the Grand Jury, Defendant PAUL R. TOMKO, in a matter within the jurisdiction of the judicial branch of the Government of the United States, namely the United States District Court for the Northern District of Ohio, and not as part of a judicial proceeding, did willfully and knowingly falsify, conceal, and cover up, by trick, scheme, and device a material fact, in that TOMKO, in responding to the Probation Officer's request for information about The Mortgage House, concealed the fact that The Mortgage House had also conducted unauthorized fraudulent business unrelated to any undercover operation.

All in violation of Title 18, United States Code, Sections 1001 and 2.

COUNT 7

The Grand Jury further charges:

1. Paragraphs 1 through 4 of Count 5 are incorporated as if fully rewritten herein.
2. On or about November 2, 2009, the exact date being unknown to the Grand Jury, Defendant PAUL R. TOMKO, did willfully and knowingly make and cause to be made false, fictitious, and fraudulent statements and representations in a matter within the jurisdiction of the judicial branch of the Government of the United States, namely the United States District Court for the Northern District of Ohio, in that TOMKO, as part of his supervision and not as part of a judicial proceeding, in responding to the probation officer's questions about OKMOT Real Estate Company, told the probation officer that this company was only set up to facilitate transactions for a federal law enforcement agency as part of an undercover operation that he was conducting with this agency and that this agency had authorized him to operate this business, when, in truth and fact, as TOMKO then well knew, TOMKO had conducted fraudulent

transactions through this company unknown to the federal law enforcement agency and unrelated to any undercover operation.

All in violation of Title 18, United States Code, Sections 1001 and 2.

COUNT 8

The Grand Jury further charges:

1. Paragraphs 1 through 4 of Count 5 are incorporated as if fully rewritten herein.
2. On or about November 2, 2009, the exact date being unknown to the Grand Jury, Defendant PAUL R. TOMKO, did willfully and knowingly make and cause to be made, and use, and caused to be use, in a matter within the jurisdiction of the judicial branch of the Government of the United States, namely the United States District Court for the Northern District of Ohio, a false writing or document knowing the same to contain a materially false, fictitious, and fraudulent statement in that TOMKO, as part of his supervision and not as part of a judicial proceeding, in response to the probation officer's request and the Court's order to provide income and income tax information, provided his 2007 and 2008 Federal Income Tax returns which TOMKO then knew full well did not report a significant amount of the income Defendant had received from the federal law enforcement agency during that time.

All in violation of Title 18, United States Code, Sections 1001 and 2.

COUNT 9

The Grand Jury further charges:

1. Paragraphs 1 through 4 of Count 5 are incorporated as if fully rewritten herein.
2. From in or around January 2006, to in or around April 2009, the exact dates being unknown to the Grand Jury, Defendant PAUL R. TOMKO, did willfully and knowingly falsify,

- 11 -

conceal, and cover up, by trick, scheme, and device a material fact, in a matter within the jurisdiction of the executive branch of the Government of the United States, namely a federal law enforcement agency with the United States Department of Justice, in that TOMKO, while working with this agency, concealed the fact that he was engaging in, and had engaged in, fraudulent business transactions.

All in violation of Title 18, United States Code, Sections 1001 and 2.

A TRUE BILL.

Original document - Signatures on file with the Clerk of Courts, pursuant to the E-Government Act of 2002.

**NOT REVIEWED**

UNITED STATES v. PAUL R. TOMKO

A TRUE BILL.

\_\_\_\_\_  
FOREPERSON

STEVEN M. DETTELBACH  
United States Attorney

By:

\_\_\_\_\_  
ANN C. ROWLAND, Unit Chief  
Major Fraud & Corruption Unit




IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	Case No. 1:12-CR-00311-CAB
	)	
Plaintiff,	)	JUDGE CHRISTOPHER A. BOYKO
	)	
v.	)	
	)	
PAUL R. TOMKO,	)	<u>PLEA AGREEMENT</u>
	)	
Defendant.	)	
	)	

Pursuant to Rule 11(c)(1)(A) of the Federal Rules of Criminal Procedure, and in consideration of the mutual promises set forth below, the United States Attorney's Office for the Northern District of Ohio (hereinafter "USAO"), by and through its undersigned attorneys, and the defendant, PAUL R. TOMKO (hereinafter "Defendant"), agree as follows:

**MAXIMUM PENALTIES AND OTHER  
CONSEQUENCES OF PLEADING GUILTY**

1. **Waiver of Constitutional Trial Rights.** Defendant understands that Defendant has the right to plead not guilty and go to trial. At trial, Defendant would be presumed innocent, have the right to trial by jury or, with the consent of the United States, to trial by the Court, the right to the assistance of counsel, the right to confront and cross-examine adverse witnesses and subpoena witnesses to testify for the defense, and the right to be protected from compelled self-

*Defendant's Initials* 

Plea Agreement of Paul R. Tomko – page 2 of 19

incrimination. Defendant understands that Defendant has the right to an attorney at every stage of the proceedings and, if necessary, one will be appointed to represent Defendant. Defendant understands that by pleading guilty, Defendant specifically and voluntarily waives each of these trial rights, except the right to counsel. Defendant understands that a guilty plea is a complete admission of guilt and if the Court accepts the guilty plea, the Court will find Defendant guilty without a trial.

2. **Statutory Penalties.** Defendant understands that the statutory maximum penalties, and minimum penalties if applicable, for the counts to which Defendant agrees to plead guilty is/are as follows:

Counts	Statute and Description of Offense	Statutory Sentence Per Count
1	18 U.S.C. § 371 (Conspiracy to Commit Mail and Wire Fraud)	Maximum imprisonment: 5 years Maximum statutory fine: \$250,000 Maximum period of supervised release: 3 years Special assessment: \$100
2, 3	18 U.S.C. § 1343 (Wire Fraud) 18 U.S.C. § 2 (Aiding and Abetting)	Maximum imprisonment: 20 years Maximum statutory fine: \$250,000 Maximum period of supervised release: 3 years Special assessment: \$100 (per count)
4	20 U.S.C. § 1097(a) (Student Loan Fraud) 18 U.S.C. § 2 (Aiding and Abetting)	Maximum imprisonment: 5 years Maximum statutory fine: \$20,000 Maximum period of supervised release: 3 years Special assessment: \$100
9	18 U.S.C. § 1001 (Concealment) 18 U.S.C. § 2 (Aiding and Abetting)	Maximum imprisonment: 5 years Maximum statutory fine: \$250,000 Maximum period of supervised release: 3 years Special assessment: \$100

3. **Special Assessment.** As set forth above, Defendant will be required to pay a mandatory special assessment of \$100 for each count of conviction, for a total of \$500, due

Defendant's Initials *PT*

Plea Agreement of Paul R. Tomko – page 3 of 19

immediately upon sentencing.

4. **Costs.** The Court may order Defendant to pay the costs of prosecution and sentence, including but not limited to imprisonment, community confinement, home detention, probation, and supervised release.

5. **Restitution.** The Court may order Defendant to pay restitution as a condition of the sentence, probation, and/or supervised release.

6. **Violation of Probation/Supervised Release.** If Defendant violates any term or condition of probation or supervised release, such violation could result in a period of incarceration or other additional penalty as imposed by the Court. In some circumstances, the combined term of imprisonment under the initial sentence and additional period of incarceration could exceed the maximum statutory term.

**PLEAS AND OTHER CHARGES**

7. **Agreement to Plead Guilty.** Defendant agrees to plead guilty to Counts 1, 2, 3, 4, and 9 of the Superseding Indictment in this case.

8. **Dismissal of Counts.** Upon sentencing, the USAO will move to dismiss the charges against Defendant in Counts 5, 6, 7, and 8 of the Superseding Indictment in this case.

**ELEMENTS OF THE OFFENSE**

9. The elements of the offenses to which Defendant will plead guilty are:

<b>Title 18 U.S.C. § 371: Conspiracy to Commit an Offense</b>
1: Two or more persons conspired, or agreed, to commit the crime alleged in the superseding indictment;
2: Defendant knowingly and voluntarily joined the conspiracy; and
3: A member of the conspiracy did one of the overt acts described in the superseding indictment which occurred within the five year statute of limitations for conspiracy for the purpose of advancing or helping the conspiracy.

Defendant's Initials PT

Plca Agreement of Paul R. Tomko -- page 4 of 19

<b>Title 18 U.S.C. § 1343: Wire Fraud</b>
1: Defendant knowingly participated in or devised or intended to devise a scheme to defraud in order to obtain money or property as charged;
2: The scheme to defraud included a material misrepresentation or concealment of a material fact;
3: Defendant had the intent to defraud; and
4: In advancing, or furthering, or carrying out this scheme to defraud in order to obtain money or property, Defendant transmitted, or caused the transmission of, any writing, signal, or sound by means of a wire, radio, or television communication in interstate commerce.

<b>Title 20 U.S.C. § 1097(a): Federal Student Aid Fraud</b>
1: Defendant attempted to or did misapply, steal, or obtain by fraud, false statement or forgery funds, assets or property provided or insured under the statute; and
2: Defendant did so knowingly and willfully

<b>Title 18 U.S.C. § 1001: Concealing a Material Fact in a Matter Within the Jurisdiction of the United States Government</b>
1: Defendant falsified, concealed or covered up a fact that he had a duty to disclose;
2: The fact was material;
3: Defendant falsified, concealed or covered up the fact by using a trick, scheme, or device;
4: Defendant acted knowingly and willfully; and
5: The fact pertained to a matter within the jurisdiction of the executive branch of the United States government.

**SENTENCING STIPULATIONS AND AGREEMENTS**

10. **Sentencing Guidelines.** Defendant understands that sentencing rests within the discretion of the Court; that federal sentencing law requires the Court to impose a sentence which is sufficient, but not greater than necessary, to comply with the purposes of 18 U.S.C.

Defendant's Initials PT

Plea Agreement of Paul R. Tomko – page 5 of 19


§ 3553(a), and that the Court must consider among other factors the advisory United States Sentencing Guidelines in effect at the time of sentencing and that in determining the sentence, the Court may depart or vary from the advisory guideline range.

11. **Presentence Report.** Defendant understands that the advisory guideline range will be determined by the Court at the time of sentencing, after a presentence report has been prepared by the U.S. Probation Office and reviewed by the parties. Defendant further understands that the USAO may provide to the U.S. Probation Office all known information regarding Defendant's conduct subject to its limited use under U.S.S.G. § 1B1.8 and except as protected under the proffer agreement if any.

12. **Joint Recommendation to Use the Advisory Sentencing Guidelines Computation.** After considering the factors in 18 U.S.C. § 3553(a), the parties agree to recommend that the Court impose a sentence within the range and of the kind specified pursuant to the advisory Sentencing Guidelines in accordance with the computations and stipulations set forth below. Neither party will recommend or suggest in any way that a departure or variance is appropriate, either regarding the sentencing range or regarding the kind of sentence.

13. **Allocution.** Defendant understands and agrees that the USAO reserves the opportunity to speak at Defendant's sentencing. The USAO agrees that Defendant reserves the right of allocution at sentencing.

14. **Stipulated Guideline Computation.** The parties agree that the following calculation, using the current advisory Sentencing Guidelines Manual, represents the correct computation of the applicable offense level.

Defendant's Initials 

Plea Agreement of Paul R. Tomko – page 6 of 19

Counts 1, 2, 3, 4, and 9 – Guideline § 2B1.1		
Base offense level	7	§ 2B1.1(a)(1)
Loss amount to be determined at sentencing as described in this paragraph below	TBD	See below
Aggravating role enhancement, if any, to be determined at sentencing as described in this paragraph below	TBD	See below
Obstructing the administration of justice	+2	§ 3E1.1(a)
<b>Subtotal Before Loss Enhancement, Role Adjustment, if any, and Acceptance of Responsibility</b>	<b>9</b>	See below

The parties agree that an enhancement for the amount of loss applies here, but that the loss amount will be determined by the Court at sentencing. The parties also agree that an enhancement for aggravating role under § 3B1.1, if any, will be determined by the Court at sentencing. Unless otherwise agreed to below, the parties agree that no other specific offense characteristics, Guideline adjustments or Guideline departures apply.

15. **Acceptance of Responsibility.** The USAO has no reason to believe at this time that Defendant has not clearly and affirmatively accepted personal responsibility for Defendant's criminal conduct. The USAO agrees to recommend a two (2) or three (3) level reduction for acceptance of responsibility under U.S.S.G. § 3E1.1(a) or (b), depending on the final offense level determined by the Court at sentencing, provided Defendant's conduct continues to reflect Defendant's acceptance of responsibility. Defendant understands it will be up to the Court at the time of sentencing to determine whether a reduction for acceptance of responsibility is appropriate.

16. **Criminal History Category.** The parties have no agreement about the Criminal History Category applicable in this case. Defendant understands that the Criminal History

Defendant's Initials PT

Plea Agreement of Paul R. Tomko – page 7 of 19

Category will be determined by the Court after the completion of a Pre-Sentence Investigation by the U.S. Probation Office.

**WAIVER OF APPEAL AND POST-CONVICTION ATTACK**

17. **Waiver of Appellate Rights.** Defendant acknowledges having been advised by counsel of Defendant's rights, in limited circumstances, to appeal the conviction or sentence in this case, including the appeal right conferred by 18 U.S.C. § 3742, and to challenge the conviction or sentence collaterally through a post-conviction proceeding, including a proceeding under 28 U.S.C. § 2255. Defendant expressly and voluntarily waives those rights, except as specifically reserved below. Defendant further expressly and voluntarily waives any right to appeal the loss amount and Sentencing Guidelines enhancement that this Court applies under § 2B1.1(b)(1) at sentencing as described in paragraph 14. Defendant reserves the right to appeal: (a) any punishment in excess of the statutory maximum; (b) any sentence to the extent it exceeds the greater of the maximum of the sentencing imprisonment range determined under the advisory Sentencing Guidelines in accordance with the sentencing stipulations and computations in this agreement, using the Criminal History Category found applicable by the Court; or (c) the Court's determination of Defendant's Criminal History Category. Nothing in this paragraph shall act as a bar to Defendant perfecting any legal remedies Defendant may otherwise have on appeal or collateral attack with respect to claims of ineffective assistance of counsel or prosecutorial misconduct.

18. **Waiver of Statute of Limitations.** Defendant waives all defenses based on the statute of limitations with respect to any prosecution that is not already time-barred by the applicable statute of limitation on the date of Defendant's signing of this agreement and that is commenced within one year after any of the following events: (1) Defendant fails to plead guilty

Defendant's Initials PT

Plea Agreement of Paul R. Tomko - page 8 of 19

at the plea proceeding or the Court refuses to accept a guilty plea by Defendant pursuant to this agreement; (2) the Court permits Defendant to withdraw a guilty plea entered pursuant to this agreement or otherwise vacates such a guilty plea; or (3) the conviction obtained pursuant to this agreement is vacated, overturned, or otherwise set aside. Defendant understands the waiver of the statute of limitations is effective immediately upon Defendant's signing of this agreement and is not conditioned upon the approval of this agreement by the Court.

**FACTUAL BASIS AND RELEVANT CONDUCT**

19. Defendant agrees that the following summary fairly and accurately sets forth Defendant's offense conduct and a factual basis for the guilty plea. Defendant further agrees that the facts set forth in the summary are true and could be established beyond a reasonable doubt if the case were to proceed to trial:

a. At all times material herein, Defendant resided in the Cleveland, Ohio area and owned and controlled OKMOT ("TOMKO" backwards) Real Estate Company, an Ohio company with its office located in Cleveland, Ohio. The purpose of OKMOT was to acquire properties in the Northern District of Ohio. Defendant recruited at least one buyer to purchase OKMOT properties and arranged to secure mortgage loans to finance the purchases of these properties.

b. At all times material herein, the HUD-1 Form was a form commonly used in real estate transactions, which form and its contents were developed by and within the jurisdiction of the United States Department of Housing and Urban Development ("HUD"), a department and agency of the United States and a part of the Executive Branch of United States government. The HUD-1 Form disclosed how the loan proceeds were disbursed and reflected whether any funds were provided by the borrower as a down payment on the purchase of the property.

*Defendant's Initials* 



Plea Agreement of Paul R. Tomko - page 9 of 19

e. From in or around August 2006 through at least April 2007, in the Northern District of Ohio, Eastern Division, and elsewhere, Defendant, and others, knowingly and voluntarily did conspire, confederate and agree together and with each other, and with others, to violate the laws of the United States, to wit: mail fraud in violation of Title 18, United States Code, Section 1341 and wire fraud, in violation of Title 18, United States Code, Section 1343.

d. The objects of the conspiracy were to devise a scheme to defraud and obtain money from mortgage lenders by means of false and fraudulent pretenses representations and promises, that is, by fraudulently inflating the price of real properties and financing the purchase of these properties through the use of false information submitted to the lending companies, as described herein, and by using interstate wire communications in furtherance of the scheme, in order to obtain loan proceeds with which Defendant could enrich himself.


e. It was part of the conspiracy that:

i. Defendant recruited A.G., who was Defendant's housekeeper, to apply for various loans from lenders to purchase OKMOT properties owned and controlled by Defendant, and others not charged herein.

ii. Defendant then caused to be prepared and submitted false and fraudulent mortgage loan applications which falsely inflated the income and assets of A.G. in order to qualify for the above-mentioned loans.

iii. Defendant then used a mortgage originating company that he controlled, The Mortgage House LLC, to originate and process the loans and collect fees based on the false and fraudulent mortgage loan applications.

iv. Defendant falsely directed, and caused to be directed, the disbursement of loan proceeds to various companies he owned and controlled to purportedly pay these companies for

*Defendant's Initials* 

Plea Agreement of Paul R. Tomko – page 10 of 19

improvements made to various properties, when, in fact, as Defendant then well knew, no such improvements were made.


v. In doing so, Defendant acted as an organizer, leader, manager, or supervisor of the criminal activity in that he exercised decision making authority, oversaw, planned and organized all aspects of the fraudulent mortgage application and loan disbursement process, and recruited accomplices.

vi. It was a part of the conspiracy that Defendant caused to be prepared and submitted, false loan applications, HUD-1 Forms, and other documents, for the following mortgage loans:

Date	Lender	Property	Amount of Loan
August 15, 2006	New Century Mortgage Corporation	2709 Wade Avenue, Cleveland, Ohio (the "Wade Property")	\$76,000.00
November 28, 2006	New Century Mortgage Corporation	1499 Lakewood Avenue, Lakewood, Ohio (the "Lakewood Property")	\$99,000.00
December 28, 2006	Saxon Mortgage Services, Inc.	1043 W. 18 <sup>th</sup> Street, Lorain, Ohio (the "W. 18 <sup>th</sup> Property")	\$62,050.00
April 24, 2007	Delta Funding Corp.	10741 Bellaire Rd., Cleveland, Ohio (the "Bellaire Property")	\$191,250.00 <sup>1</sup>

vii. It was a further part of the conspiracy that Defendant filed mechanics liens for work not performed and would direct funds from the closing of the above-mentioned loans to himself and companies that he owned and/or controlled. Specifically:

<sup>1</sup> In June 2008, there was a principal balance adjustment increase of \$11,136.74, thus totaling a principal balance of \$200,948.43 at that time.

Defendant's Initials 

Plea Agreement of Paul R. Tomko – page 11 of 19


1. On November 15, 2006, Defendant executed, and filed with the Cuyahoga County Recorder, an affidavit for mechanic's lien in the amount of \$31,069.69 for work allegedly performed by OKMOT at the Lakewood Property, when in truth and in fact, Defendant knew that no such work was performed or expenses incurred. At settlement, Defendant received a check for \$31,943.75 (which included interest or other costs) for the fraudulent mechanic's lien.

2. On December 27, 2006, Defendant executed, and filed with the Lorain County Recorder, an affidavit for mechanic's lien in the amount of \$29,175.29 for work allegedly performed by OKMOT at the W.18<sup>th</sup> Property, when in truth and in fact, Defendant knew that no such work was performed or expenses incurred. At settlement, Defendant received a wire for \$29,175.29 for the fraudulent mechanic's lien.

f. In furtherance of the conspiracy and to effect its unlawful objects, Defendant committed the following overt acts, among others, in the Northern District of Ohio, Eastern Division, and elsewhere:

i. On or about August 15, 2006, Defendant signed, or caused to be signed, and submitted, or caused to be submitted, the mortgage loan application and HUD-1 Form with New Century Mortgage Corporation, for the Wade Property, which contained information that he knew to be false. The Wade Property was foreclosed on September 4, 2008, and had an unpaid principal balance of approximately \$75,182.50 at that time.

ii. On or about November 28, 2006, Defendant signed, or caused to be signed, and submitted, or caused to be submitted, the mortgage loan application and HUD-1 Form with New Century Mortgage Corporation, for the Lakewood Property, which contained information that he knew to be false. At the time of foreclosure, the Lakewood Property had an

*Defendant's Initials* 

Plea Agreement of Paul R. Tomko -- page 12 of 19


unpaid principal balance of \$97,997.81.

iii. On or about December 28, 2006, Defendant signed, or caused to be signed, and submitted, or caused to be submitted, the mortgage loan application and HUD-1 Form with Saxon Mortgage Services, Inc., for the W. 18<sup>th</sup> Property, which contained information that he knew to be false. As of December 10, 2010, the W. 18<sup>th</sup> Property had an unpaid principal balance of \$61,087.21 while in foreclosure.

iv. On or about April 24, 2007, Defendant signed, or caused to be signed, and submitted, or caused to be submitted, the mortgage loan application and HUD-1 Form with Delta Funding Corporation for the Bellaire Property, which contained information that he knew to be false. At the time of foreclosure, the Bellaire Property had an unpaid principal balance of \$198,735.10.

g. From in or around August 2006 through in or around April 2007, in the Northern District of Ohio, Eastern Division, and elsewhere, Defendant, and others known and unknown, knowingly devised, and intended to devise, a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, from various lenders.

h. From in or around November 2006, to on or about December 28, 2007, for the purpose of executing such scheme and artifice, Defendant sent, and caused to be sent, by wire and radio communication, from the Northern District of Ohio, to Saxon Mortgage Services, Inc. in Fort Worth, Texas, various documents related to the application for a loan, which contained material information that he knew to be false, and wherein the lender sent by wire and radio communication loan documents and funds from its location outside the State of Ohio, to the Northern District of Ohio, to prepare and close on this loan. Specifically:

*Defendant's Initials* 


Plea Agreement of Paul R. Tomko – page 13 of 19

i. Interstate wires were used in the closing process for the purchase of the W. 18<sup>th</sup> Property, including a facsimile sent, or caused to be sent, by Defendant, on December 28, 2006, from American Title Services located in Niles, Ohio to Saxon Mortgage, located in Fort Worth, Texas. The contents of the facsimile were three pages of HUD-1 signed by the borrower, A.G., for the W. 18<sup>th</sup> Property, which contained material information that Defendant knew to be false.

ii. Interstate wires were used in the application process for the purchase of the W. 18<sup>th</sup> Property, including a facsimile sent, or caused to be sent, by Defendant, on December 11, 2006, from The Mortgage House, LLC, located in Middleburg Heights, Ohio, to Saxon Mortgage, located in Fort Worth, Texas. The contents of the facsimile were various underwriting documents containing information for borrower A.G. pertaining to loan number 12058690, including the Uniform Residential Loan Application for the W. 18<sup>th</sup> Property, which contained material information that Defendant knew to be false.

i. From in or around August 2006 through in or around April 2007, in the Northern District of Ohio, Eastern Division, and elsewhere, Defendant, and others known and unknown, knowingly devised, and intended to devise, a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, from various lenders.

j. From in or around March 2007, to on or about April 24, 2007, the exact dates being unknown, for the purpose of executing such scheme and artifice, Defendant sent, and caused to be sent, by wire and radio communication, from the Northern District of Ohio, to the Delta Funding Corporation in Woodbury, New York, various documents related to the application for a loan, which contained material information that he knew to be false, and

*Defendant's Initials* 

Plea Agreement of Paul R. Tomko - page 14 of 19

wherein the lender sent loan documents and funds from its location outside the State of Ohio, to the Northern District of Ohio, to prepare and close on this loan. Specifically:

i. Interstate wires were used in the application process for the purchase of the Bellaire Property, including a facsimile sent, or caused to be sent by, Defendant on March 12, 2007 from The Mortgage House, LLC, located in Middleburg Heights, Ohio to Delta Funding Corporation, located in Woodbury, New York. The contents of the facsimile were a purchase agreement executed between the purchaser, A.G., and the seller, Okmot Real Estate Company, which contained material information that Defendant knew to be false.

ii. Interstate wires were used in the closing process for the purchase of the Bellaire Property, including a \$50,399.45 wire transfer sent, or caused to be sent, by Defendant on April 24, 2007 from the US Bank account of Title Plus Services LLC, located in Fairview Park, Ohio, through the Federal Reserve Bank Fedwire Fund Service, located in New Jersey, to the Republic Bank account of Okmot Real Estate Company, located in Middleburg Heights, Ohio, which was made based on material information that Defendant knew to be false.

k. Beginning in or around March 2008 and continuing through in or around July 2009, in the Northern District of Ohio, Eastern Division, and elsewhere, Defendant, did knowingly and willfully misapply, steal and obtain by fraud, false statements and forgery, and attempt to obtain by fraud, false statements and forgery, for himself and for others, federal student loans and Grants funds, assets and property with a value of approximately \$3,050.00 provided and insured by the United States Department of Education pursuant to Title IV of the Higher Education Act of 1965, under subchapter IV of chapter 28, of Title 20 of the United States Code, and Part C of subchapter 1 of chapter 34 of Title 42 of the United States Code. Specifically:

*Defendant's Initials* P)

Plea Agreement of Paul R. Tomko – page 16 of 19

not set forth each and every fact that the USAO could prove at trial, nor does it encompass all of the acts which Defendant committed in furtherance of the offenses to which Defendant is pleading guilty.

#### RESTITUTION


21. **Restitution.** Defendant agrees to make full restitution as ordered by the Court pursuant to Title 18, United States Code, Section 3663A, or §3663 if §3663A is not applicable, on a joint and several basis payable immediately on such terms and conditions as the Court may impose, for the losses caused by Defendant's relevant conduct in this case, as defined under Guideline § 1B1.3. Defendant agrees not to seek the discharge of any restitution obligation, in whole or in part, in any present or future bankruptcy proceeding. Defendant understands that pursuant to 18 U.S.C. § 3664, the Court shall order the U.S. Probation Office to prepare a report containing information sufficient for the Court to fashion a restitution order. In preparing that report, the U.S. Probation Office may solicit the views of the USAO, Defendant, and any victim. Defendant understands that victims have the right to present their position on restitution directly to the Court at the time of sentencing.

#### OTHER PROVISIONS

22. **Financial Statement.** Defendant agrees to submit to the USAO, prior to the date of sentencing, a complete and accurate financial statement on government form CMS-379.

23. **The Parties are Free to Advise the Court about Matters Not Expressly Addressed.** This agreement is silent about all aspects of the determination of sentence not expressly addressed herein, and the parties are free to advise the Court of facts and to make recommendations to the Court with respect to all aspects of sentencing not agreed to herein.

24. **Sentencing Recommendations Not Binding on the Court.** Defendant

*Defendant's Initials* 

Plea Agreement of Paul R. Tomko -- page 17 of 19

understands that the recommendations of the parties will not be binding upon the Court, that the Court alone will decide the advisory guideline range under the Sentencing Guidelines, whether there is any basis to depart from that range or impose a sentence outside the advisory guideline range, and what sentence to impose. Defendant further understands that once the Court has accepted Defendant's guilty plea, Defendant will not have the right to withdraw such a plea if the Court does not accept any sentencing recommendations made on Defendant's behalf or if Defendant is otherwise dissatisfied with the sentence.

25. **Consequences of Breaching the Plea Agreement.** Defendant understands that if Defendant breaches any promise in this agreement or if Defendant's guilty plea is rejected by the Court or is vacated or set aside, the USAO will be released from all of its obligations under this agreement and may institute or maintain any charges and make any recommendations with respect to sentencing that otherwise would be prohibited under the terms of the agreement. Defendant understands, however, that a breach of the agreement by Defendant will not entitle Defendant to withdraw, vacate, or set aside Defendant's guilty plea or conviction.

26. **Agreement not Binding on other Jurisdictions and Agencies.** Defendant understands that this plea agreement is binding only on the United States Attorney's Office for the Northern District of Ohio. It does not bind any other United States Attorney, any other federal agency, or any state or local government.

27. **Defendant is Satisfied with Assistance of Counsel.** Defendant makes the following truthful statements: I have discussed this case and this plea agreement in detail with my attorney who has advised me of my Constitutional and other trial and appeal rights, the nature of the charges, the elements of the offenses the United States would have to prove at trial, the evidence the United States would present at such trial, possible defenses, the advisory

Defendant's Initials PT



Plea Agreement of Paul R. Tomko – page 18 of 19

Sentencing Guidelines and other aspects of sentencing, and other potential consequences of pleading guilty in this case. I have had sufficient time and opportunity to discuss all aspects of the case in detail with my attorney and have told my attorney everything I know about the charges, any defenses I may have to the charges, and all personal and financial circumstances in possible mitigation of sentence. I am satisfied with the legal services and advice provided to me by my attorney.

28. **Agreement Is Complete and Voluntarily Entered.** Defendant and Defendant's undersigned attorney state that this agreement is the entire agreement between Defendant and the USAO and that no other promises or inducements have been made, directly or indirectly, by any agent or representative of the United States government concerning any plea to be entered in this case. In particular, no promises or agreements have been made with respect to any actual or prospective civil or administrative proceedings or actions involving Defendant, except as expressly stated herein. In addition, Defendant states that no person has threatened or coerced Defendant to do or to refrain from doing anything in connection with this case, including Defendant's decision to enter a guilty plea. Finally, Defendant acknowledges that this agreement cannot be modified unless in writing and subject to approval by the Court.

Defendant's Initials PT



# Exhibit C



# Jimmy Dimora released from prison, on home confinement in Northeast Ohio

Ideastream Public Media | By Matthew Richmond, Glenn Forbes

Published June 9, 2023 at 5:46 PM EDT



U.S. Department Of Justice



Former Cuyahoga County Auditor Frank Russo and dozens of Cuyahoga County officials, judges, contractors and more on corruption-related charges. Russo died in April, 2022.

Former Cuyahoga County Commissioner Jimmy Dimora has been released from federal prison and is living with family.

A source tells Ideastream Public Media the 67-year-old Dimora is living in Northeast Ohio, 11 years after he was convicted on 32 corruption counts.

According to the Bureau of Prisons, Dimora was transferred on June 7 from the

Federal Medical Center Devens in Massachusetts to the oversight of the Cincinnati Residential Reentry Management Office. His sentence ends in November of 2030.

Last year, his 28-year sentence was reduced to 23 years on appeal. His attorneys had sought to have the entire conviction thrown out based on a new, narrower definition of political corruption. His attorneys also argued for early release based on deteriorating health.

In a court filing, Dimora's attorney listed a heart defect, intestinal disorder, an inner-ear equilibrium problem, a stroke, a needed knee replacement and two bouts with COVID-19 as reason for his release. Dimora is also in a wheelchair.

Dimora and former Auditor Frank Russo were at the top of a corruption scheme in the county that saw dozens of convictions. Russo was released from prison in 2020 due to COVID-19 concerns and died last year at the age of 72.

During his 37-day trial in 2012, the scope of Dimora's corruption was laid bare. While serving as county commissioner from 1998 to 2010, he accepted meals, home improvements, gambling trips and cash in exchange for his influence. Prosecutors estimate that Dimora took in a total of \$250,000 in bribes.

Russo cooperated with prosecutors and was sentenced to 14 years in prison.

**Tags**

Government & Politics

Cuyahoga County

Jimmy Dimora



---

# Exhibit D

---



Subscribe

Advertisement

**CUYAHOGA COUNTY INSIDER**

## **Frank Russo, disgraced former Cuyahoga County auditor, dies**

Published: Apr. 02, 2022, 9:27 p.m.





By [Kaylee Remington, cleveland.com](#)

CLEVELAND, Ohio -- Frank Russo, the disgraced former Cuyahoga County auditor, has died at 72, sources confirmed.

His cause of death was not made available, but those close to him said that Russo had many medical problems, including diabetes and heart problems. His poor health and age were the sole reasons that Russo died outside the walls of a federal penitentiary.

"Frank was a kind and generous soul," said his longtime attorney, Roger Synenberg. "He deserves the peace that he now has."

Russo began his life in politics at the age of 23 in 1974 as a member of Mayfield Heights Council. Ten years later, he became the county recorder. In 1997, he was appointed to the job of county auditor.

Then-U.S. District Judge Kate O'Malley sentenced Russo to 22 years in federal prison in December 2010 for his role in the Cuyahoga County corruption scandal. His good friend, Commissioner Jimmy Dimora, was later sentenced to 28 years after a jury convicted him of federal corruption charges.

Russo was among dozens of people charged and convicted in the sprawling corruption investigation that changed the way county government functioned.

In 2019, Russo's sentence was reduced by nearly eight years because he cooperated with federal officials. He also was ordered to pay nearly \$7 million in restitution.

Russo was released the following year as part of a Federal Bureau of Prisons program to release older inmates who had health issues. The goal was to reduce the risk of getting coronavirus.

He returned to Northeast Ohio, though authorities continued to monitor his movements.

Prosecutors said he and Dimora ran a political machine built on bribes, where the county officials accepted payments, dinners and gifts in exchange for contracts and jobs.

Russo served as the auditor until 2010. He pleaded guilty to federal crimes that year and said that he and others took more than \$1 million in bribes, gifts and trips.

Unlike Dimora, who went to trial, Russo cooperated with federal prosecutors and admitted to his crimes. As a result, he testified at the 2012 trial against Dimora, the former county Democratic Party chairman and county commissioner.

Russo never explained his motivation for deciding to cooperate with the government and testify against Dimora. During his 2010 sentencing, he apologized to his family, friends, and the public.

"My brothers and I were brought up to be honest and always act in an ethical way," he read from a prepared statement. "I cannot identify the exact time that I strayed from this directive, but there came a point in time in my life when I made a decision to act in a fashion that I can now say was terribly wrong, which I truly regret."

He added: "My decision to accept money and gifts is a decision I will have to live with for the rest of my life."

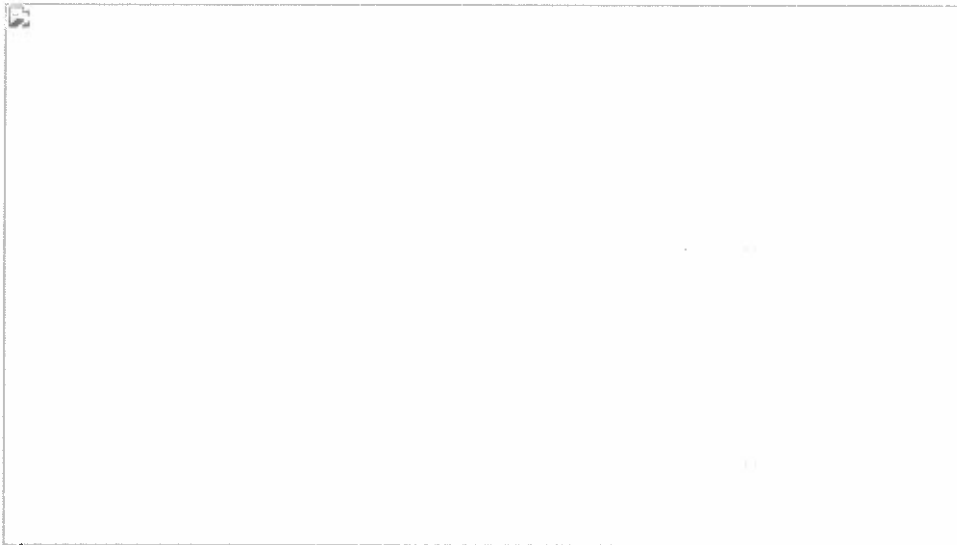


# Exhibit E

INVESTIGATIONS

# Investigator | Sentence still not reduced for corruption snitch Frank Russo

In return for his help, federal prosecutors were asked to petition the court to reduce Russo's 22-year sentence.



Frank Russo

Author: Tom Meyer (WKYC)  
Published: 11:32 PM EST January 9, 2015  
Updated: 11:32 PM EST January 9, 2015



CLEVELAND, Ohio -- Former Cuyahoga County Auditor Frank Russo's damaging testimony helped put away his long-time buddy, former Cuyahoga County Commissioner Jimmy Dimora, and a couple of Cuyahoga County common pleas judges.

In return for his help, federal prosecutors were asked to petition the court to reduce Russo's 22-year sentence. Russo has been locked up for more than two years, and still there's been no hearing on the sentence reduction.

"I think it could be read into that they (federal prosecutors) may not be done with the investigation or they're not ready to close it yet, and they don't want to shut the door on Frank Russo's information and availability," said Dean Valore, a former federal prosecutor and law professor.

Rule 35 allows for a sentence modification for a defendant's cooperation and testimony. Federal prosecutors say U.S. District Court Judge Sara Lioi simply hasn't scheduled the hearing yet.

WKYC would like to send you push notifications about the latest news and weather.

Notifications can be turned off anytime in the browser settings.

No Thanks

ALLOW



IN OTHER NEWS

Cedar Point ordered by Ohio Supreme Court to turn over police records to WKYC, TEGNA sister stations

But Valore says it's up to prosecutors to push the issue and to get the hearing scheduled. Valore believes prosecutors aren't prepared to present evidence that would lead to a shorter sentence for the former county auditor.

"There may be some loose ends that need tightening," said Valore. "It's an unusually long time for the motion for a Rule 35 hearing to be pending."

Russo remains locked up in a federal prison in Loretto, Pa.



Follow *The Investigator Tom Meyer* on Twitter: [@tommeyerWKYC](#)

**WKYC would like to send you push notifications about the latest news and weather.**

Notifications can be turned off anytime in the browser settings.

LOADING NEXT ARTICLE...



**Fox 8 News**   
March 22, 2011 · 



Frank Russo testimony, "I wound up being a horrible person in public office."

FOX8.COM

### Former Auditor Russo Takes Stand in McCafferty Corruption Trial

A key witness in the trial of Bridget McCafferty, a former judge accused of lying to federal age...

 11

15 

 Like

 Comment

 Share

Most relevant 



**Collin Oscar Barrows**  
whats going on with Dick Godared?

12y Like



**Patricia Ellis**  
Ya Think?

12y Like



**Steve Nagy III**  
Im sure he was a horrible person long b4 he got into oublic office.

12y Like



**Adam Cramer**  
Now he's gonna get butt raped, Ahhhhh what a thought. Frank Russo's gonna go to jail and be someone's bitch lol.

12y Like



**Lori Ann**  
i hope Bridget gets off we know her and she's a nice person...

12y Like



**Cathy Ruther**  
If the Indians were smart they would bring Charlie Sheen in, in full major league outfit and have him throw the first pitch... It would be a win win situation! 😊  
Oh and while playing Wild Thing of course

12y Like



**Paul Larkin**  
If those who have been caught doing something wrong and never lied to protect yourself from guilt do come forward.

12y Like



**Paul Larkin**  
Corruption is a wave of events that begins with one wrongdoing and becomes a chain reaction till it can no longer be fixed without one person coming forward. Somebody did and that is when the FBI went into this investigation. I don't blame one person ... [See more](#)

12y Like



**Gary Michalosky**

WMAZ would like to send you push notifications about the latest news and weather.

Notifications can be turned off anytime in the browser settings.

No Thanks

ALLOW

WENDEL-ON-THE-WEB

## Frank Russo marks 2 years in prison on Sunday

Wendel on the Web is WKYC reporter/producer Kim Wendel's "take" and commentary on the news of the day



Wendel on the Web

Author: Kim Wendel and WKYC (WKYC)  
Published: 4:40 PM EST December 31, 2014  
Updated: 4:40 PM EST December 31, 2014



So, did you spend Saturday watching Notre Dame, Alabama and Florida State football games? Notre Dame lost but Alabama beat the Mississippi State Bulldogs, by the way.

Do you wonder which football games inmates watch in prison? Well, I do.

Sunday marks the two-year anniversary of the day that former Cuyahoga County Auditor Frank Russo entered the Federal Correctional Institution in Loretto, Pa. Just before noon that day two years ago, Russo and his domestic partner Michael Calabrese drove to the prison in a white Mercedes.



IN OTHER NEWS

Miss Macon brings Christmas cheer to patients at Piedmont Macon

Except for 66 days in the Cuyahoga County Jail in late September, 2013 through Nov. 22, 2014 as he allegedly testified before a grand jury, Russo has spent the last two years in federal prison.

To review, the FBI went public on July 28, 2008 with its investigation into corruption in Cuyahoga County when 200 FBI and ATF agents raided county offices, private businesses the homes of county officials.

Russo, of Mayfield Heights, resigned as auditor on Sept. 9, 2010, then pleaded guilty to 21 crimes soon afterwards. He also testified against a myriad of other corruption defendants before heading off to Loretto. Russo reached a plea deal with federal prosecutors and was sentenced to almost 22 years in prison.

Early on, Russo asked U.S. District Court Judge Sara Lioi for a Rule 35 -- a reduction in his sentence for his cooperation and testimony in the probe. I called Russo's attorney Roger Synenberg this week and asked when her ruling on that might occur. Synenberg said "It's up to the judge."

At his sentencing, Russo said, "I've regret what I've done, I'm very, truly sorry for what I've done with my heart, but if you look back, there's nothing I can do about it. What I can do is make a difference in the future."

So Russo will spend another Thanksgiving in prison eating prison fare. And on Dec. 9, he will celebrate his 65th birthday.

And what about his infamous partner-in-crime Jimmy Dimora, a former Cuyahoga County commissioner and former head of the Cuyahoga County Democratic Party? Well, he is now in sunny California?

Dimora was arrested at his home on Sept. 15, 2010. Dimora, of Independence, who turned 59 in June, had a seven-week trial (where Russo testified against him) and was found guilty on March 9, 2012 on 31 counts.

Lioi subsequently sentenced him to 27 years and 11 months in prison.

Like Russo, Dimora was also in the Cuyahoga County Jail in the fall of 2013, allegedly testifying before a grand jury.

But I digress.

Dimora began serving that sentence in FCI Gilmer in Glensville, West Virginia. (Once convicted, he was held in the Northeast Ohio Corrections Institution in Youngstown until he was sentenced.)

On March 14, 2014, he was moved from Gilmer to a federal prison in Victorville, California. When asked, a U.S. Bureau of Prisons spokesman declined to cite the reason for the move but said inmates are moved for a variety of reasons, including judicial requests, security, special medical needs, psychological issues, the inmate's protection or a disciplinary reason.

That puts Dimora thousands of miles from his family at Thanksgiving. And too add insult to injury, on April 30, 2014, the Sixth Circuit Court of Appeals upheld his conviction and sentence. So, he appealed to the U.S. Supreme Court.

On Oct. 6, 2014, the Supremes declined to hear his appeal. The old adage "Oh, how the mighty have fallen" seems appropriate.

**WMAZ would like to send you push notifications about the latest news and weather.**

Notifications can be turned off anytime in the browser settings.

# United States v. Russo (1:10-cr-00384)

## District Court, N.D. Ohio

Last Updated: Nov. 6, 2021, 2:51 a.m.

Assigned To: Sara Elizabeth Lioi (/person/1943/sara-elizabeth-lioi/)

Citation: United States v. Russo, 1:10-cr-00384, (N.D. Ohio)

Date Filed: Sept. 9, 2010

Date Terminated: Dec. 29, 2010

Date of Last Known Filing: Feb. 21, 2019

[Docket Entries \(/docket/4360041/united-states-v-russo/\)](/docket/4360041/united-states-v-russo/)

[Parties and Attorneys \(/docket/4360041/parties/united-states-v-russo/\)](/docket/4360041/parties/united-states-v-russo/)

Search this docket

**Filed** **Documents**

MM/DD/YYYY

to

MM/DD/YYYY

	Date Filed	Description
1	Sep 9, 2010	Information filed by USA as to Frank P. Russo (1) count(s) 1-2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17-21. (Attachments: # 1 Proposed Waiver of Indictment, # 2 Designation Form) (B,B) (Entered: 09/09/2010)
		Main Doc
	Sep 9, 2010	Random Assignment of Magistrate Judge pursuant to Local Criminal Rule 57.9. In the event of a referral, case will be assigned to Magistrate Judge George J. Limbert. (B,B)
2	Sep 9, 2010	Notice of Related Case as to Frank P. Russo (Rowland, Ann) (Entered: 09/09/2010)
		Main Doc
3	Sep 9, 2010	Order: The government has filed a notice of related case (Doc. No. 2 ) advising that this case is directly related to four criminal cases which have been assigned to Judge Kathleen M. O'Malley. Pursuant to Local Criminal Rule 57.9, and with the concurrence of the transferor and transferee judges, this case is deemed related and is hereby transferred from the docket of Judge Sara Lioi to the docket of Judge Kathleen M. O'Malley. Approved by Judge Sara Lioi on 9/9/2010. Approved by Judge Kathleen M. O'Malley on 9/9/2010. (P,J) (Entered: 09/09/2010)
		Main Doc

Minutes of proceedings [non-document] before Judge Sara Lioi. On February 21, 2019, the Court conducted a hearing to consider whether defendant Russo is entitled to a sentence reduction for providing substantial assistance and, if so, the value of the substantial assistance. Present for the government were Assistant U.S. Attorney Megan Miller and Associate Deputy Attorney General Antoinette Bacon. Present for the defendant were Attorneys Roger Synenberg, Clare Moran, and Matthew Kurz. Defendant Frank Russo participated via video conference. FBI Special Agent Michael Massey was also present. After hearing arguments from counsel regarding the government's motion to reduce defendant's sentence pursuant to Rule 35 (Doc. No. 28 ), the Court granted the motion, and reduced defendant Russo's guideline sentencing range by 4 levels, from a level 39 to a level 35, and imposed a reduced sentence of 168 months in the custody of the Bureau of Prisons, to be followed by 3 years of supervised release under the same terms and conditions as previously ordered. A second amended judgment will be issued. Additionally, the Court will recommend to the Bureau of Prisons, upon the request of defendant Russo, that he serve the remainder of his sentence at the Federal Medical Center in Butner, NC. At the conclusion of the hearing, defendant Russo was advised of his right to appeal. (Court Reporter: Lori Callahan) (Time: 2 hours; 15 minutes)(P,J)

58 Feb 21, 2019

Second Amended Judgment as to Frank P. Russo (1). 168 months as to count 1; 22 months as to count 2; 168 months as to counts 4-14 and 16, 60 months as to counts 3 & 15, and 36 months as to counts 17-21. All counts are to be served concurrently with each other, for a total sentence of 168 months. The Court recommends that the defendant serve the remainder of his sentence at FMC Butner, NC. 3 years supervised release. \$6,961,905.00 restitution, joint and several. \$2100.00 special assessment. Judge Sara Lioi on 2/21/2019. (P,J) (Entered: 02/21/2019)

Main Doc



ADVERTISEMENT

## Frank Russo wraps up testimony in Judge Terry's corruption trial

Published: Jun. 8, 2011 at 12:55 PM EDT | Updated: Jun. 8, 2011 at 1:01 PM EDT



AKRON, OH (WOIO) - The corruption trial for Judge Steven Terry continues today in Akron Federal Court.

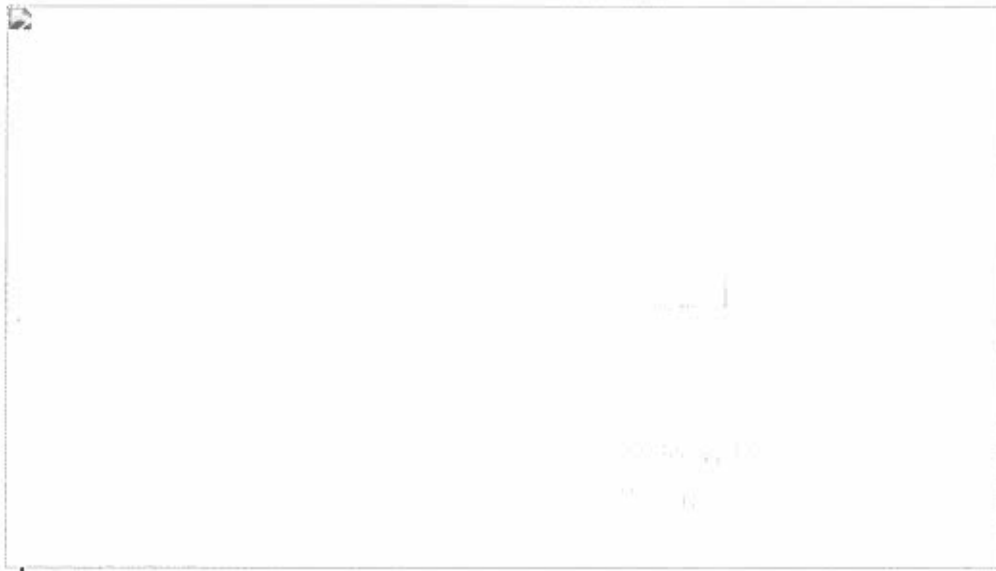
Terry is accused of making rulings at the request of former Cuyahoga County Auditor Frank Russo.

Russo completed his testimony on Tuesday, and claims Terry fixed cases for him in return for political favors. Terry's lawyers tried to portray Russo as a liar, and said he was only testifying in order to reduce his 21-year prison sentence for taking bribes.

INVESTIGATIONS

# Dimora trial: Star witness Frank Russo takes the stand

Jimmy Dimora's closest political ally and best friend Frank Russo takes the stand as a prosecution witness against Dimora



Author: Kimberly A Wendel  
Published: 8:48 AM EST February 14, 2012  
Updated: 8:48 AM EST February 14, 2012



▶ 00:00 / 00:00 ◀x

IN OTHER NEWS

**Cedar Point ordered by Oh Supreme Court to turn over police records to WKYC, TEGNA sister stations**

AKRON -- Jimmy Dimora's closest political ally and best friend Frank Russo takes the stand as a prosecution witness against Dimora.

Russo took the stand just before 9 a.m. and began detailing his times with Dimora, starting with the two men's rise to county power in 1998 when Russo was elected county auditor and Dimora

was elected county commissioner.

Sponsored Links

## **Man Thinks He Saved A 'Puppy' - Vet Falls Silent When He Realizes What It Really Is**

[daily-story.com](http://daily-story.com)

Stay with wkyc.com and Channel 3 News for updates on his testimony throughout the day.

Russo has already pleaded guilty to 21 charges and has been sentenced to 22 years in prison. He has a plea agreement with prosecutors to testify against other defendants.

Assistant U.S. Attorney Antoinette Bacon asked Russo if he got "to know Commissioner Dimora's hobbies and interests in the years 2002 through 2008."

Russo said "Jimmy loved his back yard, that was his hobby, the love of his life, it was the number one thing in his life...."

He continued that "the second thing was fine food and fine alcohol...big thick steaks, Crown Royal....and Jimmy liked cash from people....and Jimmy liked pretty girls and prostitutes."

He was asked if he ever saw Jimmy Dimora sponsor a dinner?

"No, I didn't," Russo replied.

By the year 2002, who was in the "in-crowd" group you have been describing?

"Jimmy Dimora and me, Frank Russo, J. Kevin Kelley, Rob Rybak, Steve Pumper, Mike Gabor, who arrived in the group in 2002, Michael Forlani, and Jerry Skruhovec..." Russo said.

Russo was asked that, until May 23, 2008, who served as sponsors when you and Commissioner Dimora were out to dinner?

"Three or four nights a week, or sometimes lunches, we went out....and sponsors paid for them. From 2002 through May 23, 2008, Kevin Kelley, Steve Pumper, Rob Rybak and Michael Forlani were sponsors."

"I never saw Jimmy sponsor a dinner....they were almost all at very high-end exclusive restaurants."

He was asked who he saw drinking at those dinners?

He replied, "Jimmy Dimora, Mike Gabor, Kevin Kelley, Steve Pumper, Mike Forlani...."

Russo was asked what were the benefits of being a sponsor?

"They would get personal attention on anything they needed...it was the Italian heritage, you take care of me, I take care of you....sponsors get special treatment...if sponsor was a contractor, they could get help on the (commissioners') agenda..."



Protect Your Kids: All Politicians are  
MANIPULATING Your KIDS! (They're not  
even REAL)

FEATURED BY

"Once at a dinner XO downtown in the spring of 2008....there were 8 to 10 people I didn't know....my brother was having a fundraiser across the street,...so myself, Michale Calabrese and Jerry Springer and Rosemary Vinci walked across the street to XO...then Jimmy and Michael Gabor showed up...the drinks were flowing... "

## Neuropathy Gurus Amazed by New Device

Health Insight Journal | Sponsored

[Learn More](#)

## Here Are 23 Of The Coolest Gifts For 2024

23 Hottest Cool Gifts For 2024 You'll Regret Not Getting Before They Sell Out

Best Tech Trend | Sponsored

[Learn More](#)

## Brain Scan Uncovers The Real Root Cause Of Ear Ringing

Healthy Guru | Sponsored

## Amazon Hates When You Do This, But They Can't Stop You (It's Genius)

This can save tons of money on Amazon, but most Prime members are ignoring it.

Online Shopping Tools | Sponsored

## The Future of Knee Pain Relief is Here – Are You Ready?

Health Insight Journal | Sponsored

[Learn More](#)

## Here's What a New Walk-in Shower Should Cost In 2023

Enter your ZIP code and answer a few questions about your current bathroom setup.

Homebuddy | Sponsored

[Learn More](#)

ADVERTISEMENT



Joel Osteen - Sunday Mornings at  
8:30AM on Cleveland 19 WOIO



EXPAND

## Judge reduces prison sentence for former Cuyahoga County auditor Frank Russo by 8 years



Courtroom sketch showing Frank Russo (Source: WOIO)

By Chris Anderson

Updated: Feb. 21, 2019 at 1:30 PM EST



AKRON, OH (WOIO) - Former Cuyahoga County auditor Frank Russo appeared in federal court Thursday morning to request a reduced prison sentence.

Judge Sara Lioi heard arguments on how Russo should receive a reduced sentence because of his cooperation during the Cuyahoga County corruption investigation handled by the FBI and IRS.



Facebook Watch

Russo, now 69 years old, was initially sentenced to 22 years in 2012. He was also ordered to pay more than \$7 million in restitution fees.

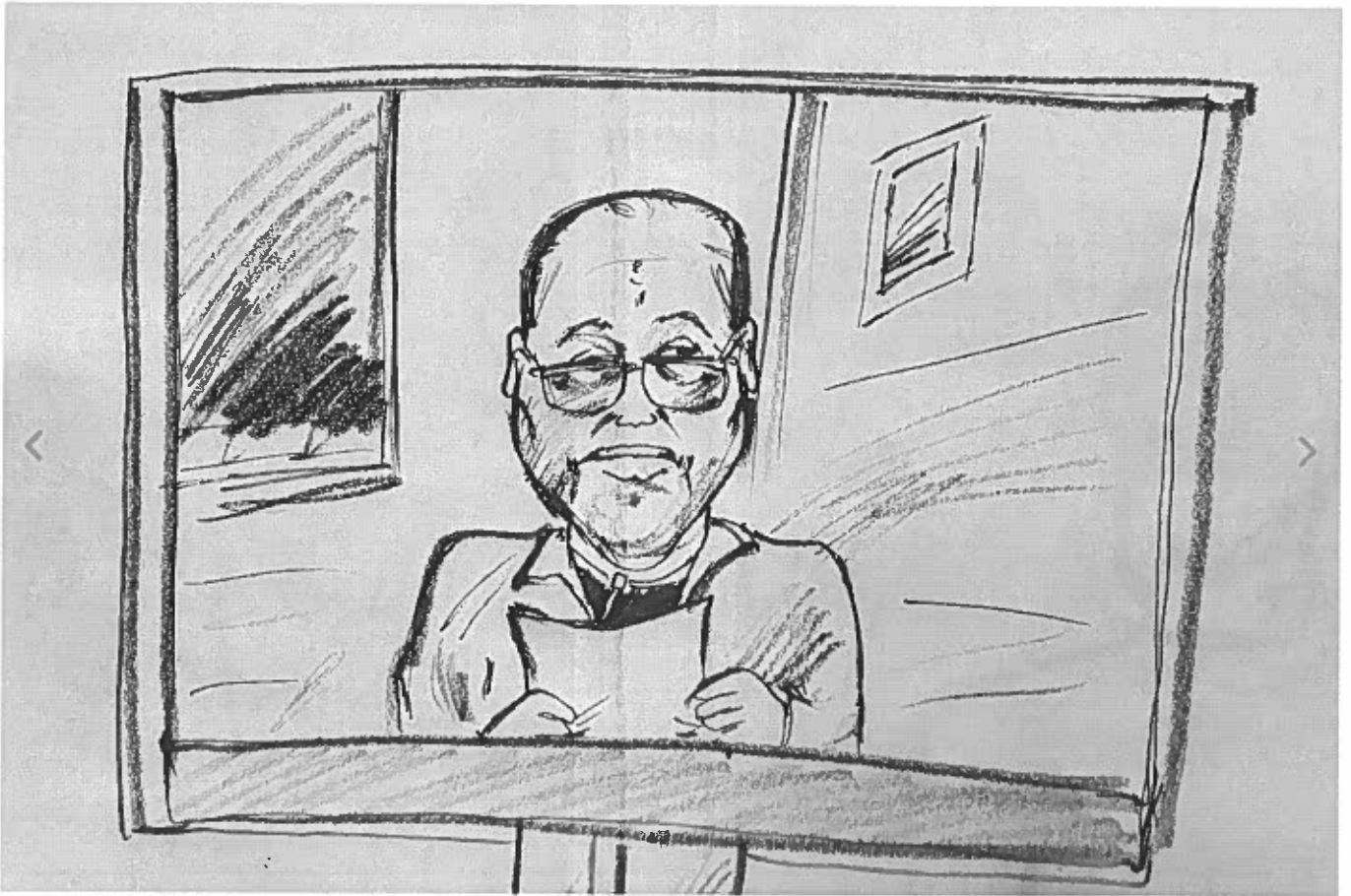
During Thursday's hearing that lasted more than two hours, Judge Lioi reduced his sentence by eight years. That means Russo will serve eight more years on top of the six that he has already spent behind bars.

ADVERTISEMENT

Cameras were not allowed in the federal courtroom, but a Cleveland 19 News artist provided sketches during the judicial proceedings.

▶ Autoplay

1 of 7 ◀ ▶



Frank Russo courtroom sketches (Source: WOIO)

The former executive appeared via video conference for Thursday's hearing from a prison medical facility in Massachusetts. Cleveland 19 News reporter Paul Orlousky, who was in the courtroom, said Russo appeared frail and inhaled oxygen from a machine at one point during the hearing.

Russo previously testified against former Cuyahoga County commissioner Jimmy Dimora, stating that they took more than \$1 million in bribes and gifts in exchange for county contracts and jobs.

ADVERTISEMENT

*This story will be updated.*

*Copyright 2019 WOIO. All rights reserved.*

12 10:10 PM  
K 10:10 PM  
10:10 PM

---

# Exhibit F



FEDERAL BUREAU OF INVESTIGATION

Date of transcription 04/06/2010

b6  
b7C

On April 6, 2010, at 3:35pm, Special Agent [redacted] [redacted] accepted a box of documents which were being held at the United States Attorney's Office. The documents were originally provided by [redacted] to Special Agent [redacted] of Alcohol Tobacco and Firearms (ATF).

At 4:04 pm, SA [redacted] delivered these documents to the Cuyahoga County Mortgage Fraud Task Force, for scanning and to be turned over for evidence.

b6  
b7C

On March 16, 2010, these documents were brought to a meeting held at the United States Attorney's Office. Present at the meeting were SA [redacted] and [redacted] of the ATF, SA [redacted] and Assistant United States Attorney [redacted]. The documents were placed in storage at the conclusion of this meeting.

X/1/16  
b  
b

The documents turned over to the MFTF included [redacted]  
[redacted]

b6  
b7C

Investigation on 04/06/2010 at Cleveland, Ohio

File # 329E-CV-71645-179

Date dictated

by SA [redacted]

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

EXHIBIT f

CAJdk01.302



## Cleveland Division

Home • Cleveland • Press Releases • 2010 • Three Charged in Mortgage Fraud Scheme

### Three Charged in Mortgage Fraud Scheme

**U.S. Attorney's Office**  
February 23, 2010

**Northern District of Ohio**  
(216) 622-3600

Steven M. Dettelbach, United States Attorney for the Northern District of Ohio, announced that an information has been filed charging Anthony Capuozzo, Nicholas Myles, and Kathryn Clover with two counts of conspiracy. According to court records, Anthony Capuozzo, age 39, currently resides in Concord, Ohio; Nicholas Myles, age 38, currently resides in Mayfield, Ohio; and Kathryn Clover, age 30, currently resides in Olmsted Falls, Ohio.

The information alleges that during the period from about June 2005 through April 2006, Capuozzo, Myles, and Clover conspired with previously indicted defendants Uri Gofman, Anthony Viola, Gennadiy Simkhovich, Dave Pirichy, Howard Siefert, Jr., Noah Bloch, and Paul A. Lesniak to purchase 34 properties in the Cleveland area for over \$2 million, of which 15 properties were purchased in Clover's name and 19 properties were purchased in Lesniak's name. The information further alleges that as part of their conspiracy, Clover and Lesniak completed and submitted false and fraudulent loan applications with the assistance of Myles and Pirichy, mortgage brokers for Central National Mortgage, LLC. The applications falsified employment, overstated income, overstated assets, falsified intent to occupy the property and concealed the source of the down-payment funds, which were in fact provided by Uri Gofman and Gennadiy Simkhovich through their company, Real Asset Fund, LLC, in order to obtain the financing to purchase the properties. The information alleges that Capuozzo, a licensed title agent through the State of Ohio and an owner of Family Title Service, Inc. and Howard Siefert, Jr., an employee of Family Title, served as the title agency on the properties and conspired with defendants Uri Gofman, Anthony Viola and Gennadiy Simkhovich to allow the mortgage loan proceeds to be fraudulently and improperly distributed. The information alleges that the defendants did all of this in order to deceive and defraud Long Beach Mortgage Company, Argent Mortgage Company, LLC, and Mortgage IT, Inc. into funding the mortgage loans.

The defendants' sentences will be determined by the court after review of factors unique to this case, including the defendants' prior criminal records, if any, each defendant's role in the offense, and the characteristics of the violation. In all cases the sentences will not exceed the statutory maximum and in most cases it will be less than the maximum.

This case is being prosecuted by Assistant United States Attorney Mark S. Bennett, following an investigation by the Cleveland Divisions of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the Federal Bureau of Investigation (FBI), and in conjunction with the Cuyahoga County Mortgage Fraud Task Force.

United States Attorney Steven M. Dettelbach stated that "Mortgage fraud has had a devastatingly negative impact on our community and, unfortunately, is continuing to happen. Our office has committed that one of our top priorities, along with our law enforcement partners, is to find and prosecute the perpetrators of mortgage fraud in order to eliminate it."

An information is only a charge and is not evidence of guilt. Defendants are entitled to a fair trial in which it will be the government's burden to prove guilt beyond a reasonable doubt.

This content has been reproduced from its original source.

Accessibility | eRulemaking | Freedom of Information Act | Legal Notices | Legal Policies and Disclaimers | Links | Privacy Policy | USA.gov | White House  
FBI.gov is an official site of the U.S. government, U.S. Department of Justice

Close

#### Cleveland Division Links

##### Cleveland Home

##### Contact Us

- Overview
- Territory/Jurisdiction

##### News and Outreach

- Press Room | Stories
- In Your Community

##### About Us

- Our People & Capabilities
- What We Investigate
- Our Partnerships
- Cleveland History

##### Wanted by the FBI - Cleveland

##### FBI Jobs





THE COURT OF COMMON PLEAS

COUNTY OF CUYAHOGA

JUSTICE CENTER

1200 ONTARIO STREET

CLEVELAND, OHIO 44113

DANIEL GAUL

Judge

(216) 443-8706

February 17, 2017

Anthony L. Viola - ID #32238-160  
McKean Federal Correctional Institution  
P.O. Box 8000  
Bradford, PA 16701

Dear Tony:

I hope you are as well as a person can be in federal prison.

Just thought I would write to express my feelings of regret on your continued incarceration. I had hoped that your exoneration in my courtroom would have assisted you in overturning your federal conviction.

In any case, I am writing to inform you that there is a newly elected Cuyahoga County Prosecutor. His name is Mike O'Malley. His office may be willing to take a fresh look at Daniel Kasaris' misconduct in your case. If Kasaris participated in your federal case, O'Malley's office may be able to intervene, or at least support a post-release remedy before Judge Nugent.

Anyway, this is just a thought. Please let me know if I may assist you in any way.

I regard you as an extremely decent man and I do hope you will have your conviction overturned.

Sincerely,

Daniel Gaul  
Judge

DG/mtl

IN THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

ANTHONY L. VIOLA,

Plaintiff-Appellant,

v.

U.S. DEPARTMENT OF JUSTICE, FEDERAL  
BUREAU OF INVESTIGATION; U.S. DEPART-  
MENT OF JUSTICE, EXECUTIVE OFFICE FOR  
U.S. ATTORNEYS; CUYAHOGA COUNTY  
MORTGAGE FRAUD TASK FORCE; and  
KATHRYN CLOVER,

Defendants-Appellees.

No. 18-2573

**FEDERAL DEFENDANTS' MOTION TO EXPAND THE SCOPE OF  
THE PARTIAL REMAND**

In this Freedom of Information Act (FOIA) action, plaintiff Anthony L. Viola seeks records from the Federal Bureau of Investigation (FBI), the Executive Office for U.S. Attorneys (EOUSA), and the Cuyahoga County Mortgage Fraud Task Force. In October 2019, counsel for the federal defendants discovered that the *Vaughn* index submitted to the district court in support of EOUSA's withholdings contained inaccuracies. The federal defendants therefore requested a partial remand to allow EOUSA to reprocess responsive records and submit a new *Vaughn* index and declaration to the district court. The other parties to this appeal did not oppose the motion, and this Court granted it on October 31, 2019.

When EOUSA reprocessed the responsive records on remand from this Court, it referred to the FBI a number of records for which the FBI was the custodian. When the FBI received those records, it discovered that they had not been processed during the initial phase of district court litigation. The FBI investigated why the records were not initially processed and found that, when it had initially searched for and gathered records, it had inadvertently failed to obtain all portions of the responsive records. The FBI thus determined that, in addition to the records referred from EOUSA, it must now process the previously unprocessed responsive records within its own investigative files. The FBI intends to process the additional records expeditiously and then to provide the district court with a supplemental declaration and *Vaughn* index.

Because the federal defendants' motion for a partial remand asked for a remand only as to EOUSA, not the FBI—and because this Court granted the motion without saying anything further about the scope of the remand—it appears that the district court may currently lack jurisdiction to consider a supplemental declaration and *Vaughn* index, and adjudicate any resulting disputes, as to the FBI. The federal defendants accordingly request that the partial remand be expanded to include the FBI.

The Cuyahoga County Mortgage Fraud Task Force does not oppose this request. Viola intends to file a response.

## CONCLUSION

The Court should vacate the district court's judgment with respect to the FBI and remand with instructions that the FBI be permitted to produce a supplemental

declaration and *Vaughn* index after it processes additional records. This appeal should continue to be held in abeyance until the district court has completed proceedings on remand as to the FBI and EOUSA.

Respectfully submitted,

SHARON SWINGLE

*/s/ Daniel Winik*

---

DANIEL WINIK

D.C. Bar No. 1015470

*Attorneys, Appellate Staff*

*Civil Division, Room 7245*

*U.S. Department of Justice*

*950 Pennsylvania Avenue NW*

*Washington, DC 20530*

*(202) 305-8849*

June 29, 2020

*Leonard F. Carr Co., L.P.A.*

DIRECTOR OF LAW:  
MAYFIELD HEIGHTS  
  
OF COUNSEL:  
L. BRYAN CARR

*Attorneys and Counselors at Law  
1392 S. O. M. Center Road  
Mayfield Heights, Ohio 44124*

TELEPHONE  
(440) 473-2277

FAX  
(440) 473-0166

CELL  
(216) 468-7566

E-MAIL  
lc@carrfirm.net

March 30, 2010

VIA FACSIMILE (216-781-6242) AND REGULAR U.S. MAIL - 3-30-10

Michael Goldberg, Esq.  
Michael J. Goldberg & Associates  
323 Lakeside Avenue, Suite 450  
Cleveland, Ohio 44113

**Re: *United States of America vs. Anthony Capuozzo, et al.***  
***U.S. District Court, Northern District of Ohio, Eastern Division***  
***Case No. 1:10 CR 00075-DCN-2***  
***My Client: Nicholas Myles***

Dear Mr. Goldberg:

This letter is being written pursuant to your request, relative to the captioned matter. I will also notify both the Federal and County Prosecutors that I have no objection to doing so.

From time-to-time during my recent involvement in this case, you and I have discussed the matter of certain documents and computer hardware that had been in my client's possession and then turned over to the Cuyahoga County Prosecutor's Office.

It is my understanding that, in 2006, the County Prosecutor's Office issued a Subpoena to Nicholas Myles, for certain records and computer hardware, relative to his former employer Central National Mortgage. The Subpoena was issued by, or in conjunction with, Assistant County Prosecutor Michael Jackson.

In compliance with the Subpoena, my client (with his wife) delivered several boxes of files and documents, as well as 2 grey Dell desktop computers (hard-drives) to the 9<sup>th</sup> floor of the Justice Center (the Prosecutor's Office) where a representative of Mr. Jackson received those items into his/her custody and control.

EXHIBIT **F** out

It is my understanding that the Subpoena was complied with in its entirety, and in the time since the issuance of the Subpoena no complaint has been made by the County Prosecutor's Office that my client failed to comply with same in any fashion.

It is my understanding now that one or more of the computers in question may have been lost or misplaced within the County Prosecutor's Office. It is also my understanding (secondhand) that Prosecutor Jackson does not deny having received the subpoenaed information and computers, but merely cannot recall it as a result of the passage of time.

It is my understanding that, with the issuance of this letter, you will withdraw your previously issued Subpoenas on this subject.

Very Truly Yours,



LEONARD F. CARR

/cs

EXHIBIT F 000



---

# Exhibit G

STATE OF OHIO            )  
  )SS.  
CUYAHOGA COUNTY        )

Now comes Donald Cleland who first being duly sworn, affirmed and cautioned according to law deposes and says:

1. Affiant has personal knowledge of all facts related in this Affidavit and is competent to testify.

2. Affiant is retired Cuyahoga County Sheriff's deputy having achieved the rank of Sargent prior to my retirement in 2014.

3. I was director of the Cuyahoga County Mortgage Fraud task force from 2009 until the task force was dissolved in 2013. I investigated Dawn Pasela for violations of Ohio's Confidentiality statute.

4. The Task force was located at a secret location, and its location and access to said location was limited to law enforcement personnel only as in Police Officers, Federal Agents, Prosecutor's and support staff.

5. Pursuant to Ohio Law, the Task force director and investigatory staff had the powers of a peace officer throughout the county or counties in which the investigation is to be undertaken. The task force had the authority to conduct investigations through the issuance of subpoenas and subpoenas duces tecum.

6. Pursuant to Ohio Revised Code Section 177.03 the referral of information by a task force to a prosecuting attorney, to the attorney general, to the commission, or to a special prosecutor



under this division, *the content, scope, and subject of any information so referred, and the identity of any person who was investigated by the task force* shall be **kept confidential** by the task force and its director, investigatory staff, and employees, by the commission and its director, employees, and consultants, by the prosecuting attorney and the prosecuting attorney's assistants and employees, by the special prosecutor and the special prosecutor's assistants and employees, and by the attorney general and the attorney general's assistants and employees until an indictment is returned or a criminal action or proceeding is initiated in a court of proper jurisdiction. Dawn Pasela was bound by this requirement to maintain confidentiality as provided above. Dawn Pasela was aware of this statute and the confidentiality requirement.

7. As the Ohio Organized Crime Commission Cuyahoga County Mortgage Fraud task force director I was responsible for and did secure documents, files, computers and evidence. All such documents, files, computers and evidence were secured pursuant to Ohio law and good police practice.

8. In order to gain access to the Ohio Organized Crime Cuyahoga County Mortgage Fraud Task Force office a person had to be provided a key. Only Law Enforcement or law enforcement staff could possess a key. No cooperating witnesses were provided with a key or access to the Task Force office, files in the office or material in the office. The Task Force location was confidential by law and secure.

9. All evidence seized by a search warrant or received pursuant to a subpoena was kept in a locked evidence room. A log was kept of the evidence possessed by the task force of which I was responsible for. No person ever forged any portion of any evidence log or logs. No computers that came into possession of the Cuyahoga County Mortgage Fraud Task force during the time I was its director was lost or destroyed. Lay witness interviews or lay witness trial preparation

involving lay witnesses including Steve Newcomb of Argent or Kathryn Clover never occurred at the Task Force location as such would violate Ohio's Confidentiality statute.

10. Dawn Pasela was an employee of the Cuyahoga County Prosecutor's office when I became the Director of the Task Force. Dawn Pasela was the office manager of the Task Force office. Dawn Pasela ordered supplies, performed support staff services. Dawn Pasela was a student at Cuyahoga County Community College and wanted to be an investigator. I am aware that in 2011 she failed to appear for work, she was AWOL and that at least on one occasion a well check was performed on her by agents of the task force to ascertain if she was ok.

11. After Anthony Viola was indicted he held a public fundraiser at a local restaurant. The fundraiser was advertised and his attorney was present. Without being asked Dawn Pasela VOLUNTEERED to attend the fundraiser and VOLUNTEERED to wear a recording device to obtain information and to donate money from her checking account to the event. She understood that the TASK FORCE would reimburse her for the donation. Dawn Pasela never went to another of Anthony Viola's fundraisers on behalf of the Task Force as part of any investigation as far as affiant knows Dawn Pasela never contacted Anthony Viola while she was an employee of the Cuyahoga County Prosecutor's office.

11. Dawn was permitted by the Ohio Organized Crime Commission to take home with her a backup hard drive of the computer/server holding the files of the task force. The back up hard drives contained confidential information and data on it. Dawn Pasela was required by law to maintain the confidentiality of whatever was on the back up drive consistent with Ohio Law.

12. When Dawn Pasela was fired by Mike O'Malley the then First Assistant of the Cuyahoga County Prosecutor's office for refusing to take a drug test she took with her the backup

hard drive and was out of town for a period of time. The back up hard drive could not be located for that period of time.

13. For a period of time during the late fall/early summer of 2011 Dawn Pasela did not return the backup hard drive to the Ohio Organized Crime Commission Mortgage Fraud Task Force. The drive was the property of the Ohio Organized Crime Commission and contained confidential records and information.

14. I went to her apartment to try and secure the hard drive. I was not successful as she was not home.

15. After a period of time Dawn Pasela returned the hard drive to another member of law enforcement.

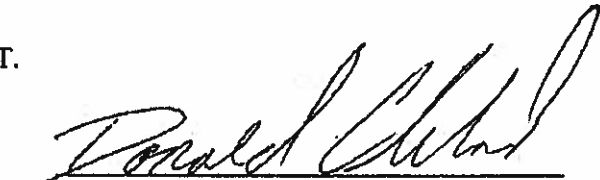
16. In January of 2012 I learned that Dawn had communications with Anthony Viola. I informed the Director of the Organized Crime Commission of such communications at which time he asked me to investigate whether or not Dawn Pasela had provided any confidential information to anyone in violation of Ohio law. Dawn Pasela was required Ohio Revised Code Section 177.03 to maintain confidentiality. During the spring of 2012 leading up to her death in April of 2012 I was actively investigating Dawn Pasela for violating the confidentiality of the Ohio Organized Crime Commission Cuyahoga County Mortgage Fraud Task Force pursuant to the above-mentioned statute.

17. During this investigation I subpoenaed her phone records, other records and interviewed witnesses. I learned from her phone records and from a witness that Anthony Viola had contacted her on the phone during 2011 after Dawn Pasela was fired. I learned from her phone records and from a witness that after Viola called her, Dawn Pasela called a former senior staff

member of the Ohio Organized Crime Commission and talked to that person. I interviewed that person and learned that Anthony Viola wanted to meet with Dawn Pasela but the, former senior staff member of the Ohio Organized Crime Commission advised her not to meet with Viola because to do so may violate Ohio law and to provide Viola with any information concerning the Task Force may also violate Ohio law, specifically Ohio's Confidentiality law. I learned from that senior staff member that Dawn Pasela told the former OCIC staff member that she would not meet with Viola. I later learned from reading a pleading that Anthony Viola filed in his Federal Court Criminal case shortly before he was sentenced to prison by Judge Donald Nugent in Federal Court that the two never met.

18. At the time of her death Dawn Pasela was under an active investigation by myself on behalf of the Ohio Organized Crime Commission for violating Ohio Revised Code Section 177.03©(4). When I learned that she died on or about August 25, 2012 I closed the investigation. If any person suggests that she was not under investigation that person is either unaware of the investigation or misleading whomever such person is talking to.

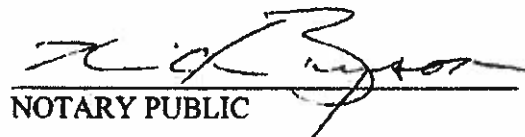
FURTHER AFFIANT SAYETH NAUGHT.

  
DONALD CLELAND

SWORN to before me and SUBSCRIBED in my presence this 3<sup>rd</sup> day of September  
, 2022.



NICHOLAS J. BRYSON  
Notary Public, State of Ohio  
My Comm. Expires 08/19/2024  
Recorded in Cuyahoga County

  
NOTARY PUBLIC

# Exhibit H



Edit

# Justice For Dawn Pasela

Invite

Share

Discussion

Featured

Events

Media

Files

People



Write something...



Anonymous Post



Photo/video



Poll

Featured

Add



Rodney Bates

September 26 · 🌐

<https://youtu.be/gPVVmrMCR9A>



YOUTUBE.COM

The Unsolved Mystery of Dawn Marie Pasela



4

Like

Comment

## Events

When events are created or shared, they appear in this card.



Create event

Only admins and moderators can see this.



on Mon **Like** **Reply**



**RJ Joe**

She shared a lot of her files and information with Jason Williams He also has the micro film

on Mon **Like** **Reply**

## AFFIDAVIT OF EDWARD PASELA

STATE OF OHIO  
COUNTY OF CUYAHOGA

I, Edward Pasela, depose and state under oath as follows:


1. I was the Father of Dawn Pasela, who died on April 25, 2012.
2. For the last three years of her life, Dawn worked for the Cuyahoga County Mortgage Fraud Task Force, first as a contract employee and then as a county employee. Dawn was recruited to work at the task force by Arvin Clar. Then Assistant Cuyahoga County Prosecutor Daniel Kasaris was Dawn's boss. While at the task force, she worked with FBI agents. In fact, she was told if she finished two more subjects, and with her background and experience, she could work for the FBI.
3. Dawn served in the capacity of office manager. One of her duties was to maintain the task force's files. After Dawn worked there for a while, she said she was concerned that things were being taken from the files and not returned. She also said some individuals had signed her name when they took the files, and she feared they were hiding them from attorneys representing the people the task force was investigating. She particularly expressed concern about the way the case against Anthony Viola and Susan Alt were being handled. Dawn showed me photos she had taken of files haphazardly stacked in the hallway, which made them easily accessible to almost anyone.
4. Dawn also mentioned that some computers in the office had disappeared, and she couldn't find out why or where they went.
5. Although Dawn was not trained as an investigator, she was asked to go to a fundraising event for Anthony Viola after he had been indicted and to secretly record what was said. Kasaris gave Dawn money and told her to write a check for Viola's defense fund so the prosecutors could determine at which bank the fund was being maintained. Dawn wondered about the propriety of these tactics.
6. Dawn continued to attend events sponsored by Viola's supporters and eventually began to sympathize with him because she felt that prosecutors were withholding documents that could help in his defense.

7. As her disenchantment over what was going on at the task force grew, Dawn began drinking excessively. This finally led to her termination. The task force later asked her to come in to discuss reinstatement, but she declined.
8. During Viola's second trial, Dan Kasaris showed up at our house, with another individual, wanting to come in and search for computers and hard drives. He was very insistent that I let him into my house. I refused, and told him we had no computers from his office and that he was welcome to return with a search warrant.
9. After the task force learned that Dawn had been subpoenaed to testify on Viola's behalf, two investigators came to her apartment to pressure her to reveal what Viola wanted her to testify about. She told me that the two men said that it would be wise for her to leave Ohio for a while and that if she testified for Viola, she could end up in federal prison. As a result, Dawn did not testify.
10. Dawn was so frightened that the investigators might return that she moved into our house for 10 or more days and stopped drinking. She also parked her car in our garage so no one would see it. Dawn eventually began to feel stronger physically and emotionally and moved back to her apartment.
11. When we visited Dawn the day before she died, I could tell that she started drinking again, and we urged her to stop.
12. I was concerned about Dawn and could not reach her on the phone, so I went to her apartment to check on her. When she did not answer the door, I requested a welfare check. During previous welfare checks, one or two officers showed up within 20 – 30 minutes. In this case, six police officers immediately arrived on the scene. They refused to let me into my daughter's apartment, physically held back in the hallway, refusing to allow me access to the apartment. I was never allowed into the apartment to view Dawn's body.
13. After I left Dawn's apartment to tell my wife Karen what happened, my daughter Christine arrived at Dawn's apartment. Police officers told her that she was not allowed to see Dawn's body. No one in my family ever saw Dawn's body and no one in my family was ever asked to identify Dawn's body.
14. In my personal opinion, Kasaris contributed towards my daughter's death because
  - The way he treated her was wrong
  - The unprofessional tactics that were used in the office made my daughter extremely upset and she did not know how to handle what was going on with the files and computers.

- Dawn was also threatened with prosecution for violating a confidentiality agreement, but we have proof that she never signed any such agreement.

15. I believe that there should be a full investigation into the actions of Kasaris as well a new investigation into my daughter's death.

Further I sayeth naught.

  
Edward Pasela

Sworn and subscribed in my presence this 25 day of May, 2022.

  
NOTARY PUBLIC



ANDREW SCHMIDT  
Notary Public, State of Ohio  
My Commission Expires  
January 2, 2024

State of Ohio,  
CUYAHOGA County, ss:

**Affidavit of Mark Bennett**

I, Mark Bennett, swear or affirm that:

1. I admit that I committed the misconduct listed in the Agreement for Consent to Discipline, that grounds exist for imposition of a sanction against me for the misconduct, and that the agreement sets forth all grounds for discipline currently pending before the Board of Professional Conduct.
2. I admit to the truth of the material facts relevant to the misconduct listed in the agreement.
3. I agree to the sanction recommended in the agreement to the board.
4. My admissions and agreement are freely and voluntarily given, without coercion or duress, and I am fully aware of the implications of the admissions and agreement on my ability to practice law in Ohio.
5. I understand that the Supreme Court of Ohio has the final authority to determine the appropriate sanction for the misconduct admitted by me.

  
Mark Bennett, Esq.

Sworn to or affirmed before me and subscribed in my presence this <sup>1<sup>st</sup></sup> day December 2022.



**KELLY M. ZACHARIAS**  
Attorney at Law  
NOTARY PUBLIC  
STATE OF OHIO  
My Commission Has  
No Expiration Date  
Section 147.03 O.R.C.

  
Signature of Notary Public

## REPORT OF INVESTIGATION

<b>SUBJECT</b> [REDACTED] Assistant United States Attorney [REDACTED]		<b>CASE NUMBER</b> [REDACTED]
<b>OFFICE CONDUCTING INVESTIGATION</b> Detroit Area Office		<b>DOJ COMPONENT</b> Executive Office for United States Attorneys
<b>DISTRIBUTION</b>	<b>STATUS</b>	
<input checked="" type="checkbox"/> Field Office CFO	<input type="checkbox"/> OPEN <input type="checkbox"/> OPEN PENDING PROSECUTION <input checked="" type="checkbox"/> CLOSED	
<input checked="" type="checkbox"/> AIGINV	<b>PREVIOUS REPORT SUBMITTED:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/> Component EOUSA	<b>Date of Previous Report:</b>	
<input type="checkbox"/> USA		
<input type="checkbox"/> Other		

### SYNOPSIS

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the Executive Office for United States Attorneys (EOUSA) alleging that from [REDACTED], United States Attorney's Office (USAO) [REDACTED] Assistant United States Attorney (AUSA) [REDACTED] may have physically and verbally sexually harassed, to include deliberately running his arm across the breast of, then USAO [REDACTED] Intern [REDACTED].

During the course of the investigation, the OIG found indications that [REDACTED] may also have made sexually suggestive comments to USAC [REDACTED] AUSA [REDACTED] sent sexual comments over social media to Federal Bureau of Investigation (FBI), [REDACTED], Forensic Analyst [REDACTED]; and made sexual comments to U.S. Postal Inspection Service, [REDACTED], Postal Inspector [REDACTED]. In addition, the OIG found indications that [REDACTED] may have lacked candor during an OIG interview when questioned about using his government laptop computer to access social media sites.

The OIG investigation substantiated the allegations that [REDACTED] engaged in sexually harassing conduct by making sexually inappropriate comments to [REDACTED] and [REDACTED], all in violation of federal regulations regarding sexual harassment and employee conduct, as well as in violation of DOJ Policy prohibiting sexual harassment in the workplace. The OIG also concluded that [REDACTED] unwelcome touching of [REDACTED] breast violated [REDACTED], Sexual Imposition, a misdemeanor. The OIG further found that [REDACTED] lacked candor in his OIG interview, in violation of DOJ policy.

<b>DATE</b> November 5, 2020	<b>SIGNATURE</b> [REDACTED]
<b>PREPARED BY SPECIAL AGENT</b> [REDACTED]	
<b>DATE</b> November 5, 2020	<b>SIGNATURE</b> <i>William Hannah</i>
<b>APPROVED BY SPECIAL AGENT IN CHARGE</b> William J. Hannah	

Digitally signed by WILLIAM HANNAH  
Date: 2020.11.05 17:02:38 -0500

The USAO [REDACTED] was recused from the investigation. The USAO [REDACTED] and the [REDACTED] Prosecutor's Office declined criminal prosecution of [REDACTED].

The OIG has completed its investigation and is providing this report to the EOUSA and DOJ's Office of Professional Responsibility for appropriate action.

Unless otherwise noted, the OIG applies the preponderance of the evidence standard in determining whether DOJ personnel have committed misconduct. The Merit Systems Protection Board applies this same standard when reviewing a federal agency's decision to take adverse action against an employee based on such misconduct. See 5 U.S.C. § 7701(c)(1)(B); 5 C.F.R. § 1201.56(b)(1)(ii).

## DETAILS OF INVESTIGATION

### Predication

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the Executive Office for United States Attorneys (EOUSA) alleging that from [REDACTED], United States Attorney's Office (USAO) [REDACTED] Assistant United States Attorney (AUSA) [REDACTED] may have physically and verbally sexually harassed, to include deliberately running his arm across the breast of, then USAO [REDACTED] Intern [REDACTED].

During the course of the investigation, the OIG found indications that [REDACTED] may also have made sexually suggestive comments to USAO [REDACTED] AUSA [REDACTED]; sent sexual comments over social media to Federal Bureau of Investigation (FBI), [REDACTED], Forensic Analyst [REDACTED]; and uttered sexual comments to U.S. Postal Inspection Service, [REDACTED], Postal Inspector [REDACTED]. In addition, the OIG found indications that [REDACTED] may have lacked candor during an OIG interview when questioned about using his government laptop computer to access social media sites and claiming to have informed other colleagues at the USAO [REDACTED] about his concerns regarding [REDACTED] allegedly filing a false sexual harassment allegation against him.

### Investigative Process

The OIG's investigative efforts consisted of the following:

Interviews of the following USAO-NDOH personnel:

- [REDACTED], AUSA

[REDACTED]

AUSA

(former) Intern

[REDACTED]

Interviews of the following FBI [REDACTED] personnel:



[REDACTED]  
[REDACTED] Financial Investigative Analyst

Interviews of the following personnel:

[REDACTED]

Review of the following:

- Cyber Investigations Office (CIO) forensic analysis of [REDACTED] government laptop computer.
- Justice Security Operation Center (JSOC), Internet History Logs for [REDACTED] government laptop computer.
- Verizon Wireless records for [REDACTED] personal cell phone.
- Training information from the Offices of the United States Attorneys, National Advocacy Center.
- Training records from the USAO- [REDACTED]
- Facebook Messenger and Instagram Messages the OIG received from [REDACTED]
- Emails, text messages, Skype messages, Facebook Messenger messages the OIG received from [REDACTED]

## Background and Authority

[REDACTED] Sexual Imposition (misdemeanor), prohibits engaging in sexual contact with another, either knowing or recklessly disregarding that the contact is offensive to the other person. The Penal Code defines sexual contact to include touching of another's breast.

29 C.F.R. § 1604.11, "Sexual Harassment," states in pertinent part the following:

(a) Harassment on the basis of sex is a violation of section 703 of title VII. 1 Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

...

(b) In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case by case basis.

...

(d) With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.

5 C.F.R. § 735.203, "Employee Responsibilities and Conduct" states in pertinent part the following: "an employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government."

The DOJ, Office of the Attorney General, Prevention of Harassment in the Workplace, Policy Memorandum 2015-04, states in part:

The Department of Justice will maintain a zero tolerance work environment that is free from harassment (including sexual harassment) based on sex, race, color, religion, national origin, gender identity, age, disability (physical or mental), genetic information, status as a parent, sexual orientation, marital status, political affiliations, or any other impermissible factor. . . . Harassing conduct is defined as any unwelcome verbal or physical conduct that is based on any of the above-referenced characteristics when this conduct explicitly or implicitly affects an individual's employment; unreasonably interferes with an individual's work performance; or creates an intimidating, hostile, or offensive work environment.

The DOJ Memorandum for Heads of Department Components Regarding Sexual Harassment and Sexual Misconduct, dated April 30, 2018, sets forth policies and procedures to ensure that: (1) substantiated allegations of sexual harassment or misconduct result in serious and consistent disciplinary action, (2) components report allegations of sexual harassment or misconduct to the Office of Inspector General and the components' security divisions when appropriate, (3) components appropriately consider allegations of or disciplinary actions for sexual harassment or misconduct in making decisions about awards, public recognition, or favorable personnel actions, and (4) components can be held accountable for their handling of allegations of sexual harassment and misconduct.

### Sexual Harassment and Unwelcome Sexual Touching of

The information provided to the OIG alleged that from may have physically and verbally sexually harassed

told the OIG that from, made several inappropriate sexual comments to her, and on one occasion, touched her breast. explained that their communication with each other started out as jovial, back-and-forth banter. However, told the OIG that, as time went on, sexual comments increased, made her feel uncomfortable, and often interfered with ability to complete her work. said that talked about his sexual relationship with his wife, and on another occasion, he asked if sex with was "that good." stated that made comments about physique, and on one occasion, he sent a social media message to ask her why she haunted his dreams. stated that sent pictures to her, via either text message or through a social media platform, of himself working out in a tank top t-shirt in one photo and in his bathroom without a t-shirt in another photo. said that during another occasion brushed his arm against breast while reaching for a law book and stared at her the entire time. said that behavior made her uncomfortable and caused her to move from her assigned workstation to other employees' work areas to avoid him.

told the OIG that told him that felt uncomfortable around and that tried to avoid while in the. said that he noticed frequented the Office's front desk instead of getting her work done. said that told him about a conversation had with concerning an alleged relationship had with an. said that he thought this was an inappropriate topic for to discuss with. said that told him in a later conversation that he had screwed up by sending text messages in which he indicated his willingness to engage in a sexual relationship with her. However, stated that denied, in an unsolicited comment, that he groped.

told the OIG that told her that had touched her breast while they

worked in the [REDACTED]. [REDACTED] said that she read Facebook Messenger messages [REDACTED] received from [REDACTED] and although [REDACTED] could not remember the specific content of the messages, she believed they were inappropriate and flirtatious. [REDACTED] said that [REDACTED] told her [REDACTED] behavior made her uncomfortable. [REDACTED] described one occasion when [REDACTED] came into [REDACTED] office and closed the door soon after [REDACTED] arrived at the [REDACTED] Office in order to avoid him. [REDACTED] thought [REDACTED] behavior towards [REDACTED] interfered with [REDACTED] ability to get her work done as an intern.

[REDACTED] told the OIG that [REDACTED] told her that [REDACTED] sent [REDACTED] sexual messages on various social media platforms and tried to pursue her. [REDACTED] said that [REDACTED] told her that she did not want to report [REDACTED] behavior because she was concerned it may have a negative effect on her ability to obtain future employment at the USAO. [REDACTED] believed [REDACTED] made [REDACTED] uncomfortable, and that his behavior towards [REDACTED] created a situation where [REDACTED] could not work at her own station because she wanted to avoid [REDACTED]. [REDACTED] said that [REDACTED] began sitting with [REDACTED] at her desk location to hide from [REDACTED].

[REDACTED] told the OIG that [REDACTED] told him that, while at the USAO, [REDACTED] stood over her and tried to look down her shirt. [REDACTED] said that [REDACTED] also described an incident in which [REDACTED] brushed up against her breast while in the [REDACTED]. [REDACTED] recalled [REDACTED] receiving several messages from [REDACTED] that were sexual in nature, either via text or Facebook Messenger. [REDACTED] stated that, in one of the messages, [REDACTED] implied [REDACTED] should provide him with a sexual favor in exchange for a letter of recommendation, and in another message [REDACTED] commented on [REDACTED] physique and told her how good she looked. [REDACTED] vaguely recalled [REDACTED] telling him about a social message she received from [REDACTED] in which [REDACTED] asked [REDACTED] why she haunted his dreams. [REDACTED] told the OIG that he advised [REDACTED] to report [REDACTED] inappropriate behavior.

[REDACTED] the OIG conducted consensually monitored cell phone text communications between [REDACTED] and [REDACTED]. In these communications, [REDACTED] texted [REDACTED] that he was surprised [REDACTED]. [REDACTED] made references to [REDACTED] buttocks, including comments about their size and that [REDACTED] could not wait to "have them." [REDACTED] condemned [REDACTED] for making him think about it (sex) again, as he had tried to put her out of his mind. [REDACTED] stated he was going for a run and ended their conversation.

In a voluntary interview, [REDACTED] told the OIG that he worked with [REDACTED] from [REDACTED], and admitted he was sexually attracted to her. [REDACTED] stated that he and [REDACTED] discussed her romantic relationships, but he said that was not inappropriate because [REDACTED] initiated the conversations. [REDACTED] stated that he had written a letter of recommendation for [REDACTED] and may have asked her what he would get out of it, but he said he was referring to possibly lunch or drinks with her, not sex. [REDACTED] said that he probably sent messages to [REDACTED] that referenced her physique, and reasoned he tried to help her low self-esteem. [REDACTED] acknowledged that he sent [REDACTED] a Skype message which referred to sex between [REDACTED] and her boyfriend and asked if it was really that good and that he talked to [REDACTED] about his sexual relationship with his wife. [REDACTED] admitted he should not have engaged in this type of communication with [REDACTED] and explained he has a character flaw when women flirt with him. [REDACTED] stated that he did not believe his actions rose to the level of sexual harassment, and he denied touching [REDACTED] breast. [REDACTED] declined to submit to a voluntary OIG-administered polygraph and said he believed the tests were unreliable.

The USAO [REDACTED] was recused from the investigation. The USAO [REDACTED] and the [REDACTED] Prosecutor's Office declined criminal prosecution of [REDACTED].

### *OIG's Conclusion*

The OIG investigation concluded that [REDACTED] sexually harassed [REDACTED] both physically and verbally by conveying sexually charged communications to her and physically touching [REDACTED] breast. The OIG found [REDACTED] account of her interactions with [REDACTED] including that he touched her breast without her consent, to be more credible than [REDACTED] account, particularly in light of the corroboration provided by the OIG's interviews of other witnesses and the consensually monitored text messages. The OIG further credited [REDACTED] account that [REDACTED] conduct caused her to be uncomfortable and interfered with her ability to conduct her work at the USAO. The OIG finds by a preponderance of the evidence that [REDACTED] conduct violated [REDACTED], Sexual Imposition. The OIG further finds that [REDACTED] conduct violated federal regulations regarding sexual harassment and employee conduct, as well as DOJ policy prohibiting sexual harassment in the workplace.

## [REDACTED] Sexual Harassment of [REDACTED]

During the course of the investigation, the OIG found indications that [REDACTED] may have made comments to FBI Financial Investigative Analyst [REDACTED] which were sexual in nature and made her feel uncomfortable.

[REDACTED] told the OIG that she attended a retirement gathering for [REDACTED]. [REDACTED] told the OIG that during that gathering [REDACTED] watched [REDACTED] talk in close proximity to a waitress and slap her buttocks as she departed when the conversation ended.

[REDACTED] told the OIG that she was standing next to [REDACTED] while this occurred and that she also witnessed [REDACTED] inappropriate behavior with the waitress. [REDACTED] further stated that [REDACTED] had made statements to her over several years, which [REDACTED] described as comments he probably should not have made which had distracted [REDACTED] from her work at the FBI. [REDACTED] said that some of [REDACTED] comments were flirtatious or contained sexual connotations, such as remarks about [REDACTED] physique and wanting to hold [REDACTED] during yoga. [REDACTED] stated that the comments made [REDACTED] uncomfortable and caused her to re-think her official meetings with [REDACTED]. [REDACTED] said that she subsequently ensured someone else was available to attend any required in-person meetings she had with [REDACTED]. [REDACTED] stated that she did not have this concern with others with whom she had to meet during the course of her official duties at the FBI. [REDACTED] provided the following Facebook and Instagram messages she received from [REDACTED] from [REDACTED]

- So wait...I can do a class (Yoga) when I hold you up and you hold me up, and we are all touching on each other?? Where do I sign up? 😊😊
- So u r single...hmmmm. [sic]
- Did I mention that [REDACTED] and I have been talking about taking a break and I do Yod. Yog. Yoga. [sic]
- You are gorgeous...U know that. [sic]
- U r brilliant. And you have a body that does not quit...[sic]
- Yeah...Get that. But think of all the strange you are going to get...
- Not a guy on this planet u can't get.? [sic]
- Nothing better than pleasing a woman.
- Just know I think u r amazing. And hope u find a guy who realizes that and u think the same about. [sic]
- So who is this new guy? An agent? An AUSA?
- Why t u ignoring me?? [sic]

In a voluntary interview, [REDACTED] told the OIG that he thought [REDACTED] was an attractive woman, but he was not sexually interested in her. [REDACTED] said that [REDACTED], and he knew [REDACTED] was not interested in him. [REDACTED] admitted he sent [REDACTED] the aforementioned messages and knew some of the comments made her feel uncomfortable. [REDACTED] stated that he believed he apologized to [REDACTED] for the comments. [REDACTED] stated that he was not sure why he continued to send [REDACTED] these types of messages after she sent him several subtle messages asking him to stop sending them. [REDACTED] said it may have been late at night or after he had a

couple of drinks (alcohol) when he sent them. [REDACTED] declined to submit to a voluntary OIG-administered polygraph and said he believed the tests were unreliable.

**OIG's Conclusion**

The OIG investigation concluded [REDACTED] sent [REDACTED] messages of a sexual nature which interfered with [REDACTED] work environment. The OIG found that [REDACTED] account of [REDACTED] conduct was corroborated in large part by the messages [REDACTED] provided to the OIG, and the OIG credited her statement that [REDACTED] conduct made her feel uncomfortable being alone with him. The OIG therefore found that [REDACTED] actions constituted administrative misconduct in violation of federal regulations regarding sexual harassment and employee conduct as well as DOJ policy prohibiting sexual harassment in the workplace.

**[REDACTED] Sexual Harassment of [REDACTED]**

During the course of the OIG's investigation, the OIG found indications that [REDACTED] may have also made inappropriate comments to AUSA [REDACTED], by suggesting that she was having a sexual affair with another AUSA [REDACTED].

[REDACTED] told the OIG that [REDACTED] voiced concerns that [REDACTED] made her feel uncomfortable. However, [REDACTED] could not recall the specific details of the incident(s) [REDACTED] recounted. [REDACTED] recalled the conversations she had with [REDACTED] and others started when individuals expressed their general concerns about [REDACTED] elevated intoxication level during a social gathering at a bar and his desire to drive home.

[REDACTED] stated that when she first started at the USAO- [REDACTED] entered her office, looked at a picture of her and her husband, and said [REDACTED] was better looking than her husband, which caused [REDACTED] to feel uncomfortable. [REDACTED] stated that she and [REDACTED] worked together in [REDACTED] to prepare for trial when [REDACTED] had seen the two enter the building during a weekend; [REDACTED] later made comments to both [REDACTED] insinuating that [REDACTED] was having an affair with [REDACTED]. [REDACTED] described [REDACTED] comments as unprofessional and inappropriate, and she again felt uncomfortable. [REDACTED] stated that on another occasion, [REDACTED] told [REDACTED] about a previous sexual harassment complaint filed against him by [REDACTED] in the office. [REDACTED] said that during their conversation, [REDACTED] told [REDACTED] he did not sexually harass the woman as alleged and said he did not think she was attractive. [REDACTED]

[REDACTED] However, [REDACTED] said that [REDACTED] purchased a pair of earrings and two necklaces for her, which struck her as odd and made her feel uncomfortable.

[REDACTED] told the OIG that he and [REDACTED] previously worked together at the [REDACTED] and more currently at the USAO- [REDACTED] said that he learned from others about alleged sexual harassment claims against [REDACTED] during his previous employment at a private law firm and while he was employed at [REDACTED]. [REDACTED] said that in [REDACTED], he and [REDACTED] spent a lot of time with each other as they prepared for a trial. [REDACTED] opined that this made [REDACTED] jealous, because [REDACTED] was attracted to [REDACTED]. [REDACTED] said that during that time period, [REDACTED] saw [REDACTED] and [REDACTED] together in a vehicle as they drove into the USAO building, because [REDACTED] forgot her Personal Identity Verification card to gain access through the building's garage. [REDACTED] said that shortly afterward, [REDACTED] texted [REDACTED] suggesting [REDACTED] was having an affair with [REDACTED]. [REDACTED] said that he responded to [REDACTED] by saying he did not need to deal with [REDACTED] texts, because trial preparation was stressful enough. [REDACTED] said that [REDACTED] responded he was just joking. [REDACTED] said that he had a discussion with [REDACTED] about [REDACTED] texts, but [REDACTED] was not sure if [REDACTED] and [REDACTED] talked about the comments.

On [REDACTED] in a voluntary interview [REDACTED] told the OIG he asked [REDACTED] through either email or text messaging if [REDACTED] was having a sexual affair with [REDACTED] and said he made the comment in jest. [REDACTED]

said that [REDACTED] became very upset with [REDACTED] and told [REDACTED] to stop talking to him during the pendency of a trial. [REDACTED] said that he discussed the comments he sent to [REDACTED] with [REDACTED] but he stated that he could not recall how she responded to the conversation. [REDACTED] said that after he made the comments to [REDACTED] and [REDACTED] he was excluded from the group. [REDACTED] stated that he used to go out for coffee, and sometimes lunch with [REDACTED], and others. [REDACTED] admitted he bought [REDACTED] jewelry [REDACTED] and said he did not think of it as an intimate gift because they were very good friends.

### *OIG's Conclusion*

The OIG investigation concluded [REDACTED] made comments to [REDACTED] and [REDACTED] insinuating they were having a sexual relationship, which made [REDACTED] feel uncomfortable and caused an offensive work environment. The OIG credited [REDACTED] account over [REDACTED] claim that the comment about [REDACTED] and [REDACTED] was made in jest, in large part because of prior inappropriate comments [REDACTED] made to [REDACTED] and the unsolicited gifts he gave to her. The OIG further credited [REDACTED] statement that [REDACTED] conduct made her feel uncomfortable. The OIG found that [REDACTED] conduct violated federal regulations regarding sexual harassment and employee conduct, as well as DOJ policy prohibiting sexual harassment in the workplace.

### **Sexual Harassment of [REDACTED]**

During the course of the OIG's investigation, the OIG found indications that [REDACTED] may have also made inappropriate comments to U.S. Postal Inspector [REDACTED] when he inquired if her husband allowed her to have extra-marital affairs.

[REDACTED] told the OIG that she heard that [REDACTED] had made [REDACTED] uncomfortable, but [REDACTED] did not provide details about the incident.

[REDACTED] told the OIG that she worked an investigative case with [REDACTED] and [REDACTED] in [REDACTED], which was adjudicated in the [REDACTED] Federal Courthouse. [REDACTED] said that she, [REDACTED], and [REDACTED] went to lunch after a court proceeding [REDACTED] said that during the lunch, [REDACTED] asked [REDACTED] if she was married. [REDACTED] said that she replied she was, [REDACTED] said that [REDACTED] asked her if she had a pass, and [REDACTED] asked for clarification as she did not understand his question. [REDACTED] said that [REDACTED] elaborated that [REDACTED] husband should permit her to have an affair [REDACTED] [REDACTED] opined that even if those comments were made by someone she knew, it would be inappropriate, and since she really did not know [REDACTED] at that time, the comments really caught her off guard. [REDACTED] said that she was uncomfortable with [REDACTED] from that point forward and made sure she was not alone in meetings with him.

[REDACTED] told the OIG that he could not recall the specific comments [REDACTED] made to [REDACTED] nor could he recall how he learned about them. [REDACTED] believed that he learned about the offensive comments directly from [REDACTED] but he could have heard them while at lunch with [REDACTED] and [REDACTED]. [REDACTED] recalled that [REDACTED] comments were sexual in nature and pertained to [REDACTED] husband. [REDACTED] said that he knew the comments made [REDACTED] feel uncomfortable, and he believed they had affected her work. [REDACTED] said that [REDACTED] had to schedule another agent to attend any meetings she had with [REDACTED]. [REDACTED] said that he knew someone reported [REDACTED] comments to [REDACTED] to which [REDACTED] and others were assigned. [REDACTED] said that he believed [REDACTED] was removed from the task force after the complaint to [REDACTED] was filed.

[REDACTED] told the OIG that sometime in [REDACTED], he had contacted [REDACTED] regarding his concerns about the inappropriate comments [REDACTED] made to [REDACTED]. [REDACTED] recalled that the comments were sexual in nature, but he could not recall the specifics. [REDACTED] said that he had also been made

aware of other complaints by female agents about [REDACTED] inappropriate behavior. [REDACTED] said that [REDACTED] arranged to have [REDACTED] come to [REDACTED] office to discuss [REDACTED] concerns. [REDACTED] said that he met with [REDACTED] and told him he was aware of [REDACTED] inappropriate comments to [REDACTED], and [REDACTED] said [REDACTED] must have misunderstood what he said. [REDACTED] said that he asked [REDACTED] if he would have made inappropriate comments to [REDACTED] and others if his wife had been present. [REDACTED] said that [REDACTED] did not respond. [REDACTED] stated that he told [REDACTED] that if the answer to his question in his head was no, then [REDACTED] should avoid those types of comments in the work environment.

[REDACTED], in a compelled interview, [REDACTED] told the OIG that he learned [REDACTED] filed a complaint with [REDACTED], regarding alleged comments [REDACTED] made to [REDACTED] during lunch. [REDACTED] said that he believed [REDACTED] told [REDACTED] that [REDACTED] comments to [REDACTED] during lunch were inappropriate, and [REDACTED] was too flirtatious with [REDACTED]. [REDACTED] admitted he asked [REDACTED] about her husband during lunch and reasoned they were general, inoffensive questions. [REDACTED] stated that [REDACTED] did not file the complaint against him, rather [REDACTED] took the initiative, and [REDACTED] opined [REDACTED] may have had misplaced motivation to file the complaint based on a past negative encounter between [REDACTED] and [REDACTED].

### *OIG's Conclusion*

The OIG investigation concluded [REDACTED] made comments to [REDACTED] to inquire if her husband would allow her to have a sexual affair while he was away from home, which caused [REDACTED] to feel uncomfortable and interfered with her work environment. The OIG credited [REDACTED] account of [REDACTED] comments, which was corroborated in large part by [REDACTED] the OIG further credited [REDACTED] statement that [REDACTED] comment made her feel uncomfortable and that she did not want to attend meetings alone with him after he made the inappropriate comment to her. The OIG found that [REDACTED] conduct violated federal regulations regarding sexual harassment and employee conduct, as well as DOJ policy prohibiting sexual harassment in the workplace.

### **Lack of Candor**

During the course of the investigation, the OIG found indications that [REDACTED] lacked candor in his voluntary interview with the OIG regarding his access to social media sites on his government laptop.

Justice Manual Section 1-4.200 states in pertinent part:

All Department employees have an obligation to cooperate with OPR and OIG misconduct investigations (28 C.F.R. § 45.13) and must respond truthfully to questions posed during the course of an investigation upon being informed that their statements will not be used to incriminate them in a criminal proceeding. Employees who refuse to cooperate with OPR or OIG misconduct investigations after having been informed that their statements will not be used to incriminate them in a criminal proceeding may be subject to formal discipline, including removal. Employees are obligated to cooperate and respond truthfully even if their statements can be used against them in connection with employment matters.

As noted above, the OIG learned during this investigation about inappropriate messages that [REDACTED] sent to certain individuals via social media sites. In light of this information, the OIG asked [REDACTED] whether he had used his government laptop computer to access those social media sites. [REDACTED] told the OIG that he had not signed into Facebook and Twitter on his government laptop computer and advised he completely avoided those sites on his government laptop computer. [REDACTED] reasoned that they (USAO) have always told personnel that accessing those sites increased the likelihood of viruses on your computer.

The OIG reviewed the JSOC Internet history logs pertaining to [REDACTED] government laptop computer, identified

as Internet protocol (IP) [REDACTED]. The logs showed between [REDACTED], [REDACTED] accessed several social media sites, more than 25 times, to include Facebook and Twitter with his government laptop computer. [REDACTED] advised the OIG that between [REDACTED] had been assigned exclusively to [REDACTED] government laptop.

The USAO-[REDACTED] was recused from the investigation. The USAO [REDACTED] declined criminal prosecution of [REDACTED]

*OIG's Conclusion*

The OIG investigation concluded that [REDACTED] lacked candor in his interview with the OIG when questioned by the OIG about accessing social media sites on his government laptop computer, in violation of DOJ policy. The information was relevant to the OIG investigation in an effort to determine if [REDACTED] used his government laptop during work hours for any inappropriate communications with others he worked with.



## AFFIDAVIT OF KAREN PASELA

STATE OF OHIO  
COUNTY OF CUYAHOGA

I, Karen Pasela, depose and state under oath as follows:

1. I was the mother of Dawn Pasela, who died on April 25, 2012.
2. Dawn worked for the Cuyahoga County Mortgage Fraud Task Force, first as a contract employee and then as a county employee. Dawn was recruited to work at the task force by Arvin Clar. Then Assistant Cuyahoga County Prosecutor Daniel Kasaris was Dawn's boss. While at the task force, she worked with FBI agents. In fact, she was told if she finished two more subjects, and with her background and experience, she could work for the FBI.
3. Dawn served in the capacity of office manager. One of her duties was to maintain the task force's files. After Dawn worked there for a while, she said she was concerned that things were being taken from the files and not returned. She also said some individuals had signed her name when they took the files, and she feared they were hiding them from attorneys representing the people the task force was investigating. She particularly expressed concern about the way the case against Anthony Viola and Susan Alt were being handled. Dawn showed me photos she had taken of files haphazardly stacked in the hallway, which made them easily accessible to almost anyone.
4. Dawn also mentioned that some computers in the office had disappeared, and she couldn't find out why or where they went. Dawn also mentioned that Katheryn Clover was frequently in the Prosecutor's Office, accessing files and evidence.
5. Although Dawn was not trained as an investigator, she was asked to go to a fundraising event for Anthony Viola after he had been indicted and to secretly record what was said. Dan Kasaris gave Dawn money and told her to write a personal check for Viola's defense fund so the prosecutors could determine at which bank the fund was being maintained. Dawn wondered about the propriety of these tactics.
6. Dawn was told that she had to continue to attend events sponsored by Viola's supporters wearing a wire, or her job would be in jeopardy. I was very alarmed and afraid for my daughter's safety and advised her not to wear a wire. However, Dawn felt she had no choice but to comply with her boss's orders.

7. Eventually, Dawn began to sympathize with Viola because she felt that prosecutors were withholding documents that could help in his defense.
8. As her disenchantment over what was going on at the task force grew, Dawn began drinking excessively. This finally led to her termination. The task force later asked her to come in to discuss reinstatement, but she declined.
9. After Dawn was no longer working at the task force, she told me she was meeting with Viola. I was very worried about Dawn and I was concerned that if she tried to help Viola, she could be prosecuted. I urged not to get involved.
10. During Viola's second trial, Dan Kasaris showed up at our house, with another individual, wanting to come in and search for computers and hard drives. He demanded entry into my house but my husband Edward refused, and told him we had no computers from his office and to return with a search warrant.
11. After the task force learned that Dawn had been subpoenaed to testify on Viola's behalf, two investigators came to her apartment to pressure her to reveal what Viola wanted her to testify about. Dawn called me one morning, upset and crying, saying that the two men said that it would be wise for her to leave Ohio for a while and that if she testified for Viola, she could end up in federal prison. As a result, Dawn did not testify.
12. Dawn was so frightened that the investigators might return that she moved into our house for 10 or more days and stopped drinking. She also parked her car in our garage so no one would see it. Dawn eventually began to feel stronger physically and emotionally and moved back to her apartment.
13. During Viola's second trial, when Dawn was staying at our house, I heard Dawn speaking to Viola. She was crying and so upset that she was visibly shaking. She said she was too upset to talk more about what was going on during the trial.
14. When we visited Dawn the day before she died, I could tell that she started drinking again, and we urged her to stop.
15. After Dawn was found dead in her apartment, the police refused to allow my husband Ed to see Dawn's body. When my daughter Christine arrived at Dawn's apartment, police officers told her that she was not allowed to see Dawn's body. No one in my family ever saw Dawn's body and no one in my family was ever asked to identify Dawn's body.
16. Later, Ed called the Cuyahoga County Coroner, requesting to see Dawn's body. When the Coroner called back, they were adamant that I should not come because

you want to remember her the way she was and that she looked bad. I was insistent and wanted to see my daughter but I was again told not to go to the Coroner's Office. I was told to wait to see Dawn at the funeral parlor.

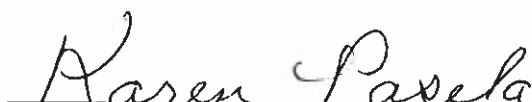
17. At the funeral parlor, when I first saw Dawn's body at a private viewing, I was shocked at the way her face looked. Many other family members told me the same thing, which I thought at the time was the result of a poor makeup job. Because of our complaints, the funeral home redid Dawn's makeup before the public viewing. Even after the second makeup job, family members who did not see Dawn at the private viewing commented that Dawn did not look natural.

18. I agree with my husband Ed's opinion, which is that Kasaris contributed towards my daughter's death because

- The way he treated her was wrong
- The unprofessional tactics that were used in the office made my daughter extremely upset and she did not know how to handle what was going on with the files and computers.
- Dawn was also threatened with prosecution for violating a confidentiality agreement, but we have proof that she never signed any agreement.

19. I believe that there should be a full investigation into the actions of Kasaris as well an entirely new investigation into my daughter's death.

Further I sayeth naught.

  
Karen Pasela

Sworn and subscribed in my presence this 25 day of May, 2022.

  
NOTARY PUBLIC



ANDREW SCHMIDT  
Notary Public, State of Ohio  
My Commission Expires  
January 2, 2024

---

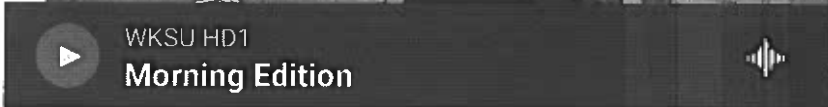
# Exhibit I



# Family of Parma woman calls for her death investigation to be reopened

Ideastream Public Media | By Matthew Richmond

Published November 2, 2023 at 7:35 PM EDT



Matthew Richmond / Ideastream Public Media

Dawn Pasela's father, Ed Pasela, speaks at a rally outside Parma City Hall on Nov. 1, 2023.

On April 25, 2012, Parma Police were doing a welfare check at the apartment of 26-year-old Dawn Pasela, at the request of her parents, when they found her dead from an apparent alcohol overdose.

In the years since Pasela's death, her parents said they learned, from a Cuyahoga County Sheriff's Department review, of issues including missing

items and investigative missteps by police that they say call into question the validity of the investigation.

"After reviewing the Parma Police case file, it was clear that the Parma Police Department did not investigate the death of the decedent," wrote Det. John Morgan, in the sheriff's department report released in February on Parma's investigation.

Among the issues are three cell phones found in the apartment but not mentioned in the original police reports. Parma police were not able to locate those phones when Morgan asked about them, according to the report.

Police also did not interview potential witnesses at the apartment building or check surveillance footage, according to the sheriff's department report, which also listed several investigative steps that were never followed.

The sheriff's report lays out nine steps that investigators should take, including "locate the three (3) missing mobile cellular devices;" "once the devices are located complete a download of those devices;" and "try and identify who the decedent attempted to contact at 0439 hours."

Now Dawn's parents, Ed and Karen Pasela, want the Parma Police Department to turn the investigation over to an outside agency.

"We have so many questions, and we just want answers," Karen Pasela told supporters during a rally outside Parma City Hall Wednesday. "We don't want this to ever happen to another family."

The medical examiner's report lists Pasela's blood alcohol level at 0.595. According to the sheriff's report, a person reaches "unconsciousness, coma and possible death" at 0.40. The medical examiner also listed Pasela's weight at 110 pounds.

Ed Pasela said he met with Parma Police Lt. Dan Ciryak in 2021 and was told

the department would turn over the investigation to another agency. Pasela said he received letters from two agencies, the Bureau of Criminal Investigation in the Ohio Attorney General's Office and the Cuyahoga County Sheriff's Department, who said they could take the case at the request of Parma.

Parma Safety Director Bob Coury said in a statement, "There is absolutely no basis to reopen the Medical Examiner's 11-year-old investigation."

"She struggled with severe alcohol addiction up through the time of her death," said Coury. "When police arrived, the door was locked from the inside, so the police entered with a landlord key. Dawn was found unresponsive on the apartment floor and subsequently pronounced dead by the fire department."

Karen Pasela objects to Coury's description of Dawn's alcoholism.

"She actually had stopped drinking," Pasela said. Her daughter had been living at home for two to three weeks shortly before she died and had not been drinking during that time, she said.

"We also removed the alcohol from her apartment the night before her death," said Pasela. "She was dealing with her alcohol problem."

Coury did not answer questions about the investigative steps brought up by the sheriff's department report.

Coury said the medical examiner conducted an investigation and attributed her death to acute ethanol intoxication and criticized the organizer of Wednesday's rally, Tony Viola, of attempting to "muddy the plain facts" about Pasela's death.

Prior to her death, Pasela worked as an office manager for Cuyahoga County's Mortgage Fraud Taskforce, formed in the wake of the 2008 subprime mortgage crisis.

Her identification cards from the prosecutor's office and the Ohio Attorney General's Organized Crime Commission were found in her apartment.

According to the sheriff's report, Pasela stopped working for the task force in June, 2011.

Viola had called Pasela as a defense witness in his state trial but she never appeared. Viola, who describes Pasela as a whistleblower assisting his defense, was convicted in federal court on charges resulting from the task force's investigation and later acquitted in state court on similar charges.

"We're not standing out here in the cold for no reason at all," said the Pasela family's attorney Kimberly Kendall Corral during Wednesday's rally. "We have asked and asked and asked... Please refer this investigation to a law enforcement agency who can and who will do it."

Corrected: November 3, 2023 at 2:42 PM EDT

*An earlier version of this story incorrectly stated the year Ed Pasela said he met with Parma Police Lt. Dan Ciryak.*

Law & Justice



## Matthew Richmond

Matthew Richmond is a reporter/producer focused on criminal justice issues at Ideastream Public Media.

See stories by Matthew Richmond



Add Tags

Search...

# Sandusky Register

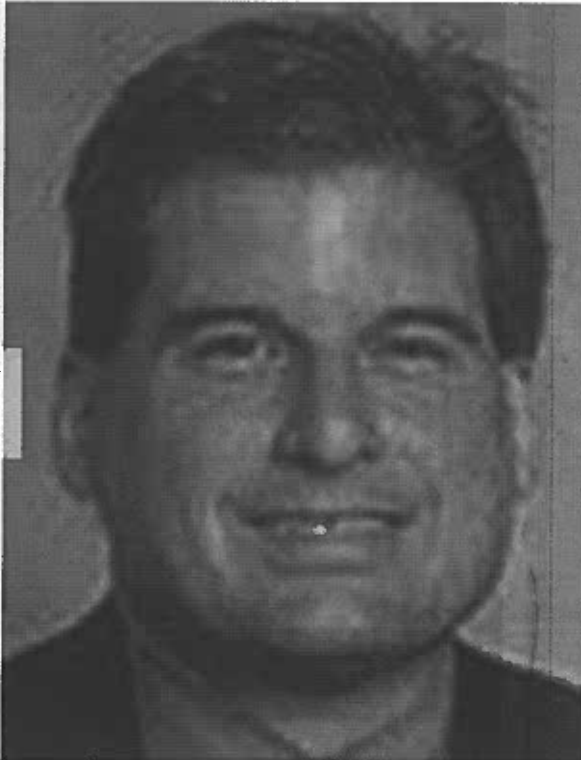
Sort  Order

December 19, 2023 | Today's Paper | Subm

BREAKING NEWS:



5 AM UPDATED: School day delays



2 / 2

Kasaris

# Prosecutors dodge questions



Matt Westerhold Dec 11, 2023 2:00 PM

Sheriff also mum on allegations of wrongdoing

## Related Stories

**Tipster makes allegations**

**Victim of homicide?**

**State agents restart search**

**Prosecutor named; warrant sealed**

**Digging for evidence**

**Corbin post falls short**

**Sheriff calls out critics**

**Sheriff's records released**

**No records, no findings**

**Sheriff Corbin complains**

**Where is Amanda Dean?**



# SUSPICIOUS DEATH

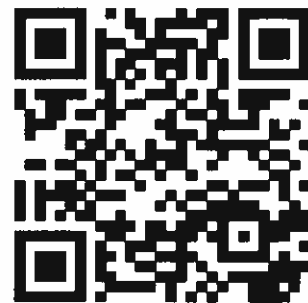


## Dawn Pasela

Date Found Dead: April 25, 2012  
Location: Parma, Ohio  
Age at Incident: 26 years-old

In 2009, Dawn was hired by Prosecutors Dan Kasaris and Mark Bennett to serve as the Office Manager of a multi-jurisdictional Mortgage Fraud Task Force.

To see Dawn's full digital case file, scan here:



uncover<sup>ed</sup>

### Important People



**Tony Viola**  
Exonerree & Case Advocate



**Dan Kasaris**  
Person with Info



**Mark Bennett**  
Person with Info



**Marty Maurer**  
Ex / Person with Info

### Investigative Red Flags

- Six officers responded to Dawn's wellness call.
- Three cell phones are found in the unit (2 with unknown owners).
- Heat set to 80 degrees, despite beautiful weather. Window wide open.
- The police called a private mortuary service and not an ambulance.
- Dan Kasaris disposes of his laptop the same day Dawn's body is found.
- Dawn's laptop is missing.

She was ordered to engage in less-than-ethical business for the pair. When she fought back, she was threatened.

Then, the same week she was scheduled to testify against Kasaris and Bennett, she was found dead.

### Timeline of Events

- 2009 - 2011 — Dawn is concerned over files that go missing and that her forged signature is used to access evidence. At the same time, Dawn is ordered to illegally record post indictment conversations so prosecutors could gain information about Tony's trial preparation.
- 2011 — Dawn reaches out to Tony after he's convicted for mortgage fraud to inform him of the prosecutorial misconduct she witnessed. She also gives him exonerating evidence the prosecutors withheld before Tony's first trial.
- June 2011 — Dawn leaves employment with the Prosecutors, and turns down their later request for rehire.
- March 2012 — Dawn is subpoenaed for Tony's second trial. In response, Kasaris intimidates Dawn's parents at their home, looking for computers & hard drives.
- April 23, 2012 — Dawn contacts Judge Gaul and says she's afraid to appear.
- April 25, 2012 — A wellness check is called for Dawn, where she's found dead in her apartment at 6:15pm. Signs of lividity indicate she was deceased 18-24 hours. Her BAC is calculated at 0.595.

# Exhibit J

# Freedom for Granted

---

 [blueinkreview.com/book-reviews/freedom-for-granted](https://www.blueinkreview.com/book-reviews/freedom-for-granted)

Paul R. Tomko's *Freedom for Granted* is a folksy collection of 30 stories to motivate, educate, and inspire readers to think more deeply about how to make every day of lives worthwhile.

Paul Tomko is radically honest with his readers. He explains how he was sentenced to 126 months in federal prison for financial crimes, struggled with drug addiction, disappointed the people who loved him the most, and lives with Obsessive Compulsive Disorder. He uses his experiences, mostly in prison, to explore familiar topics, such as struggling with change, finding common ground during tense confrontations, or the benefits of focusing on the positive.

The book offers short lessons for readers on how to improve their lives by many methods, such as thinking outside the box ("Removing Our Cuffs"), recognizing and rejecting the temptation to do wrong ("Selling My Soul to the Devil"), or knowing the difference between leading and manipulating ("Checkmate!"). Line drawings executed in 1950s style open each chapter, along with Bible quotes. Tomko closes the lessons with an earnest, easily digestible moral and support quotes from Maya Angelou, Tony Robbins, and a variety of other contemporary thought leaders.

Tomko is not a word stylist, and grammatical errors abound. This and its dated cartoons and multitude of quotations, can make the book seem amateurish. But to look beneath the surface is to acknowledge that its appeal and power are real.

The author is completely open, generous, fair, and forgiving. The role models he uses to explore how to live in love are people on the margins. Their stories of kindness in the worst of circumstances are moving; their examples and the author's hard-won wisdom are an inspiration to anyone who has made a mess of life.

While more narrative polish would enhance the book, *Freedom for Granted* should appeal to anyone able to see and forgive the flaws that have caused them trouble and who is willing to accept a hand to recover.

[SEE ALL OFFERS](#)



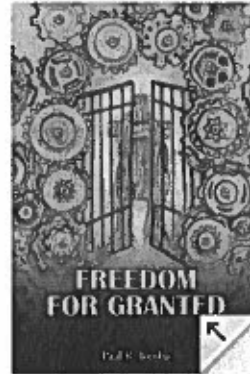
[Premium Members Get 10% Off and Earn Rewards](#) [Find Out More](#)

[Home](#) > [Books](#)

# FREEDOM FOR GRANTED

by [Paul R. Tomko](#)

☆☆☆☆ (0) [Write A Review](#)



[Add to Wishlist](#)

[View All Available Formats & Editions](#)

- PAPERBACK  
\$30.95
- EBOOK  
\$8.49

**PAPERBACK**  
**\$30.95**

Premium Members get an additional 10% off AND collect stamps to save with Rewards. 10 stamps = \$5 reward [Learn more](#)

### SHIP THIS ITEM

Qualifies for Free Shipping

Choose Expedited Shipping at checkout for delivery by Wednesday, December 27

[ADD TO CART](#)

[Instant Purchase](#)

### PICK UP IN STORE

[Check Availability at Nearby Stores](#)

Pick up in Store

Available within 2 business hours

Barnes & Noble uses cookies to offer you a better user experience. By clicking "Accept All Cookies" you agree to the storing of cookies on your device in accordance with our [Cookie Policy](#).

[Manage Preferences](#)

[Accept All Cookies](#)

---

# Exhibit K

Anthony L. Viola ID # 32238-160  
McKean FCI - P.O. Box 8000  
Bradford, Pa. 16701

November 30, 2015

FBI Records/Information Section  
ATTENTION: FOIA REQUEST  
170 Marcel Drive  
Winchester, Va. 22602

RE: FOIA/PA INFORMATION REQUEST

Dear Sirs:

I am respectfully submitting this FOIA request seeking the following:

(1) In 2012, the public became aware that U.S. District Judge Donald Nugent was recorded on wiretapped conversations with currently jailed political leaders James Dimora and Frank Russo. This request is for those conversations, both oral recordings and transcripts available.


(2) Any FBI 302 that references Judge Donald Nugent is being requested including the agent's original notes from those interviews.

(3) All FBI 302s -- and the agent's original notes -- from any and all interviews with "Paul Tomko" along with any reports by Mr. Tomko that were presented to the FBI or the U.S. Attorney's Office.

For your reference, I am pleased to attach copies of news media articles discussing Mr. Tomko and Judge Nugent.

Please note that I am willing to pay any reasonable copying or research charges pursuant to this request. I am also enclosing a Certificate of Identity. Thank you very much for your immediate attention to this important request.

Respectfully Submitted,

  
Tony Viola

cc: Office of the U.S. Attorney in Cleveland  
FBI Cleveland Office

Exhibit J 