

No. \_\_\_\_\_

IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA

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IN RE: ANTHONY L. VIOLA,

Petitioner

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On Petition for a Writ of Mandamus to the  
United States District Court for the District of Columbia  
Case No. 1:16-cv-1411

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**PETITION FOR A WRIT OF MANDAMUS**

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Respectfully Submitted by:

Anthony Viola  
2820 Mayfield Road # 205  
Cleveland Heights, Ohio 44118  
(330) 998-3290  
MrTonyViola@icloud.com  
September 19, 2021

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## **CERTIFICATES AS TO PARTIES, RULINGS AND RELATED CASES**

Pursuant to Circuit Rule 28(a)(1), Petitioner Anthony Viola make the following certifications:

### **(A) PARTIES**

**Petitioner:** Anthony Viola

**Respondent:** United States District Court Judge Tanya Chutkan

**United States:** Channing D. Phillips, Acting United States Attorney, for the District of Columbia

**(B) MATTER UNDER REVIEW** – The District Court’s failure to issue a ruling or final appealable order for nearly two years

**(C) RELATED CASES** – This matter has not been previously before this Court. There are no pending or related cases.

## **STATEMENT IN SUPPORT OF ORAL ARGUMENT**

Pursuant to Federal Rule of Appellate Procedure 34, Petitioner-Appellant hereby respectfully request oral argument on the present appeal. This appeal raises important issues relating to rights guaranteed under the United States Constitution and the fair administration of justice during post-conviction proceedings.

## **JURISDICTIONAL STATEMENT**

This Petition seeks an order directing the District Court to rule on a pending case, which involves records the Petitioner wishes to present in an upcoming court filing to vacate a criminal conviction. This Court has jurisdiction in this matter pursuant to the All Writs Act, which authorizes federal courts to issue writs “in the aid of their respective jurisdictions and agreeable to the usages and principles of law.” 28 USC 1651(a).

## STATEMENT OF FACTS

### Part One: Two Criminal Trials, Prosecuted by the Same Prosecution Team, and a subsequent acquittal on identical charges

Petitioner Anthony L. Viola was simultaneously prosecuted in both federal and state court, on identical charges, by the same prosecution team, through a federally funded, multi-jurisdictional Mortgage Fraud Task Force, Bureau of Justice Assistance Grant Number 2009-SC-B9-0080. These prosecutions featured three indictments and two criminal trials with opposite results. Prosecutors alleged the undersigned devised the “Nation’s largest mortgage fraud scheme” by duping lenders including JP Morgan Chase and Citigroup into making ‘no money down’ mortgage loans that did not meet the banks’ underwriting guidelines. When Dawn Pasela, a whistleblower inside the Prosecutor’s Office, provided the undersigned with evidence not produced by the government before the first trial, that substantially different evidence was presented at the second trial and established actual innocence, kindly compare USA v. Viola, 08-cr-506, N.D. Ohio, guilty verdict and 150 month prison sentence, with the subsequent acquittal on the exact same charges, Ohio v. Viola, 10-cr-543886 and 10-cr-536877, Cuyahoga County Common Pleas Court.

Following indictments in federal and state court, but prior to either criminal trial, Assistant U.S. Attorney Mark Bennett and Senior Assistant Ohio Attorney

General Daniel Kasaris directed Ms. Pasela, who served as Office Manager for the Task Force, to pose as a graduate student studying criminal defense and offer assistance to Viola's defense team. Ms. Pasela was directed to record a series of post-indictment conversations with Viola over a 24 month period so the Task Force could obtain confidential defense trial strategy information. Prosecutors Bennett and Kasaris also provided Ms. Pasela with funds to donate towards Petitioner's legal fees so prosecutors could use Ms. Pasela's cancelled checks to identify then subpoena the Petitioner's law firm's bank account, track investigative expenses, and identify potential defense witnesses.

Following a federal conviction, but prior to the federal sentencing or the commencement of the second trial, Ms. Pasela informed the Petitioner about the undercover operation, provided the Petitioner with evidence (including FBI 302s and Bates Stamped Federal Evidence) that prosecutors stated in writing did not exist, and which was not produced before the first trial. Ms. Pasela also offered to testify as a defense witness and was served with a defense subpoena to appear at the second trial. When prosecutors Bennett and Kasaris discovered that their Office Manager was a defense witness, they stated in writing that Ms. Pasela would be prosecuted if she appeared in court. On the day of her expected testimony, Ms. Pasela was found dead in her apartment by her Father; no investigation into her death or the government's actions has ever taken place.



## **Part Two: Developments Following the Second Trial and the Initiation of Public Records Requests**

Hon. Daniel Gaul, who presided over the second trial, has stated in writing that Petitioner is innocent and that prosecutors committed “misconduct,” **Exhibit A**. Petitioner respectfully informs this Court he has maintained his innocence since the initiation of televised “raids” and indictments and this innocence claim meets the legal standard set forth by the United States Supreme Court because, at the second trial, no reasonable juror **did** vote to convict the undersigned following presentation of evidence provided by Ms. Pasela and not produced prior to the first trial, Bousley v. United States, 523 U.S. 614, 623-24 (1998). Moreover, the evidence utilized at the Petitioner’s second trial wholly undermined the government’s theory of the case and may also exonerate over 1,000 other individuals prosecuted by the same Task Force.

Despite the results of his second trial, U.S. District Court Judge Donald C. Nugent, who presided over the first trial, refused to schedule an evidentiary hearing to allow the Petitioner to present the exact same proof of innocence utilized at the subsequent trial in federal court, and Judge Nugent denied multiple requests to conduct any inquiry into the death of Ms. Pasela, ruling that defendants are "not allowed to obtain an acquittal" by presenting different evidence at a subsequent trial, USA v. Viola, 08-cr-506, N.D. Ohio, Docket # 466. Judge Nugent’s actions during

the Petitioner's case include several highly irregular incidents, including sealing records relating to an actual conflict of interest concerning attorneys representing defendants who proceeded to trial, including Petitioner, and government witnesses at the same time, USA v. Viola, Docket Number 110, and Judge Nugent's failure to conduct a conflict of interest inquiry despite timely objection to joint defense at trial, see Viola, Docket Number 201, page 18, where the Justice Department maintained an actual of conflict of interest exists in the case.

Several defense attorneys approached the undersigned, and asked if the Petitioner was aware that Judge Nugent was caught on tape by federal prosecutors seeking favors for his girlfriend, including a job from two political leaders currently serving lengthy prison sentences, United States v. James Dimora, No. 1:10-cr-00387, N.D. Ohio and United States v. Frank Russo, No.1:10-cr-00384, N.D. Ohio. To view news accounts of Judge Nugent being caught on tape soliciting favors for his girlfriend, please see **Exhibit B**. According to multiple attorneys in Ohio, Judge Nugent is unwilling to rule against the Justice Department because he himself could have been prosecuted.

The result of Judge Nugent's refusal to allow the Petitioner to present proof of his innocence in federal court has led to a decade of litigation and a vigorous investigation into the events surrounding the first trial, led by former FBI Agent Robert Friedrich. At the same time, friends and supporters established a web site,

www.FreeTonyViola.com, to solicit investigative leads from the public. Petitioner's investigative initiatives proved fruitful and uncovered substantial proof of the Justice Department's illegal "win at all costs" style of litigation. Initially, Mr. Friedrich located court filings in which the Justice Department stated that Kathryn Clover committed perjury in federal court during Petitioner's first trial, but that using perjured testimony "was in the interests of justice" because withdrawing such testimony "jeopardized the outcome of the case," Clover Psychological Report, filed with other sentencing documents listing other cases where Clover testified for the government, and USA v. Clover, 10-cr-75, N.D. Ohio, Docket No 46. However, the government has failed to withdraw her false testimony, or otherwise follow Napue v. Illinois, 360 US 264 (1959) which bars the use of perjured testimony to "win" convictions, and obligates prosecutors to withdraw false testimony. More recently, both the FBI and Department of Justice have each admitted making materially false statements about evidence in the Petitioner's criminal cases. Incredibly, the FBI now claims it was unaware of FBI records in its own records system for over a decade, Viola v. Department of Justice, W.D. Pa case # 15-cv-242 and Third Circuit Court of Appeals Case # 18-2573. Both the United States District Court for the Western District of Pennsylvania and the United States Court of Appeals for the Third Circuit appointed counsel to assist the Petitioner in those matters, **Exhibit C**.

In addition to utilizing perjured testimony, invading the Petitioner's Sixth Amendment right to counsel and shifting exculpatory evidence between locations and jurisdictions, the government's own "expert" in the Petitioner's criminal case, Paul Tomko, was later prosecuted by the government, USA v. Paul Tomko, 1:09-CR-291, N.D. Ohio. The FBI and Mr. Tomko set up a fake mortgage company to entrap borrowers into committing mortgage fraud. Alas, the only fraud was perpetrated by Tomko, who was actually stealing identities when soliciting mortgage applications and reviewing documents inside the US Attorney's Office.

### **Part Three: Overview of these Proceedings**

As part of the Petitioner's investigative efforts, records requests were made, including requests for the following documents and voice recordings:

- Tapes with Judge Nugent's voice on them;
- Documents related to interviews the FBI conducted with Judge Nugent;
- Information concerning the Tomko fake mortgage operation and his involvement in the Petitioner's case.

Following the government's failure to produce any documents or voice recordings, and following the exhaustion of all administrative remedies, this lawsuit pursuant to the Freedom of Information Act was initiated in the District of Columbia District Court.

At the same time that this case proceeded, leads from the website and documents obtained by Mr. Friedrich and his the investigative team continued to build a substantial record of serious misconduct by prosecutors, including:

- Proof of a romantic relationship between Prosecutor Dan Kasaris and federal witness Kathryn Clover, which include a half dozen sworn witness statements and over 600 pages of emails between Kasaris and Clover that contain salacious comments and inappropriate banter, Viola public records litigation, Ohio Court of Claims Case Numbers 2020-00506PQ, 2020-00507PQ, and 2020-00477PQ.
- Further bolstering the Petitioner's case, Pasela family came forward to provide sworn statements that confirm the illegal intrusion into the Sixth Amendment right to counsel and the Task Force's suppression of exculpatory evidence.

During this litigation, a review of the case docket establishes that the Department of Justice made multiple false statements here, and repeatedly asked the court for permission to withdraw its own filings. Please see:

- Docket # 16 – February 10, 2017 – “Errata”
- Docket # 22 – May 12, 2017 – “Motion to Withdraw Motion for Summary Judgment”
- Between 2016 and 2019, the Justice Department was granted a dozen separate requests for extensions to respond to the complaint or motions.
- Docket # 47 – “Errata” and request for another extension

Meanwhile, the Justice Department's own documents undermine its contention it does not have to search task force for records responsive to the Petitioner's public records requests:

- Federal officials shifted Bates stamped federal evidence from the US Attorney's Office to the Task Force location;
- Press releases state that federal agencies were Task Force members; and
- The Petitioner obtained documents that confirm the Task Force was funded by the Department of Justice, **Exhibit D**.

The District Court denied government motion for summary judgment yet has ignored misconduct and failed to take any action despite a detailed factual record of misconduct by the government, and failed to appoint counsel.

In 2019, the Petitioner filed a motion to vacate the Court's earlier decisions, based on newly discovered evidence, including:

- Proof the federal government shifted records to the Task Force location, obligating the government to search that location for records or explain why such a search would be prohibitive;
- The Justice Department's admissions of making false statements in affidavits in a similar case should require the Court to stop accepting government representations in this case without further inquiry; and
- The government's failure to respond to earlier claims of the Petitioner required the Court to deem those issues conceded (See Court order dated October 16, 2019).

Regardless of the foregoing, the District Court has made no rulings on this matter in nearly two years, and this Petition follows.

**Part Four: Inexplicable Delays are Prejudicial to Defendant**

False statements by the Department of Justice have undermined the Petitioner's post-conviction litigation and caused an innocent American citizen to **remain imprisoned for nearly a decade after establishing his innocence at a second trial.** The government's actions here and in related cases have delayed the submission of a second or successive § 2255 Petition, because multiple attorneys have advise the undersigned to collect all relevant documents BEFORE submitting a court filing to have the initial conviction vacated. In addition, the government's actions have damaged other defendants prosecuted by the Task Force, because those individuals, too, are awaiting rulings in this case before proceeding with their own filings. These individuals include Thomas France, Susan Alt, Stephen Holman, Robert McCoy and many others. Finally, the Department of Justice has acted outside bounds of the law here, yet the District Court has enabled such behavior, and ignored false statements, the use perjured testimony and the shifting of records between locations and jurisdictions in an effort to subvert the public records law of the nation.

**MEMORANDUM OF LAW**

The All Writs Act provides in relevant part that "[t]he Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. §1651(a). Under this authority, the writ of mandamus may be used in the federal courts to confine an inferior court to a lawful exercise of its prescribed

jurisdiction or to compel it to exercise its authority when it is its duty to do so. Will v. United States, 389 U.S. 90, 95, 88 S. Ct. 269, 19 L. Ed. 2d 305 (1967).

Three conditions must be satisfied before a court grants a writ of mandamus: (1) the mandamus petitioner must have “no other adequate means to attain the relief he desires,” (2) the mandamus petitioner must show that his right to the issuance of the writ is “clear and indisputable,” and (3) the court, “in the exercise of its discretion, must be satisfied that the writ is appropriate under the circumstances.” Cheney v. U.S. District Court for the District of Columbia, 542 U.S. 367, 380-81 (2004) (quoting Ex parte Fahey, 332 U.S. 258, 259-60 (1947)).

First, Petitioner meets the requirement that he have “no other adequate means to attain the relief he desires.” Cheney, 542 U.S. at 380. Not only are delays prejudicial, (documents used in subsequent habeas) but Petitioner has no means of compelling the district court to rule on pending motions, other than this submission.

Second, a mandamus petitioner must show that his right to the issuance of the writ is “clear and indisputable.” Cheney, 542 U.S. at 381. Here, the District Court’s failure to rule on pending motions does not concern judicial discretion. Rather, the Court’s failure to rule on pending motions constitutes a failure of the Court to exercise its lawful authority. Leaving the case in a state of suspension also delays any in camera review of documents, and does not permit the Petitioner to appeal any ruling by the District Court.

Third, before granting mandamus, we must be “satisfied that the writ is appropriate under the circumstances.” Cheney, 542 U.S. at 381. In this case, considering all of the circumstances, mandamus is appropriate because the public has an overriding interest in the fair administration of justice. Moreover, a potentially corrupt federal judge remains on the federal bench, while over 1,000 criminal cases may be re-opened based on evidence the Petitioner utilized at his second trial, or in cases where government witness Kathryn Clover testified. Finally,



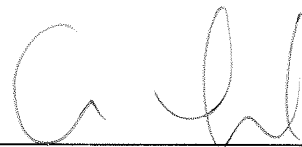
this Court itself has the inherent authority to ensure the fair administration of justice in our country and can and should act given this factual record.

**WHEREFORE**, Petitioner respectfully requests that This Court:

1. Refer the actions of Hon. Donald Nugent to the judicial conference for a proper investigation;
2. Appoint counsel to assist the Petitioner;
3. Issue a Writ of Mandamus to require the District Court to exercise its lawful authority to rule on pending motions without further delay; and
4. Any additional relief deemed appropriate by This Court.

Thank you very much for your consideration.

Respectfully Submitted,



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Anthony Viola  
2820 Mayfield Road # 205  
Cleveland Heights, Ohio 44118  
(330) 998-3290  
MrTonyViola@icloud.com

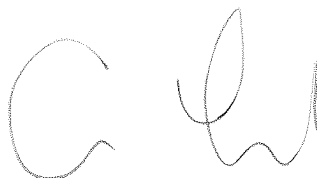
September 19, 2021

## CERTIFICATION

Pursuant to Federal Rule of Appellate Procedure 32(a)(7)(C), Anthony L. Viola hereby certifies that this brief complies with the type-volume limitation in Rule 32(a)(7)(B) and complies with the typeface requirements in Rule 32(a)(5)(A) and the type-style requirements in Rule 32(a)(6) because this brief has been prepared in proportionally spaced 14-point Times New Roman font.

Moreover, all exhibits attached hereto are a part of the District Court record or available on the federal court's PACER System.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read 'A. Viola', written in black ink.

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Anthony Viola

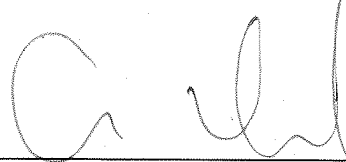
**CERTIFICATE OF SERVICE**

I, Anthony Viola, hereby swear and affirm that I caused a copy of the foregoing Motion to be served upon the following individuals, via regular U.S. mail, postage prepaid, on this 19th day of , 2021:

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

Hon. Tanya Chutkan  
District of Columbia District Court  
333 Constitution Ave., NW  
Washington, DC 20001

Respectfully Submitted,



---

Anthony Viola

# **Exhibit A**



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/mlt

# **Exhibit B**

## Print - Investigator: Feds record Dimora talking to U.S. judge | wkyc.com

wkyc.com

### Investigator: Feds record Dimora talking to U.S. judge

7:07 AM, Jan 5, 2012

CLEVELAND -- A secretly-recorded conversation between a U.S. District Court judge in Cleveland and Jimmy Dimora is among the 44,000 wiretaps obtained in the federal probe of county corruption in Cuyahoga County.

Soon before the FBI raided county offices in July 2008, Dimora, who at the time was a county commissioner, telephoned Judge Don Nugent about finding a job for Dimora's son, who was a law student at the time. Nugent told Dimora that he made a few calls, but was unable to find his son a position.

Nugent said he doesn't recall any conversation with Dimora, but does remember that Dimora's son was looking for work.

The call had come a few days after the judge had reached out to former County Auditor Frank Russo -- Dimora's long-time buddy -- and inquired about a job for the judge's girlfriend, according to close associates of Russo.

The insiders say initially Nugent showed up at the county administration building wanting to speak with Russo. They say the judge followed up with a phone call a few days later.

Nugent says he has never reached out to Russo or Dimora about a job for his girlfriend. He says his girlfriend never applied for a job with the county and doesn't work for the county. When asked if he spoke to someone in Russo's office, Nugent said, "I can't answer that question."

Catherine Turcer of Ohio Citizen Action says it would appear "cronyism runs rampant in Cuyahoga County."

But she says it would be difficult to prove that Dimora, Russo and Nugent were doing favors for each other.

Nugent, highly-regarded among his peers, says there's nothing wrong with making a phone call on behalf of someone as long as you don't expect any favors in return. The judge said he never expected anything from Dimora and Russo and he didn't feel any pressure to help Dimora.

The U.S. Attorney's office declined comment.

# **Exhibit C**



ALD-098

February 14, 2019

**UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT**

C.A. No. 18-2573

ANTHONY VIOLA, Appellant

VS.

UNITED STATES DEPARTMENT OF JUSTICE, ET AL.

(W.D. Pa. Civ. No. 1:15-cv-00242)

Present: BIBAS, Circuit Judge

Submitted is Appellant's motion for appointment of counsel in the above-captioned case.

Respectfully,

Clerk

ORDER

---

Upon consideration of the factors set out in Tabron v. Grace, 6 F.3d 147, 155–56 (3d Cir. 1993), Appellant's motion for appointment of counsel is granted. The Clerk is directed to locate and appoint counsel for Appellant and then issue a new briefing schedule. In addition to any other issues the parties wish to address in their briefs, the parties shall address: (1) whether the District Court properly considered documents outside the pleadings in ruling on the Task Force's motion to dismiss, see Fed. R. Civ. P. 12(d); Rose v. Bartle, 871 F.2d 331, 339 n.3 (3d Cir. 1989); Pension Benefit Guar. Corp. v. White Consol. Indus., Inc., 998 F.2d 1192, 1196 (3d Cir. 1993); and (2) whether the District Court provided a sufficiently detailed analysis in granting the FBI's and DOJ's motion for summary judgment, in order to establish that a careful de novo review of the agencies' disclosure decisions has taken place, see Van Bourg, Allen, Weinberg & Roger v. NLRB, 656 F.2d 1356, 1358 (9th Cir. 1981) (per curiam); Founding Church of Scientology of Washington, D.C., Inc. v. Bell, 603 F.2d 945, 950 (D.C. Cir. 1979)).

By the Court,

s/Stephanos Bibas  
Circuit Judge

Dated: April 3, 2019



# **Exhibit D**

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 04/06/2010

b6  
b7C

On April 6, 2010, at 3:35pm, Special Agent [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.

*[Handwritten initials]*  
b6  
b7C

The documents turned over to the MFTF included [redacted]

b6  
b7C

Investigation on 04/06/2010 at Cleveland, Ohio

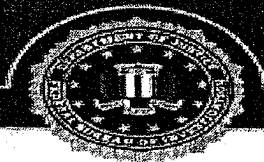
File # 329E-CV-71645-179

Date dictated

by SA [redacted]

b6  
b7C

*CAJ 8/10/302*



## 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.

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**For Immediate Release  
August 26, 2009**

**Cuyahoga County Mortgage Fraud Task Force Announces  
One of Nation's Largest Mortgage Fraud Cases**

**500 Real Estate Transactions for \$50 Million,  
453 Houses Purchased with \$44 Million in Fraudulent Loans,  
45 Defendants, and \$31 Million in Profit**

CLEVELAND- County Prosecutor Bill Mason and the Cuyahoga County Mortgage Fraud Task Force operating under authorization of Ohio Attorney General Richard Cordray's Organized Crime Investigations Commission announced a 377-count indictment involving 45 defendants who engaged in over 500 real estate transactions to purchase 453 houses in Cuyahoga County for \$50 million. These houses were purchased with fraudulent loans totaling \$44 million. Gofman and others siphoned off more than \$31 million in profits from their criminal enterprise.

These charges resulted from an 18-month investigation by the Task Force. Task Force members County Prosecutor's Office, FBI, and Ohio Bureau of Criminal Identification and Investigation (BCII) were three of many partners in the investigation. Cuyahoga County Sheriff Bob Reid's deputies also provided assistance. With funding from the Ohio Attorney General's Office and the Organized Crime Investigations Commission, the Task Force was formed in December 2007. 289 defendants have been indicted for approximately \$111 million in fraudulent loans for 812 houses, located in 28 communities in Cuyahoga County, as well as 6 communities located outside Cuyahoga County. 616 of the 812 houses fell into foreclosure.

Uri Gofman orchestrated one of the nation's largest mortgage fraud cases by enlisting family, friends and others to invest in his real estate company, Real Asset Fund, with promise of profit. Gofman's enterprise began with seed money from an investor who transferred funds from an Eastern European bank account in Latvia. Gofman's typical scheme involved setting up straw buyers to purchase homes; falsely claiming home improvements were performed on houses in order to refinance them; and then selling

houses to unqualified buyers with assistance of real estate agents, mortgage brokers, and title companies. Gofman and others defrauded lenders through loan application fraud, down payment fraud, and loan distribution fraud. 358 of the 453 houses fell into foreclosure.

The following 11 defendants were indicted on mortgage fraud-related offenses including engaging in a pattern of corrupt activity, a first degree felony: Uri Gofman, Tony Viola, Igor Gofman, Kevin Landrum, Dave Pirichy, Dale Adams, Steve Greenwald, George Gardner, James Leoni, along with Real Asset Fund owned by Uri Gofman and Karka Inc., which is owned by Uri Gofman. The other 34 defendants were indicted on mortgage fraud-related offenses.


Five defendants involved in this case were charged in December 2008, with mortgage fraud-related offenses in federal court: Uri Gofman, Paul Lesniak, Grennadiy Simkhovich, David Pirichy, and Howard Sieferd, Jr.

The Task Force is continuing to investigate this mortgage fraud case and possible new charges are forthcoming.

The Cuyahoga County Mortgage Fraud Task Force operates under authorization of Ohio Attorney General Richard Cordray's Organized Crime Investigations Commission. The Task Force is comprised of federal, state, and local enforcement agencies.

Task Force members include: Ohio Organized Crime Investigations Commission, Cuyahoga County Prosecutor's Office, Ohio Bureau of Criminal Identification and Investigation, Cuyahoga County Sheriff's Office, Cleveland Heights Police Department, Solon Police Department, Beachwood Police Department, Pepper Pike Police Department, HUD Inspector General's Office, Cuyahoga County Recorder, Cuyahoga County Auditor, Cuyahoga County Treasurer, Department of Commerce-Division of Financial Institutions, F.B.I., U.S. Attorney's Office, and U.S. Postal Inspector.

Contact: Ryan Miday, Public Information Officer, (216) 698-2819, cell (216) 299-9326 or [p4rm1@cuyahogacounty.us](mailto:p4rm1@cuyahogacounty.us)  
<http://prosecutor.cuyahogacounty.us>

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# BJA

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# Recovery Act Grant Program

## Award Information

**Awardee:** [Cuyahoga County Prosecutors Office](#)

**Award #:** 2009-SC-B9-0080

**Location:** [Cleveland, OH](#)

**Awardee County:** Cuyahoga

**Congressional District:** [11](#)

**Status:** Closed

**Funding First Awarded:** 2009

**Total funding (to date):** \$279,950

**Original Solicitation:**

[BJA FY 09 Recovery Act Edward Byrne Memorial Competitive Grant Program: Comprehensive Data Driven Approaches to Preventing and Reducing Violent Crime](#)

## Description of original award (Fiscal Year 2009, \$279,950)

The Recovery Act Edward Byrne Memorial Competitive Grant Program (Byrne Competitive Program) will help communities improve the capacity of state and local justice systems and provide for national support efforts including training and technical assistance programs strategically targeted to address local needs. This competitive grant announcement focuses on initiatives in eight areas: 1) preventing and reducing violent crime through community-based data-driven approaches; 2) providing funding for neighborhood-based probation and parole officers; 3) reducing mortgage fraud and crime related to vacant properties; 4) hiring of civilian support personnel in law enforcement (training staff, analysts, dispatchers, etc.); 5)



enhancing forensic and crime scene investigations; 6) improving resources and services for victims of crime; 7) supporting problem-solving courts; and 8) national training and technical assistance partnerships.

Under category 3, the Cuyahoga County Prosecutor's Office will use the grant to increase their number of law enforcement partners and expand their efforts to aggressively investigate and prosecute fraudulent mortgages within Cuyahoga County. The Cuyahoga County Prosecutors Office convened the Cuyahoga County Mortgage Fraud Task Force in January 2007. Since 2007, the Cuyahoga County Prosecutors Office has indicted 219 defendants for their involvement in fraudulent loans (totaling more than \$55 million), taken on 353 homes. Of the 353 home loans under investigation, 252 of the houses (71 percent) have fallen into foreclosure. The task force is comprised of 12 federal, state, and local law enforcement agencies. The grant funds will be used to hire three additional full-time employees. The increased capacity provided by adding staff is expected to result in criminal indictments being brought against an additional 250 defendants for fraudulent mortgages by the end of the 24-month grant cycle.

CA/NCF

**Date Created: September 15, 2009**

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### Similar Awards

District of New Jersey PSN Project

Northern District of Mississippi PSN Project

Northern District of California PSN Project

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