

EXHIBITS

A-15 to Z-15

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

October 18, 2013

Janet Marcusse
#17128-045
FCI - Tallahassee
501 Capital Circle, NE
Tallahassee, FL 32301

RE: Extraordinary Writ of Mandamus

Dear Ms. Marcusse:

The above-entitled petition for an extraordinary writ of mandamus was received again on October 17, 2013. The papers are returned for the following reason(s):

The cover page of the petition must state that it is an extraordinary writ of mandamus. Rule 20.

You have not appended a copy of the judgment or order in respect of which the writ is sought. Rule 20.3 pertaining to petitions for writs of prohibition and mandamus.

A copy of the corrected petition must be served on opposing counsel.

Sincerely,

Scott S. Harris, Clerk

By:



Andrew Downs

(202) 479-3038

Enclosures

501 Capital Circle, NE
Tallahassee, FL 32301

October 29, 2013

Office of the Clerk
Supreme Court of the United States
1 First Street, NE
Washington, D.C. 20543

Attn: Andrew Downs

Re: Your letters of October 3 and 18, 2013

To Whom It May Concern:

Enclosed is my petition, which is being submitted for the third time. Your letter of October 18, 2013 was the second time your office returned my Petition for a Writ of Mandamus to the Chief Judge of the Sixth Circuit Court of Appeals for the refusal to perform his or her duty under 28 USC §352(a), Expeditious Review, in regards to judicial misconduct complaints in which criminal activity by a Michigan federal judge was alleged and the evidence in support provided, and the dishonest acts taken by the three-judge panel on direct appeal to cover up and conceal this misconduct was reported, including to discriminately "decline" to consider my issues in a pro se brief after it was approved and accepted for filing in that court, initially misrepresenting they had "fully considered" them. That the Chief Judge of a court of appeals refuses to either dismiss the complaints or order an investigation regarding judicial criminal activity, which was submitted for review almost three years ago, in a circuit where the published standard for such review is one month, lends the appearance no disposition has been made so that this type of activity may be covered up or concealed, constituting a matter of grave public interest, as it is a felony under 18 USC §§ 3, Accessory after the fact, and 2071, Concealment, removal, or mutilation generally. After all, if my misconduct complaints were in fact frivolous, then they could have been dismissed years ago. The judiciary is not above the law they have sworn to uphold.

In light of the subject matter of my petition, therefore, the appearance is that the second time it was returned may constitute an obstruction of access to the court as the demands are frivolous and unreasonable (See Exh. A). Requiring a copy of the judgment or order to be appended in respect of which the writ is sought in the circumstances where the petition stated it was being filed to compel an inferior court to exercise its authority to make a decision when it is its duty to do so, constitutes a knowingly impossible request to fulfill. Because this request was not made in the October 3 letter (See Exh. B), it suggests that it was not until the petition was resubmitted on October 10 that the law clerks read the petition in its entirety, in light of the fact it was filed and assigned a case number, causing the scheme to be concocted to permanently bar this petition from submission for a bogus reason in violation of your Court's own case law. See **Moses H. Cone Hospital v. Mercury Construction**, 460 US 1 (1983)(Extraordinary writs of mandamus are used to compel an inferior court to exercise its authority when it is its duty to do so).

Additionally, your office included an "Extraordinary Writ Letter" when returning another prisoner's petition for correction, which is a checklist of reasons to enable the return of a pro se prisoner's submissions (See Exh. C). This inclusion was no doubt accidental, as it was not made with either of the two letters your

office sent to me returning my petitions repeatedly. A perusal of your checklist demonstrates that there was no legitimate reason not to request all necessary corrections the first time you returned my petition along with your October 3 letter. Items (f) and (g) from your checklist (See Exh. C) were used as the reasons in your October 3 letter (See Exh. B), whereas Item (h) from the checklist was selected as the excuse in the October 18 letter (See Exh. A). Surely, all of these reasons could have been included in the first letter, that is, if the reasons listed in the October 18 letter had been legitimate. It is a financial hardship for a prisoner making less than \$20 a month to resubmit the same petition three times when it costs \$24.30 to mail the necessary copies, not counting typewriter supplies and copy costs.

In any event, it is evident that when my petition was resubmitted on October 10, it was stamped "FILED" on October 17 and Case No. 13-6931 assigned to it, except after your law clerks actually reviewed the petition, it was decided to refuse to file it, or in this case, unfile it, as both the filing stamp and the case number were covered up or concealed by correction tape, as can be seen in the photocopies of the front and back of the cover page attached hereto (See Exh. D). The Supreme Court cannot cover up or conceal the criminal activity of a federal judge, as it implicates its own judicial integrity by so doing, and may also constitute a crime under 18 USC §§ 3, Accessory after the fact, and 2071, Concealment, removal, or mutilation generally.

As the appearance is that this is what is being attempted here, copies of this letter and its exhibits are being sent to Michigan Rep. John Conyers, Jr., House Judiciary Committee, and Michigan Senator Carl Levin to request an investigation, as well as to other appropriate members of Congress responsible for stopping federal government corruption. As part of the criminal activity alleged against the Michigan trial judge in my case is a violation of 26 USC §7214(a), demanding greater sums of taxes than are authorized by law, causing a copy to also go to the American Center for Law and Justice, as the prosecution involved the activities of a charitable organization. As its head, I was ambushed with \$936,626 in unreported income claims purportedly stolen from it at trial (See Exh. E), except when I sued the IRS in U.S. Tax Court afterwards, they were unable to prove it, resulting in a Judgment on January 31, 2012, reducing the amount to "zero" (See Exh. F). As my motion to vacate the convictions and sentences under 28 USC §2255 was pending at the time, I requested leave of this trial judge to file the Judgment against it, except he denied it. A copy of this letter is also being posted on my website, www.ipiw.com (See Exh. G).

Finally, it should be noted that the Chief Judge of the Sixth Circuit has a history in my case of disregarding my misconduct complaints. A previous complaint dated March 3, 2009, and submitted pursuant to Circuit Rule 46(c)(4)(A), regarding the material misrepresentations made by Assistant U.S. Attorney ("AUSA") Michael Schipper and court-appointed counsel, Melvin Houston, during my direct appeal in Case No. 05-2586 to fraudulently fix its outcome, were never acknowledged or a disposition made under Circuit Rule 46(c)(3)(C). Prosecutors tampered with the evidence to invent a product we allegedly "promised" to investors, but which we never saw before the trial. They also falsely objected whenever I would try to submit documents from the bulk bank record exhibits, which were provided by them, that the documents were not from the exhibits, obstructing all evidence of innocence, a fact I can now prove after suing under the Freedom of Information Act, and a fraudulent scheme in which the trial judge and court-appointed counsel participated. Please file my petition.

Sincerely,



Janet Marcusse
#17128-045
FCI Tallahassee

EXHIBIT B-15

cc: Rep. John Conyers, Jr., 2426 Rayburn House Office Bldg.,
Washington, D.C. 20515
Sen. Carl Levin, 269 Russell Senate Office Bldg.,
Washington, D.C. 20515
Sen. Rand Paul, 541 Buttermilk Pkw., Suite 102,
Crescent Springs, KY 41017
Senator-elect Cory Booker, Newark City Hall, 920 Broad Street, Room 200
Newark, NY 07102
American Center for Law and Justice, 100 Regent University Drive,
Virginia Beach, VA 23464

Enclosures

OFFICE OF THE CIRCUIT EXECUTIVE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT
503 POTTER STEWART UNITED STATES COURTHOUSE
100 EAST FIFTH STREET
CINCINNATI, OHIO 45202-3988

CLARENCE MADDOX
CIRCUIT EXECUTIVE

TELEPHONE: (513) 564-7200
FAX: (513) 564-7210
WEBSITE: www.ca6.uscourts.gov

October 23, 2013

Janet Marcusse 17128-045
FCI Tallahassee
501 Capital Circle
Tallahassee, FL 32301

Re: Complaint of Judicial Misconduct No. 06-11-90007
Complaint of Judicial Misconduct No. 06-11-90025/26/27

Dear Ms. Marcusse:

Enclosed are copies of Orders with a Supporting Memoranda signed on October 15, 2013 by Chief Judge Alice M. Batchelder, in which your complaints of judicial misconduct filed against United States District Judge Robert Holmes Bell (06-11-90007) and against United States Circuit Judges John M. Rogers and Jeffrey S. Sutton and United States District Judge William O. Bertelsman (06-11-90025/26/27) were dismissed.

Pursuant to Rule 18 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, you have the right to file petitions for review of the chief judge's disposition with the Sixth Circuit Judicial Council. If you wish to file petitions for review, your petitions must be received in this office within 35 days of the date of this letter.

Sincerely,



Circuit Executive

Enclosure

CM/pgn

JUDICIAL COUNCIL OF THE SIXTH CIRCUIT
MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:
Complaint of Judicial Misconduct

*
*No. 06-11-90007

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ORDER

A complaint of judicial misconduct having been filed by Janet Marcusse against the Honorable Robert Holmes Bell, United States District Judge for the Western District of Michigan, pursuant to 28 U.S.C. § 351, and the complaint having been reviewed by the Chief Judge of the Circuit pursuant to 28 U.S.C. § 352,

It is **ORDERED** that, for the reasons stated in the attached memorandum, the complaint shall be dismissed in part pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and Rules 3(h)(3)(A) & 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings as directly related to the merits of the named district judge's decisions, and in remaining part pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.



Alice M. Batchelder
Chief Judge

Date: 10-15-13

JUDICIAL COUNCIL OF THE SIXTH CIRCUIT
MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:
Complaint of Judicial Misconduct

*
*
*No. 06-11-90007
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M E M O R A N D U M

This complaint was filed with the Judicial Council of the Sixth Circuit pursuant to the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980, P.L. 96-458, as amended by the Judicial Improvements Act of 2002, Pub. L. No. 107-203, the Rules for Judicial-Conduct and Judicial-Disability Proceedings, and the Rules Governing Complaints of Judicial Misconduct adopted by the Judicial Council of the Sixth Circuit.

After conducting an initial review, the chief judge may dismiss a complaint as to which he concludes:

- (1) that the claimed conduct, even if the claim is true, is not "conduct prejudicial to the effective and expeditious administration of the business of the courts" and does not indicate a mental or physical disability resulting in inability to discharge the duties of office;
- (2) that the complaint is directly related to the merits of a decision or procedural ruling;
- (3) that the complaint is frivolous, a term that includes making charges that are wholly unsupported.

Rule 4(c), Rules Governing Complaints of Judicial Misconduct or Disability.

This complaint was filed by a federal prisoner against the district judge who sentenced her to a lengthy term of imprisonment after her conviction on numerous fraud and money laundering charges. Complainant challenges many of the district judge's rulings in her criminal proceedings, and asserts that the judge is biased and colluded and conspired with other officials to assure her conviction.


The complaint is subject to dismissal in large part as directly related to the merits of the myriad rulings that complainant takes issue with in the underlying criminal proceedings. See 28 U.S.C. § 352(b)(1)(A)(ii); Rule 11(c)(1)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Such decisions, including any allegedly improper failure to recuse, are not the proper subject of a complaint of judicial misconduct. See

Rules 3(h)(3)(A) and 11(c)(1)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The Judicial Council is not a court and has no jurisdiction to review any rulings by a judge, or to grant the relief that may be requested in the underlying case. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988).

Insofar as complainant alleges that the named judge colluded and conspired to assure her conviction or otherwise acted improperly during her criminal proceedings, the allegations of her complaint are insufficiently supported by credible facts to warrant an investigation by a special committee appointed pursuant to 28 U.S.C. § 353. "An allegation may be dismissed as 'inherently incredible' even if it is not literally impossible for the allegation to be true. An allegation is inherently incredible if no reasonable person would believe that the allegation, either on its face or in light of other available evidence, could be true." Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice, Judicial Conduct and Disability Act Study Committee, Sept. 2006, p. 148. A careful reading of the complaint, its attachments, and several supplements, and a review of the pertinent court records, reveals no support for complainant's allegations that the district judge engaged in misconduct in her case.

Many of complainant's allegations of improper conduct are fairly characterized as outlandish, at least. Most are simply belied by the record. However, none of complainant's specific claims of judicial misconduct would be believed by any reasonable person in light of the other available evidence of record in this case. Under these circumstances, this complaint will be dismissed in remaining part as insufficiently supported by credible facts to warrant an inference that misconduct occurred pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

For these reasons, the complaint will be dismissed in part pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and Rules 3(h)(3)(A) and 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, and in remaining part pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.



Alice M. Batchelder
Chief Judge

Date: 10-15-13

JUDICIAL COUNCIL OF THE SIXTH CIRCUIT
MICHIGAN-OHIO-KENTUCKY-TENNESSEE

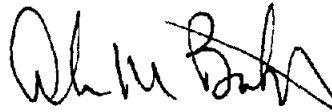
In re:
Complaint of Judicial Misconduct

*
*Nos. 06-11-
*90025/26/27
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ORDER

A complaint of judicial misconduct having been filed by Janet Marcusse against the Honorable John M. Rogers and the Honorable Jeffrey S. Sutton, United States Circuit Judges for the Sixth Circuit, and against the Honorable William O. Bertelsman, United States District Judge for the Eastern District of Kentucky, pursuant to 28 U.S.C. § 351, and the complaint having been reviewed by the Chief Judge of the Circuit pursuant to 28 U.S.C. § 352,

It is **ORDERED** that, for the reasons contained in the attached memorandum, the complaint shall be dismissed in part as directly related to the merits of the named judges' ruling pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and Rules 3(h)(3)(B) and 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, and in part as insufficiently supported by credible facts pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.



Alice M. Batchelder
Chief Judge

Date: 10-15-13

JUDICIAL COUNCIL OF THE SIXTH CIRCUIT
MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:
Complaint of Judicial Misconduct

*
*
*Nos. 06-11-
*90025/26/27
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M E M O R A N D U M

This complaint was filed with the Judicial Council of the Sixth Circuit pursuant to the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980, P.L. 96-458, as amended by the Judicial Improvements Act of 2002, Pub. L. No. 107-203, the Rules for Judicial-Conduct and Judicial-Disability Proceedings, and the Rules Governing Complaints of Judicial Misconduct adopted by the Judicial Council of the Sixth Circuit.

After conducting an initial review, the chief judge may dismiss a complaint as to which he concludes:

- (1) that the claimed conduct, even if the claim is true, is not "conduct prejudicial to the effective and expeditious administration of the business of the courts" and does not indicate a mental or physical disability resulting in inability to discharge the duties of office;
- (2) that the complaint is directly related to the merits of a decision or procedural ruling;
- (3) that the complaint is frivolous, a term that includes making charges that are wholly unsupported.

Rule 4(c), Rules Governing Complaints of Judicial Misconduct or Disability.

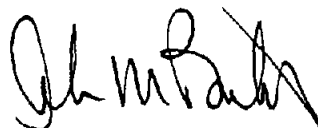
This complaint was filed by a pro se federal prisoner against the federal judges who comprised a panel of the United States Court of Appeals for the Sixth Circuit that affirmed her conviction on numerous fraud and money laundering charges on complainant's direct criminal appeal. Complainant contends that the panel ignored issues she raised in a pro se brief, then misrepresented that they had considered those issues in denying her petition for a rehearing en banc. Complainant contends that the panel engaged in fraud and collusion to deny her a direct appeal. It is noted that complainant filed an earlier complaint of judicial misconduct against the district judge who presided over her trial.

This complaint is subject to dismissal in part as directly related to the merits of the named judges' ruling pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and Rule 11(c)(1)(B) of the

Rules for Judicial-Conduct and Judicial-Disability Proceedings. Primarily, this complaint is fairly characterized as a direct challenge to the merits of the panel's decisions in complainant's appeal. However, the panel's rulings are not the proper subject of a complaint of judicial misconduct. See Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The Judicial Council is not a court and has no jurisdiction to review any ruling, or to grant the relief requested in the underlying proceedings. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988).

Insofar as complainant alleges that the panel engaged in fraud and collusion, the allegations are devoid of support by any credible facts that might warrant further investigation pursuant to 28 U.S.C. § 353. "An allegation may be dismissed as 'inherently incredible' even if it is not literally impossible for the allegation to be true. An allegation is inherently incredible if no reasonable person would believe that the allegation, either on its face or in light of other available evidence, could be true." Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice, Judicial Conduct and Disability Act Study Committee, Sept. 2006, p. 148. Here, complainant's allegations are devoid of factual support and inherently incredible. Accordingly, complainant's allegations of fraud and collusion will be dismissed as insufficiently supported by credible facts to warrant further proceedings pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

For these reasons, the complaint will be dismissed in part as directly related to the merits of the named judges' ruling pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and Rules 3(h)(3)(B) and 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, and in part as insufficiently supported by credible facts pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.



Alice M. Batchelder
Chief Judge

Date: 10-15-13

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

November 21, 2013

Ms. Janet Marcusse
Prisoner ID 17128-045
FCI - Tallahassee
501 Capital Circle, NE
Tallahassee, FL 32301

Re: In Re Janet Marcusse, Petitioner
No. 13-7452

Dear Ms. Marcusse:

The petition for a writ of mandamus in the above entitled case was filed on October 1, 2013 and placed on the docket November 21, 2013 as No. 13-7452.

A form is enclosed for notifying opposing counsel that the case was docketed.

Sincerely,

Scott S. Harris, Clerk

by



Andrew Downs
Case Analyst

Enclosures

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

January 13, 2014

Ms. Janet Marcusse
Prisoner ID 17128-045
FCI - Tallahassee
501 Capital Circle, NE
Tallahassee, FL 32301

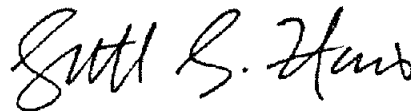
Re: In Re Janet Marcusse
No. 13-7452

Dear Ms. Marcusse:

The Court today entered the following order in the above-entitled case:

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of mandamus is dismissed. See Rule 39.8. Justice Kagan took no part in the consideration or decision of this motion and this petition.

Sincerely,



Scott S. Harris, Clerk

JUDICIAL COUNCIL OF THE SIXTH CIRCUIT
MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:
Complaint of Judicial Misconduct

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* No. 06-11-90007
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ORDER

On Petition to Review an Order of Dismissal

Pursuant to 28 U.S.C. § 357 and Rule 18 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, the complainant has filed a petition for review of an order entered by the Chief Judge on October 15, 2013, dismissing the complainant's complaint of judicial misconduct pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (iii) and Rules 3(h)(3)(A) & 11(c)(1)(B) & (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

The petition for review was considered by the Judicial Council of the Sixth Circuit pursuant to Rule 19 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, at a meeting of the Council held on March 20, 2014. All eligible members of the council who were present having voted for affirmance of the dismissal of the complaint, the order of dismissal will be affirmed.

It is therefore ORDERED that the order of dismissal of the complaint be affirmed pursuant to 28 U.S.C. § 357 and Rule 19(b) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.



Alice M. Batchelder
Chief Judge

Date: 4-1-14

JUDICIAL COUNCIL OF THE SIXTH CIRCUIT
MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:
Complaint of Judicial Misconduct

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* Nos. 06-11-90025/26/27
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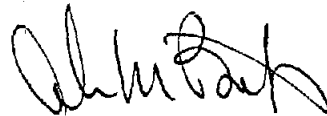
ORDER

On Petition to Review an Order of Dismissal

Pursuant to 28 U.S.C. § 357 and Rule 18 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, the complainant has filed a petition for review of an order entered by the Chief Judge on October 15, 2013, dismissing the complainant's complaint of judicial misconduct pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (iii) and Rules 3(h)(3)(B) and 11(c)(1)(B) & (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

The petition for review was considered by the *Judicial Council of the Sixth Circuit*^{*} pursuant to Rule 19 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, at a meeting of the Council held on March 20, 2014. All eligible members of the council who were present having voted for affirmance of the dismissal of the complaint, the order of dismissal will be affirmed.

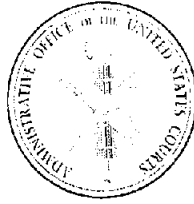
It is therefore ORDERED that the order of dismissal of the complaint be affirmed pursuant to 28 U.S.C. § 357 and Rule 19(b) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.



Alice M. Batchelder
Chief Judge

Date: 4-1-14

^{*} Circuit Judges John M. Rogers and Jeffrey S. Sutton took no part in the consideration of the petition for review or the entry of this order.



HONORABLE JOHN D. BATES
Director

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

ROBERT K. LOESCHE
General Counsel

JILL C. SAYENGA
Deputy Director

WASHINGTON, D.C. 20544

SHERYL WALTER
Deputy General Counsel

August 4, 2014

Janet Marcusse
Reg. No. 17128-045
Federal Correctional Institution
501 Capital Circle, NE
Tallahassee, FL 32301

Dear Ms. Marcusse:

This is in response to your recent correspondence regarding review of a circuit judicial council's order on your complaint under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, and the *Rules for Judicial-Conduct and Judicial-Disability Proceedings*.

When your judicial conduct complaint was dismissed without the involvement of a special investigating committee, you had the option, under the *Rules for Judicial-Conduct and Judicial-Disability Proceedings*, to seek circuit judicial council review of the matter. You sought and obtained that review. The resulting order by the judicial council had the effect of upholding the dismissal of your complaint, and no council member dissented on the ground that a special committee should be appointed. Under such circumstances, as the Act and the *Rules* make clear, a complainant has no right of further review. See 28 U.S.C. §§ 352(c), 357(c); Rule 19(e), *Rules for Judicial-Conduct and Judicial-Disability Proceedings*.

I regret to inform you that the Administrative Office of the United States Courts, the Committee on Judicial Conduct and Disability and Judicial Conference of the United States cannot be of further assistance to you in this matter.

OFFICE OF THE GENERAL COUNSEL
ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

CC. Ground Twenty-Eight: Argument (1)

Marcusse alleges the court of appeals acted improperly resulting in a violation of Due Process. (Dkt. No. 34, at 296-301.) Marcusse also makes more allegations of collusion and ineffectiveness by her court appointed counsel, Melvin Houston. (*Id.* at 298-99.) These arguments lack merit.

Marcusse accuses the court of appeals of engaging in three acts of “fraud”: (1) implying that it would consider her pro se arguments on appeal but not doing so; (2) attributing a brief quotation to her, rather than to defense counsel; and (3) claiming it had considered her pro se arguments when it had not done so. (Dkt. No. 34, at 299.) That the Sixth Circuit allowed her to submit a pro se brief and inquired at oral argument about other defendants wishing to adopt that brief (*id.*) does not prove that the court of appeals engaged in “fraud.” Although the Sixth Circuit occasionally permits the filing of pro se briefs in addition to briefs by that party’s counsel, there is no constitutional right to such “hybrid representation” on appeal, and the general rule is that the appellate court does not consider such pro se briefs. *See, e.g., United States v. Williams*, 641 F.3d 758, 770 (6th Cir. 2011) (“[B]ecause Williams was represented by counsel on this appeal, we decline to address these pro se arguments.”) (citing *United States v. Martinez*, 588 F.3d 301, 328 (6th Cir. 2009)).

Thus, whether or not the court of appeals considered Marcusse’s pro se arguments in her direct appeal, her constitutional rights were not violated. That the court of appeals quoted from her counsel’s brief and attributed it generally to her is of no moment — it is

Marcusse's failure to raise the *Santos* claim lacks cause, and thus the claim is procedurally barred.³

If this claim was not barred, Marcusse would be entitled to § 2255 relief on some counts of her conviction. Marcusse is correct that *Santos* precludes her conviction as to the counts involving promotion money laundering in violation 18 U.S.C. § 1956(a)(1)(A)(I) (Counts 43-57), a point the government concedes. (Dkt. No. 59, at 28.) However, Movant is incorrect as to the other counts of money laundering (Counts 41, 58, 81-82). But despite her entitlement to collateral relief on some counts if her claim was not procedurally barred, the Court would nonetheless, pursuant to the concurrent sentencing doctrine, deny Marcusse § 2255 relief.

First, the Court will discuss why Marcusse's *Santos* claim has merit for certain money laundering counts, but not others. In *Santos*, the plurality concluded that because "proceeds" could fairly be interpreted to mean either "profits" or "receipts," to avoid a "merger" problem, the rule of lenity required limiting proceeds to profits, at least insofar as it was applied to an illegal lottery where the government charged promotional money laundering. 553 U.S. at 514-16. The Court explained that interpreting proceeds to mean receipts would mean that every person who operated an illegal lottery would, by default, simultaneously commit promotional money laundering "because paying a winning bettor is a transaction

³In the disposition of another co-defendant, William Flynn's, § 2255 motion, the government did not argue that the *Santos* claim was procedurally barred. Thus, this Court dismissed the claim on the merits. (1:09-CV-451, Dkt. No. 50, at 34.)

concurrent three-year terms of supervised release as to each count. (*Id.*) Thus, the sentences are completely concurrent.

However, the Court did assess Marcusse \$6,000. (1:04-CV-165, Dkt. Nos. 639, at 48; 558, at 5.) In *Ray v. United States*, 481 U.S. 736, 737 (1987) (per curiam), the Supreme Court held that the concurrent sentencing doctrine does not apply where a defendant must pay an assessment on each count of conviction. Thus, the Sixth Circuit has declined to apply the doctrine in such cases. *See Ware*, 282 F.3d at 906; *Wade*, 266 F.3d at 579. Nevertheless, on October 16, 2006, the Court remitted the entire special assessment, eliminating this potential issue. (1:04-CR-165, Dkt. No. 674.)

Accordingly, because Marcusse's sentences for her money laundering convictions are fully concurrent, the Court would decline to award relief as to the counts of conviction for promotion money laundering (Counts 43-57) pursuant to the concurrent sentencing doctrine, even if it did not find that Movant's claims were procedurally barred. *See, e.g., United States v. Garcia-Flores*, 136 F. App'x 685, 688 (5th Cir. 2005) (declining to review sufficiency of the evidence challenge to one count, where concurrent sentence was imposed for another valid count of conviction and separate assessments originally imposed for each count had been remitted).

B. Ground Three: Argument (1)

Marcusse also alleges that Government Trial Exhibits 1, 3, 31, and 33 were altered prior to presentation to the jury in a way that materially prejudiced her. First, this claim is

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 1:04CR165-01

v.

Hon. ROBERT HOLMES BELL

JANET MAVIS MARCUSSE,

Defendant.

PETITION FOR REMISSION
OF SPECIAL ASSESSMENT

THE UNITED STATES OF AMERICA petitions this Court, pursuant to Title 18 United States Code § 3573, for remission of the special assessment imposed in this case.

STATEMENT OF FACTS

As grounds for this petition, the United States asserts the following:

1. On October 26, 2005, Judgment was entered in this Court against the above Defendant, levying an assessment of \$6,000.00 and restitution in the amount of \$12,961,966.80. Payments totaling \$50.00 have been received and applied to the assessment and a balance of \$5,950.00 remains outstanding.

2. The Defendant was ordered committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 300 months.

3. 18 U.S.C. § 3573 provides that:

Upon petition of the Government showing that reasonable efforts to collect a fine or assessment are not likely to be effective, the court may in the interest of justice -

1) remit all or part of the unpaid portion of the fine or special assessment, including interest and penalties;

4. Due to the victims' substantial losses in this case, and the government's interest in the defendant's satisfaction of his restitution obligation under Mandatory Victims Restitution Act (MVRA), 18 U.S.C.A. § 981(e)(6), the United States Attorney is requesting that the special assessment imposed on the defendant¹ at sentencing be set aside and that the Clerk's Office be directed to reapply any amount previously credited toward the defendant's special assessment obligation to his restitution obligation. Reasonable efforts to collect the special assessment are not likely to be effective, and crediting funds received from the defendant toward the special assessment obligation would not serve to benefit the victims. (See U.S. v. O'Connor, 321 F.Supp.2d 722 (2004)).

The United States of America respectfully requests this Court to enter the attached Order remitting the special assessment ordered in this case and directing the Clerk's Office to reapply any amount previously credited toward the defendant's special assessment obligation to his restitution obligation.

MARGARET M. CHIARA
United States Attorney

Date: October 6, 2006

/s/ W. Francesca Ferguson
W. FRANCESCA FERGUSON
Assistant U.S. Attorney
The Law Building, 330 Ionia, NW
P.O. Box 208
Grand Rapids, MI 49501-0208
(616) 456-2404

¹Defendant Marcusee is part of the U.S. v. Marcusee et al case in which special assessments totaling \$32,900.00 were ordered and restitution was ordered in the amount of \$12,961,966.80. The United States intends to petition for remission of all special assessments in this case and request that any payments received on the special assessments be applied to the restitution debt.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JANET MAVIS MARCUSSE,

Defendant.

No. 1:04-CR-165-01

Hon. ROBERT HOLMES BELL

ORDER

The matter before the Court is the government's petition for remission of assessment pursuant to 18 U.S.C. § 3573 and application of payments to the defendant's restitution obligation. The defendant was ordered to pay a \$6,000.00 special assessment, restitution in the amount of \$12,961,966.80, and to be incarcerated for 300 months. Any efforts to recover the balance of the \$6,000.00 assessment ordered by this Court on October 28, 2005, are not reasonably likely to succeed and any such efforts would needlessly expend public resources and would not serve to benefit the victims in this case. Accordingly,

IT IS HEREBY ORDERED that the government's motion for remission of assessment, filed pursuant to 18 U.S.C. § 3573, is **GRANTED**.

IT IS FURTHER ORDERED that the \$6,000.00 assessment imposed against defendant Janet Mavis Marcusse is hereby **REMITTED** and the Clerk's Office is directed to reapply any amount previously credited toward the defendant's special assessment obligation to his restitution obligation.

Dated: October 13, 2006

/s/ Robert Holmes Bell
HON. ROBERT HOLMES BELL
United States District Judge
Western District of Michigan



SMIETANKA, BUCKLEITNER, STEFFES & GEZON

A t t o r n e y s • C o u n s e l o r s

Thomas J. Gezon

Attorney and Counselor

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[Print this Page](#)

AREAS OF PRACTICE

ATTORNEYS

Thomas J. Gezon has practiced in Michigan since 1974. Prior to joining the firm, Tom concluded a successful public-service career as an Assistant United States Attorney with the United States Attorney's Office for the western district of Michigan. In addition, Tom served as an Assistant Prosecutor with the Berrien County Prosecutor's Office in St Joseph, Mich.

ATTORNEY ARTICLES

IN THE NEWS

Tom's practice includes state and federal litigation, representation of business and commercial clients, wills and estates, representation before government agencies, in-house investigations, and representation in all phases of criminal matters.

RESOURCE LINKS

While at the prosecutor's office, he was responsible for handling several high-profile homicide prosecutions and other capital offense prosecutions. Moreover, Tom organized and

CONTACT OUR FIRM

operated a special prosecutions unit for career habitual offenders.

OFFICE DIRECTIONS

During his tenure with the United States Attorney's Office, Tom handled a variety of federal criminal prosecutions. He also represented federal agencies in civil litigation in both state and federal courts, including matters in torts, admiralty, collections, and environmental law.

HOME



In addition to handling litigation for the United States, Tom was appointed to positions of management throughout his federal career. He was

appointed as the First Assistant United States Attorney from 1982 to 1996. He managed the office as the Acting United States Attorney from 1993 to 1994. He was appointed Senior Litigation Counsel for the office from 2000 to 2003.

Tom has been a regular lecturer and instructor at training programs for the U.S. Department of Justice, the Prosecuting Attorneys Association of Michigan and law enforcement organizations statewide on a wide range of federal criminal and civil practice topics.

Tom has accumulated specialized knowledge in complex, white collar, tax, and financial fraud prosecutions. In 2006, he was nominated by the office for the Attorney General's Award for Fraud Prevention for his role in successfully prosecuting eight defendants who operated a \$20-million investment fraud that victimized more than 500 individuals across the United States.

Upon completion of his tenure as an Assistant United States Attorney, Tom received commendations from the Department of Justice, the United States Attorney's Office, the FBI, the IRS, the U.S. Department of Health and Human Services, the Environmental Protection Agency, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the U.S. Probation Department, and other state and federal agencies for his distinguished service to the citizens of west Michigan. Tom also received the United States Attorney's Office distinguished Ethic of Excellence Medal.

Tom and his wife Patricia reside in Ottawa county.



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Schipper brings plenty of court experience to county bench



by David DeDecker
Staff Writer

Attorney Mike Schipper, a Middleville native, has had a long-term goal of becoming a judge in Barry County. That goal was reached recently when Schipper, 48, was appointed last month by Gov. Rick Snyder to fill the vacancy created when Judge Gary Holman retired from Barry County 56-B District Court.

Still, when the opportunity emerged late last year and Schipper felt he was ready to be a judge, he was still somewhat hesitant.

"When Judge Holman announced his retirement, there was a little trepidation about throwing my hat in the ring," said Schipper. "I am not a political guy. I don't mind running for election, because that's something I can do, and have some control over. I can knock on doors. But, the whole political thing was very scary to me. I was interested to see if this was going to be a political process. I have not been out there stumping for people and

giving money to campaigns. The money my wife and I give every year goes to our church and to charities who we think need it. It doesn't go to political campaigns, that's just our family choice. "We had final interviews with the governor's attorneys, which doesn't typically happen. When my wife asked me how I thought the interviews went, I said 'Whether I am appointed or not, I can honestly say I got a fair shot. They did things the right way. They asked the right questions. The questions asked were not political, but qualification-based, and how I was going to fit into the Barry County system.'

"My wife convinced me by saying, 'Go for it. You've been here your whole life. You've done a lot of things in the community. You've got as good a chance as anybody.' And, I had really good supporters," he said.

"I have practiced all over the state. Very few counties have the quality of judges we have had here. Not only legally qualified, but temperament. You go to a lot of counties, there are some judges who just aren't very sharp, and/or they're just lazy. In other counties, the judges are just nasty. There are other courts where judges are really, really biased. We don't have that here. We have had judges here who are sharp, work hard, and they have really, really been fair. Amy [McDowell] and I have really big shoes to fill."

McDowell was appointed to replace Circuit Court Judge James Fisher, who retired earlier this month. Both appointments were announced in a June 17 press release from the governor's office.

“What I said is true, it’s like following Schembechler and Izzo,” said Schipper. “Big shoes, but, we also have tremendous staff. I didn’t bring anybody with me. Matter of fact, I just had a meeting with staff, and they asked me why I didn’t bring anyone with me. I said ‘Why would I?’” Schipper said he is looking forward to working with McDowell and Probate Judge William Doherty. Though the three are assigned to three separate courtrooms, the Barry County courts are a model program in which the judges cover for each other when caseloads are uneven or judges are absent.

“We don’t know each other at all,” said Schipper of McDowell. “She seems open and receptive, like I am. She’s nervous, like I am. I like the fact that this is a unified court. It may become more unified, since we are both new. I have told her that I am more than happy to handle certain types of cases, like employment discrimination, because I have done that before. Judge Doherty, Judge McDowell — we can all handle each other’s cases to make things work more smoothly, more efficiently, and save money and time. I think it is the way all the courts should be run.” Schipper will serve the remainder of Holman’s term which ends Jan. 1, 2013. He will then need to seek election to remain on the bench.

A graduate of Thornapple Kellogg High School, Schipper received a bachelor’s degree in economics from Hope College and a law degree from The Ohio State University.

“I grew up in Middleville, went to school in Middleville and played football, basketball, baseball, and ran track,” said Schipper. “I was adopted, all the kids in my family were adopted. My final adoption took place right here at the Barry County Courthouse. My father was the minister at Middleville Christian Reformed Church and the Barlow Lake Chapel. After my mom had a stroke, my dad taught religion at Grand Rapids Christian Schools and Calvin College.”

Schipper began his law career with Clary Nantz and Wood by serving as the Kentwood City Prosecutor, handling all district court matters. Later, he worked in the civil litigation unit and handled a variety of civil cases, including landlord/tenant, divorce, estate planning, tort, municipal law, insurance defense, corporate law and contracts.

After law school, Schipper said he and his wife knew they wanted to reside in West Michigan.

“It’s where our families are — my wife went to Portage Central High School. So, I took a position with a fairly large law firm — Clary Nantz and Wood, about 50 attorneys. One of the things they did at that point [was] all the municipal work and misdemeanor criminal work for the City of Kentwood. They would have their young trial lawyers work in Kentwood and get some trial experience. So, I did that right away for my first two years and loved it. I tried 10 or 12 cases, and loved being in court. You could do that for about two years and then you had to move on and let the new young lawyers move into those positions.

“When I looked ahead at what my career was going to be at a large law firm, it would be very few trials. There are still very few trials in a civil practice, it’s too expensive to try a case, too much risk, and almost everything is settled. The statistics are probably still 98 percent or more of civil cases being settled.”

“I did not want to do depositions for my whole career,” said Schipper. “So, I knew a couple of guys at the U.S. Attorney’s Office, I played basketball with them, and they said some positions were open. They typically wanted people with more experience, like five-years-plus. But, I thought, ‘it doesn’t hurt to apply.’ So, I did apply and clicked with then-U.S. Attorney John Smietanka ... He told me ‘Listen, we typically like five years, but you have done as much in two years as a lot of people have done in five.’ So, he gave me a chance. I started in the civil division there. We did everything from employment discrimination cases, to medical malpractice, to any type of tort case. I did some land condemnation, eminent domain kind of stuff, tax and bankruptcy ... you name it. It was great experience.”

He then moved into criminal prosecution cases involving guns, drugs, bank robberies, immigration violations, identity theft, counterfeiting, federal employee fraud and theft, public corruption, wire fraud, money laundering and white collar fraud.

"I did that the first 12 years, but we still didn't get much trial work and I missed it still. So, I moved over to the criminal division for the my last eight years. I was fortunate when transferring, the then-new U.S. Attorney, Margaret Chiara, asked me to develop a new program working with Kent County."

In 2002, through the U.S. Attorney's Office, Schipper became a Kent County Special Prosecutor. He handled a full misdemeanor and felony caseload, ranging from domestic violence to a two-defendant murder case.

"Kent County, at that time, had a number of people running for election, and they were short-staffed," recalled Schipper. "They had four or five people at least who were running for one thing or another. So, Chiara asked me if I would go over there for six to 12 months and help them out, where I would get more trial experience, more quickly, than I would even get in federal court. She wanted me to develop a program to bring new attorneys over there. I was there for eight months. I was able to work in front of all the judges in Kent County, district and circuit courts, tried a bunch of cases. It was really great experience."

In 2005, Schipper won the Case of the Year Award when he successfully tried the longest and largest case in office history — a five-week, 100-witness, \$20 million Ponzi scheme. Other awards he has received include an IRS regional and national award; U.S. Air Force award; USDA regional and national award; letters of commendation from the U.S. Army, USDA, Social Security and the U.S. Postal Service; a Housing and Urban Development award; a USDA Food Stamp award; and a personal letter of thanks for U.S. Attorney General Janet Reno for the resolution of a complex tax case.

In Barry County, Schipper served as chair of the Thornapple Kellogg Schools bond campaigns in 1996 and 2002. He has served on the Thornapple Township Zoning Board of Appeals and the Compensation Evaluation Committee. He also served on the Barry County YMCA Board of Directors from 1994 to 1996 and has been a Barry County Court-Appointed Special Advocates for Kids supporter since 2000.

He is the TK High School football strength and nutrition coach and Hastings age-group swim coach. Schipper was the TK Middle School and youth football coach and director from 2004 to 2009.

Schipper is a business and law speaker at Hope College. He also speaks at Thornapple Kellogg, Rockford, Forest Hills Central and Godwin Schools. Schipper has taught at the Bimaadiziwin Alternative High School in Grand Rapids, as well as the Kent County Mock Trial and Young Lawyers Association.

"For a long time, I have wanted to be a judge — for differing reasons as I have matured — but I really think that it could be a great way, if it's done right, to serve the people," said Schipper. "And, growing up in Barry County, it's kind of small-town, and I like it that way. I think you can have more impact. I think a judge here in Barry County can have significantly more impact than a judge in Kent County — not that you see that many more people in front of you, but because the people know who you are. Almost everyone in Barry County knows who Judge Holman is, whether they were in front of him or not, they know something about him. His reputation means something. So, after seeing all the judges in state court and having a lot of contact with them, I thought, 'This is something I would like to do down the road. I think I could do a good job at it.'

"I would never have run against Judge Holman or Judge Fisher because they were dynamite. For one, why run against a judge that's doing a good job? Number two, they were probably unbeatable.

But, I knew Judge Holman would not be able to run again because of his age. So, I was fully prepared to run in 2012.

"In the fall of 2010, I had my 20 years in at the U.S. Attorney's Office, and my wife and I decided it might be a good time for a change. I thought about staying for another two years, but given the nature of the job, it would have been difficult to run a campaign and keep doing my job. So, it was perfect timing. I have a friend who had been pursuing me to work for her firm. She has one of the largest health care consulting firms in the country, based out of Troy. They do primarily health care consulting for home health care agencies, which my wife worked in for about 20 years, so I had some knowledge of that."

Schipper said he told the woman he would retire from the U.S. Attorney's Office and go to work for her, knowing it was just temporary. She said she really only needed him to educate her company and young attorneys to get them up to speed on the new state and federal laws.

He worked at her firm on various projects until decided to pursue the district court appointment.

"I did not know Judge Doherty before this, but I have gotten to know him over the last few months. What a classy, dynamite guy. When I look at someone, I don't look at what they do, I look at if they are a good person. I am glad he is the chief judge. He has a great temperament and he is open-minded. He's progressive. He doesn't want to mess up what has already happened, but he is also very open and wants to take it to the next level. He wants to take what Judge Fisher and Judge Holman have developed, and not rest on it. That's great. I am excited to work with him."

As far as drug court, Schipper said he ran something similar while at the U.S. Attorney's Office, but it was not limited to drug and alcohol offenders; it was a more intense probation called supervised release.

"We would take the more serious offenders," said Schipper. "They would come into court once a month with support and family. The judge would talk one-on-one, more like a mentor, we did more work to get them jobs or keep the jobs they already had. Judge Fisher was incredibly successful with his program in circuit court.

Schipper said he is a proponent of the drug court program here in district court.

"I think it is more valuable in district court than circuit court because district court deals with younger people, and a lot of first-time offenders," he said. "So, the real goal, I think, is to stop crime, to stop recidivism. It's not to lock people up. There are certain people who need to be locked up — some for a long time if it's bad enough. But, the goal is not to lock people away; the goal is to help them fix whatever behavior or habit they have so that they don't do it again. If we can grab people as young as possible, and fix it before they end up in circuit court, that's the goal. Once you get to circuit court, and it's a felony, it's pretty serious.

"We can't fix someone if they don't want help, but we have to offer it and offer it and offer it, particularly in Barry County," he said. "We have a lot of things which cause people to drink and use drugs — we're a poor county, we have a lot of unemployment, a lot of people living paycheck to paycheck. Those are huge stressors. As a court, we have to understand that and work with the people. We need to punish them when necessary, but our real job is to try and help them out."

Schipper said he is looking forward to taking the bench Tuesday, July 5.

"I want people to walk out of my courtroom and say, 'I got a fair shake, and I don't hate the system.' I promise to work hard and do my best," he said. "I would like to keep things, for the near future, as consistent as possible. I have been working with ... staff to learn about recent sentencing, probation, fines and costs. As a practicing attorney, I know one of the most important things for me is knowing what the judge is likely to do. As I grow and learn, I may modify some things."

U.S. attorney's office ran for 12 seasons on drama of ambitions, strife, rumors

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Ken Kolker | The Grand Rapids Press

By



Press File PhotoFormer U.S. Attorney Margaret Chiara was fired in

2006.

GRAND RAPIDS -- The story line about lawyers was about the same for a dozen years, though the characters changed.

It involved sex, office politics, back-stabbing, juicy gossip, jealousy and disputes that reached federal courtrooms and Congress.

Was it "Boston Legal?"

"Law & Order?"

No. It was the U.S. Attorney's Office in Grand Rapids.

A report released last week by the Department of Justice on the firings of nine top prosecutors in 2006, including Margaret Chiara of the Grand Rapids office, detailed the turmoil and allegations of a homosexual relationship that preceded her dismissal.

It also described how two long-time assistant U.S. attorneys -- a married couple allegedly with axes to grind -- spread "unproven rumors" about Chiara and an alleged "live-in girlfriend" all the way to Washington, D.C.

THE PLAYERS

Bosses, aides and critics of U.S. Attorney's Office

THE U.S. ATTORNEYS



Michael Dettmer,
1994-2001:
Faced harassment suit



Margaret Chiara,
2002-06:
Faced rumors, called "weak"

THE ASSISTANTS



Agnes Kempker-Cloyd:
Accused Dettmer



Leslie Hagen:
Chiara friend got bonus



Lloyd Meyer



Phillip Green

But general turmoil started long before Chiara took over -- as far back as 1994 -- under her predecessor, Michael Dettmer. For most of his tenure, he was plagued by allegations of sexual harassment and running an office in "shambles."

The system's fault?

The U.S. Attorney's Office for the Western District of Michigan is the area's highest federal legal office.

It covers all of West Michigan and the Upper Peninsula, with about 35 attorneys and 50 other employees.

The question: Even as the office prosecuted drug smugglers and other lawbreakers, why did it become such a soap opera?

Some insiders, including Dettmer, point to a system that puts the U.S. Attorney -- the head of the office -- at a disadvantage. The presidential appointment must be confirmed by the Senate, and it usually ends when the president leaves office.

The assistant prosecutors are career federal employees who cannot be fired by the U.S. Attorney. They know they will outlast their boss.

"One worries about institutions where leadership is shifted so often," U.S. District Judge Robert Holmes Bell said. "It leads to a certain instability."

Some have praise for office

But former First Assistant U.S. Attorney Tom Gezon, who retired after working under Chiara, Dettmer and Dettmer's predecessor, John Smietanka, said the much-publicized turmoil gave a skewed impression.

"It's not a good way to judge the office," he said. "They do terrific litigation in tough cases."

A recently retired assistant U.S. attorney who worked for Dettmer and Chiara said the office was a "great place to work" and the troubles were "mostly personality driven."

"Fortunately, these kinds of episodes are an exception, but it's hard for people to see that," said the former assistant, who did not want to be identified.

Charges and denials

Dettmer's chief opponent, Assistant U.S. Attorney Agnes Kempker-Cloyd, filed a federal lawsuit in 1997, claiming he made unwanted sexual advances, once swatting her rear.

She reported being tailed by the FBI on Dettmer's behalf and said somebody urinated in her car and flattened her tires. Kempker-Cloyd also was upset because Dettmer talked about taking away her parking spot.

Dettmer denied the harassment allegations. The suit was dismissed because it was filed too late. But some assistant attorneys had picked sides, testifying for one or the other.

Judges weigh in on woes

In the late 1990s, U.S. District Judge Richard Enslen, a Democrat like Dettmer, called the office a "shambles" and a "house divided."

Judge Bell, a Republican, said he believes the office unraveled as it grew quickly with new crime-fighting programs.

"That can happen when you don't have strong, assertive leadership that gives clear directions," Bell said.

Former chief defends 'product'

Dettmer, who was appointed by President Bill Clinton in 1994, resigned in 2001.

"It's a tough place to be a boss," Dettmer said. He said he inherited an office with some assistants with "ambitions beyond the office."

"Ninety-percent, no, 75 percent of the lawyers in that office are spectacular, the best, the kind of people you want to be around. Then, there's a group that want that title and want something else. It's a bad mix."

Dettmer said he resigned and returned to private practice in Traverse City because, "I think the life of that job is about six years, then somebody else needs to have the pleasure."

Still, he loved the job, he said. "I think, regardless of the strife, the product was correct."

Rumors spread

In October 2002, a year after Chiara was nominated by President Bush and confirmed to replace Dettmer, she hired her friend, Leslie Hagen, as an assistant attorney.

Soon, rumors spread through the office about an alleged sexual relationship between Chiara, a former Cass County prosecutor, and Hagen, a former Huron County prosecutor.

Hagen, who handled crimes in Indian country, stayed occasionally at Chiara's home in Lansing, walked her dog when Chiara was gone and stayed with her more than once at her \$580,000 home near the Atlantic Ocean in South Carolina. They traveled together for work.

Chiara also pushed to have Hagen's job evaluation changed from "satisfactory" to "outstanding."

The Justice Department investigation blamed the Meyers for spreading "unproven rumors" and called it "unprofessional."

Chiara's Grand Rapids attorney, Jon Muth, said it was clear the Meyers conducted an "intentionally malicious campaign of false allegations," claiming they wanted to succeed her.

Phillip Green, former First Assistant U.S. Attorney under Chiara, told federal investigators the rumors started spreading after Lloyd Meyer was snubbed for a cash bonus that went to Hagen.

Meyer "went ballistic," Green said.

Top aide turned target

Green said he stepped down as first assistant mostly because of the Meyers. The rumors were "the straw that broke the camel's back," he said.

Later, Green became a target. Bush nominated him for a U.S. Attorney post in southern Illinois, but anonymous letters to the Senate Judiciary Committee alleged wrongdoing: That Green likely took a bribe in a drug case, was involved in a "sweetheart deal" in a separate case, and discriminated against women.

An investigation found no evidence of bribery or misconduct, though it found Green showed "poor judgment" by participating in an "unlawful" sentence cut in the drug case. That cost him his chance for the Illinois job.

Lloyd Meyer denied he and his wife had "an ax to grind." He said they were "honor-bound under federal law to report unethical conduct."

"Sunlight is the best disinfectant there," he said.

Meyer blamed the turmoil on a "culture of lawlessness that pervades" the federal judicial system in West Michigan -- from judges to prosecutors.

He would not say whether he sent the three anonymous letters about Green, though he said he cooperated with the resulting federal investigation.

Chiara: Office a 'disaster'

A Justice Department evaluation in 2004 gave Chiara high marks, though questions were raised about favoritism.

But by March 2005, the department rated Chiara as "weak," and her name appeared on the first list for U.S. Attorneys targeted for firing.

Associate Deputy Attorney General David Margolis started questioning Chiara's leadership after a former Justice official, who had recommended her for the job, told him she was "divisive" and her office was in "turmoil."

Even Chiara, aware the rumors were "an office-wide issue," said her office had become a "disaster," the federal report says.

The Justice Department report, while critical of the Meyers, found Chiara's firing was appropriate and based on her failure to address the turmoil.

But Muth, Chiara's attorney, said the department failed to heed her calls for help. He questioned how Chiara could "rein in" employees who were "trying to destroy her" when she had "virtually no ability" to discipline or fire them.

"Such power lies only in Washington, D.C.," Muth wrote.

Epilogue

Judge Bell defended Chiara, blaming The Meyers for the turmoil that cost her the job.

"When I see something like this going on, particularly with the insinuations, I just wonder: Where does Ms. Chiara go to get her reputation back?" U.S. District Judge Robert Holmes Bell said.

Bell and Chiara are Republicans, but the judge also called into question her firing by the Bush administration.

Bell also said he never questioned the ability of Hagen, who appeared before him often in court, and "I never saw anything about the character and integrity of Margarat Chiara that wasn't beyond reproach."

And he praised changes Chiara made: "She definitely improved the morale and the professionalism in that office."

Bell said he sees an office that is running smoothly under her replacement, Acting U.S. Attorney Charles Gross.

"She set in place the right people doing the right things," Bell said.

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STONE COUNTY »

Plaster's 'village' given thumbs down

Kathleen O'Dell
News-Leader

By a 3-0 vote, the Stone County Commission today denied a request by landowner Robert Plaster to create his controversial new village.

In response to the vote, Plaster's attorney vowed to continue to pursue a suit claiming the commission's refusal to OK the village is unfair, illegal and costing Plaster's company money.

After the hearing, attorney Michael Cully added, "I wasn't surprised."

Lebanon businessman Plaster insists his 400 acres at Table Rock Lake is about 10 miles away when measured by road, freeing residents of his proposed village from any requirement to apply for annexation.

The vote against the village came at a 10 a.m. hearing in the Stone County Courthouse in Galena.

Unlike a September hearing in which vocal opponents of the petition packed the meeting room, no one among the 20 citizens attending today spoke at the hearing. Earlier, petition opponents said they had already voiced their opinions and it was time for the commission to act.

The commissioners and legal counsel had been considering the petition to incorporate a village since it was submitted Aug. 28.

Presiding Commissioner George Cutbirth and Cully disagreed on two main points at the hearing.

Commissioners believe the law says landowners who wish to incorporate a village within two miles of an existing city must first ask to be annexed by that city. A county map shows Plaster's land is 1.14 miles from Kimberling City. If the request is rejected or otherwise answered "unfavorably," the residents may then attempt to incorporate after waiting one full year.

Cully said the law says the petitioned city must certify the two lands touch, or are contiguous. But they don't, Cully said. Since there's no way to comply with that aspect, the landowner is free to petition to incorporate, Cully said.

The commission doubts the few homes and outbuildings on Plaster's land constitute an "assembly of houses" as state law defines as suitable for creating a village. Cully believes they do.

Plaster's petition to incorporate, filed through his Evergreen Corporation, was filed on Aug. 28, the very day a revised state law went into effect that appears to make it easier for landowners to form their own villages.

How that law got passed and who pushed for it has generated questions and controversy about Missouri Speaker of the House Rod Jetton and his role in getting it in the bill.

Homeowners and resort owners near Plaster's lake property object to the new village because they're not sure what he will do with the property, and worry any large development would further pressure the narrow DD Highway access road.

Plaster's company, Evergreen National Corp., and a resident of his land sued the commission in late September for thwarting efforts to develop the land.

The suit alleges that Evergreen has lost profits and business goodwill in the amount of no less than \$65 million by

past denials to develop the property. It seeks a jury trial and unspecified damages.

2

DOC. #: 696620

QUIT CLAIM DEED

MELANIE I HUENPFNER
MARINETTE COUNTY
REGISTER OF DEEDS
JULY 10, 2006 AT 02:34PM
Fee Amount: \$13.00
Fee Exempt 77.25-(*2)

Document No.

MARINETTE COUNTY, WISCONSIN, a body corporate, duly organized and operating in accordance with Sec. 59.01 of the Wis. Stats.,

QUIT CLAIMS WITHOUT WARRANTY, for good and valuable consideration, the following-described real estate in Marinette County, State of Wisconsin, to:

RECORDING DATA

R & S TOOL, INC.,

Return to:
R & S Tool, Inc.
7135 Sundew Road
Sobieski, WI 54171
Tax Parcel No.: 032-00525.000

That part of Government Lot 5, Section 15, Township 32 North, Range 18 East, more particularly described as follows, to-wit: Beginning at a point on the line between Government Lots 5 and 6 a distance of 33 feet North of the Southeast corner of government Lot 6, thence North on the said lot line between 5 and 6 a distance of 213.0 feet; thence deflecting to the right at an angle of 79° 30' to a property line fence between Wm. Forrest and a Town Road running to Thunder Lake; thence in a Southerly direction along said line fence to the North right of way line of County Trunk "W"; thence West along said North right of way line to the point of beginning. Situate in the Town of Stephenson, Marinette County, Wisconsin.

This is not homestead property.



Exempt from transfer tax return and transfer tax in accordance with Sec. 77.25(2), Wis. Stats.

Dated this 6th day of July, 2006.

MARINETTE COUNTY

By: Katherine K. Brandt
Katherine K. Brandt, County Clerk

ACKNOWLEDGMENT

STATE OF WISCONSIN)

: SS.

MARINETTE COUNTY)

Personally came before me this 6th day of July, 2006, the above named

13th Inv. Inter-Dept.

DOC. #: 696620

Katherine K. Brandt, County Clerk for Marinette County, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Becky S. Chasensky Dep. R.O.D.
Notary Public, Marinette County, WI
My Commission: Jan 1, 2009
Becky S. Chasensky

THIS INSTRUMENT WAS DRAFTED BY:

Gale Mattison
Corporation Counsel
Courthouse - 1926 Hall Avenue
Marinette, WI 54143-1717

Phone: (715) 732-7435

1 A Yes.

2 Q Could you explain how that came about?

3 A When we met Mike Carney, he needed somebody to go around
4 to the Indian tribes, and I talked to Mike and Mike asked me
5 if I'd go around with Mr. Williamson (sic) and meet with the
6 tribes. So that's how it came about.

7 Q All right. Was there some plan for the sale of the bar
8 and the house as a package, as a resort, that Mike Carney at
9 MLC put together for you?

10 A Yes, they did. They took the house with 70 acres and the
11 big bar and they were pitching it to the Indians because they
12 put it in a package deal that the Indians were gonna buy that
13 and turn the bar into a casino, and the property, the other
14 property was like a mile away from it. They were gonna build
15 a hotel on that part, and that's what was pitched to them by
16 Mike Carney.

17 Q And did you put together a lot of supporting documents
18 for that development package?

19 A I talked with Mike. Mike was actually putting it
20 together.

21 Q Would you recall a fax from Mike if you were to see it in
22 regards to what you were supposed to put in the development
23 package?

24 A Yes.

25 (Document provided to witness for review.)

1 THE WITNESS: Yes, that's the package.

2 DEFENDANT MARCUSSE: Would you tell us --

3 MR. VALENTINE: May I see it, please?

4 (Document provided to Mr. Valentine and Mr. Gezon for review.)

5 BY DEFENDANT MARCUSSE:

6 Q I was gonna have him state what some of the -- could you
7 tell us what some of the items were that you were supposed to
8 put together on the list for the development of the bar
9 property?

10 A Okay. It was pictures of site structure, exterior,
11 interior, adjoining property, roadways, aerial, et cetera,
12 plat maps, area maps, site maps, building plans, construction
13 documents, permits, community support, three letters of
14 recommendation in support of project from community members,
15 newspaper articles on area tourism, new roads, community
16 sport, airports and gaming. New road plans from Wisconsin
17 Department and area demographics from Chamber of Commerce.
18 Land appraisal, blank realty contract, liquor license,
19 supporting information, engineering report, EPA Phase 1
20 report, impact analysis, proximity map of nearest competition,
21 a new four-lane access with expected completion dates.

22 Q Did you go ahead and prepare the items on that list for
23 him?

24 A Yes, I did, all of them.

25 Q Have you ever heard of any kind of investment or business

1 operation in which no person was on it as a signatory or as
2 the operator of it?

3 A No.

4 Q Wouldn't that explain why a lot of the funds went through
5 your accounts, because you were doing them on instruction for
6 investments?

7 A Yes, I was.

8 Q Are you aware of any tax code that would make that
9 taxable to you, then?

10 A No, I'm not.

11 Q Isn't it true that people are allowed to deduct business
12 expenses from their receipts?

13 A Yes, they are.

14 Q What do you think of the advice of a tax person that a --
15 who thinks a one-signatory limited liability company is a
16 personal account?

17 A I really don't know.

18 Q Does that make any sense to you?

19 A No.

20 Q In regards to MLC, were you aware of the legislation to
21 put some land into the Bureau of Land Management for
22 reservation status?

23 A Yes, I was.

24 Q Were you aware that paperwork was filed with the Bureau
25 of Land Management?

1 and Dan Evans told me that --

2 MR. GEZON: Excuse me, Your Honor. That would be
3 about three layers of hearsay.

4 THE COURT: Sustained.

5 BY DEFENDANT MARCUSSE:

6 Q Did you have any occasion to believe that Mr. Plaster was
7 going to adhere to his agreement to proceed with the project
8 as he had in writing agreed to do?

9 A Yes, he was supposed to do that as soon as he got that
10 money in, and then he didn't do it.

11 Q Were you ever --

12 MR. VALENTINE: Excuse me, Your Honor. I'm going to
13 object here only because it sounds like it's information
14 outside of this witness's personal knowledge. My hunch is
15 that if you were to ask where he heard it, it would be that
16 Jan Marcusse told him, and now we're into the problems
17 associated with defendants using their own prior statements in
18 furtherance of their own cases as admissions, which they're
19 not.

20 MR. KACZOR: Your Honor, it seems to me Mr.
21 Valentine wants to testify, and it's just a question that was
22 asked about his personal knowledge and I think he's a proper
23 witness to answer that question.

24 MR. VALENTINE: No personal knowledge question was
25 asked as part of -- a component of that question.

1 THE COURT: I agree, no personal knowledge. It was
2 speculation as to what somebody was going to or not going to
3 do, so that's sustained.

4 MR. KACZOR: Thank you, Your Honor.

5 THE COURT: Let's move along.

6 BY DEFENDANT MARCUSSE:

7 Q Did I put you in charge on behalf of the investors of the
8 MLC project?

9 A I wasn't even -- I wasn't actually in charge. I knew who
10 they were and that, but the only thing I had was to make sure
11 the money got back to them.

12 Q All right. So you were to a degree a watchdog to make
13 sure that --

14 A Right.

15 Q -- things were done as they had been promised --

16 A Right.

17 Q -- by Mr. Carney and Mr. Plaster that they would be done?

18 A Yes.

19 Q Was it your understanding on the bars that the funds were
20 for the benefit of the investors when those properties would
21 be sold?

22 A Yes.

23 Q There was never any question that it was anybody's
24 personal funds; it was always for the benefit of the
25 investors?

1 A Yes, it was.

2 Q Your involvement in that had to do in regards with the
3 liquor licensing requirements. Was that the largest basis for
4 your involvement?

5 A That was supposed to be the only involvement I had in it.

6 Q Yes, in the little bar, the Cheeks bar. In regards to an
7 investment that you made through Crawford, Ltd., in regards
8 to I'm not sure if it was \$5,000 or \$6,000, was it your
9 understanding that you were to have \$60,000 coming back from
10 there?

11 A Yes. Actually I had six for me, two for Dave Federici,
12 and we were supposed to have \$80,000 coming back. Then when
13 they didn't pay off on time, it was doubled, so we were
14 supposed to have \$160,000 then.

15 Q All right. Was it your understanding that I became a
16 partner with Crawford, Ltd. due to the investments I made on
17 behalf of investors in that organization?

18 A Yes. Yes, you did.

19 Q So therefore, if I had signed something stating that you
20 had X number of dollars coming from Crawford, Ltd., that might
21 have been a reasonable position to take?

22 A Yes.

23 Q All right. Were you ever aware of any deposit receipts
24 that were ever issued from Access Financial?

25 A Any what?

1 Q Okay. Let me ask you, we can get away from the exact
2 amount of forty-four five, but let's discuss the bar. Do you
3 agree that you were the motivating factor behind buying this
4 bar, and why? Assuming that to be true, why?

5 A Well, when it got down to the fact that a supposed on
6 the -- you know, I assume most real estate brokers price
7 something so it will sell, and a lot of times they tend to
8 price it below what it will easily sell for because they want
9 a quick sell and they want, you know, obviously to make their
10 commission. It would be silly if they didn't think that way.
11 So I assumed that the hundred and seventy-nine nine figure on
12 the listing price, particularly on a commercial site broker,
13 would have been, you know, a realistic price to, you know,
14 reasonably quickly sell the bar. And when I found that they
15 were getting down to literally a day or two before foreclosure
16 and then literally hours before foreclosure when they only
17 owed 67 -- I think it was \$67,000 on a supposed \$180,000
18 property, it seemed -- it seemed a waste not to quickly pick
19 it up and then turn around and immediately sell it. There was
20 never any intention to keep the silly thing. We wanted to
21 immediately sell it.

22 Q So this was an investment, then?

23 A Yes, and then that would go into the investors' fund.

24 Q Now, do you think that investment was consistent with the
25 types of other investments that you were doing or with the

1 be whatever we think it is. That's the testimony from Bill
2 Flynn from that witness stand. You've been given no reason
3 not to believe Bill Flynn. He's truthful.

4 If they're loans, is it out of the ordinary that
5 loans occur from Access Financial without paperwork? Recall
6 witness Brewer. Witness Brewer, incidentally, submitted that
7 same paperwork to the grand jury that Mr. Flynn and other
8 people did in this case. What does he testify? He says there
9 were loans from Access Financial. There were loans with no
10 paperwork.

11 Ms. Marcusse testifies that in fact these are
12 investments that Access Financial has now, these bars and
13 these planes, and she suggests to you that, well, you know,
14 Access Financial couldn't put the name in -- excuse me,
15 couldn't put a bar in the name of Access Financial. Access
16 Financial couldn't put an airplane in the name of Access
17 Financial. Why? The liability for a bar is bad, and, oh, the
18 liability for airplanes is just terrible. That was her
19 testimony, okay. Bill Flynn heard that for the first time
20 from that witness stand.

21 And you know what it sort of ignores? It ignores
22 the idea that there's a thing people can purchase out there,
23 and it's called insurance. You buy insurance for your bar.
24 That way the owner doesn't have liability. Insurance for your
25 airplane. That way Access wouldn't have liability. Mr. Flynn

1 found out that anything he once owned -- once owned, because
2 you know where those airplanes are. Gone. You know where
3 that second bar is that was constructed, or shelled out, I
4 should say. Where is that? Gone. You know what's left? Oh,
5 a bar for sale. Hasn't operated in a long, long time. Mr.
6 Flynn found out those things weren't even his. What he didn't
7 have, he really didn't have. What he doesn't have now, he
8 really never had.

9 Let's talk a little bit about Mr. Flynn's
10 representations that he told people he was invested in Access
11 Financial and doing well. Well, keep in mind that the
12 evidence in this case is the documents and what comes from
13 that witness stand, documents that come through witnesses and
14 what witnesses say and what they say on direct exam and
15 cross-examination and redirect exam where the lawyers go up
16 back and forth. That's all evidence. Questions aren't
17 evidence. Answers sure are. Answers to any questions posed
18 to witnesses.

19 Joey Nowak, one of these persons to whom Mr. Flynn
20 allegedly says I'm invested and doing well. Well, keep in
21 mind that Joey Nowak gets worked, gets pressured for a long,
22 long time by a fellow named Tom Wilkinson. If you take a look
23 at the documents in this case, you'll hear about the role that
24 Bill Flynn plays. He's our Wisconsin guy. Take a look at the
25 number of times Tom Wilkinson appears in these documents

1 somebody's money if you said you were keeping it in a safe
2 CD-type environment?

3 Let's take a look at that document. Can we see
4 Exhibit 160, please? This is Mr. Plaster's and Mr. Carney's
5 buy-sell agreement. Here's the thing she -- here's what she
6 did with this last million dollars of the investors' funds.
7 Look at this last thing. Where is it? Right here.

8 Acknowledges receipt of a million dollars, non-refundable
9 deposit. She's giving away in a non-refundable deposit a
10 million dollars of the investors' money. And she claims
11 that's a good faith attempt to protect their principal?

12 As you've heard before, you're going to be the
13 judges of credibility, and as you heard Mr. Valentine say, he
14 and I share the same view about Ms. Marcusse's credibility.
15 It's zero. It's less than zero. She's a salesperson. She's
16 always been a salesperson, but that's not illegal. Lots of
17 people -- my father was a salesperson. But she is an illegal
18 salesperson. She's a dishonest and an immoral salesperson
19 according to this evidence.

20 She took -- she didn't just take her money and the
21 defendants' money and claim this reckless venture. She took
22 577 people's, different groups, and \$20 million of their
23 money. Now, ladies and gentlemen, if you and I want to risk
24 our money, that's up to us. But if someone else wants to risk
25 my money, then I want them to tell me the truth about what

1 was pitching a scheme that was not legal, and he knew that he
2 wasn't paying taxes when he should be.

3 Now, we've had this timeline up before, but let me
4 refer to it. Judge Bell in his instructions is going to say
5 with regard to joining a conspiracy or aiding and abetting a
6 crime, it doesn't matter if you join here, started here like
7 Terry and Jan did together. It doesn't matter if you joined
8 here or here or here when Mr. Buffin and Mr. Visser joined the
9 organization. It doesn't matter if you were still involved
10 here and joined, or even here. If you join a conspiracy or
11 keep it going and help it keep going in any way, you're
12 responsible for being involved in that conspiracy.

13 I would suggest to you that even if you consider
14 that Mr. Visser and Mr. Flynn and Mr. Buffin were foolish or
15 whatever for first getting involved with Ms. Marcusse and her
16 venture, staying in it and staying with her, they've got no
17 excuses. You've had the pleasure of knowing Ms. Marcusse for
18 four weeks now. The Judge is going to tell you to use your
19 common sense. How long do you think it would take you to be
20 in a relationship, a business relationship with this woman
21 before you realized what she was? They stayed in it for three
22 years and claimed they didn't get it. That defies the
23 evidence.

24 Mr. Flynn. Mr. Valentine suggests that Ms.
25 Marcusse's a liar, we don't want to take her testimony into

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

File No. 1:04-CR-165

v.

Hon. Robert Holmes Bell
Chief Judge

JANET MAVIS MARCUSSE,
GEORGE TERRANCE BESSER,
DONALD MAYNARD BUFFIN, JR.,
WILLIAM EDWARD FLYNN and
JEFFREY ALAN VISSER

Defendants.

FINAL ORDER OF FORFEITURE

WHEREAS, on June 14 2005, the jury, by Special Verdict, pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure determined that the Defendants Janet Mavis Marcusse, George Terrance Besser, Donald Maynard Buffin, Jr., William Edward Flynn and Jeffrey Alan Visser obtained \$10,000,000 in proceeds from the offenses alleged in Counts 1-82 of the Superseding Indictment, for which the Defendants have been convicted, and

WHEREAS, the United States has filed a Motion for Entry of Final Order of Forfeiture that would consist of a personal money judgment against the Defendants in the amount of \$10,000,000.00, and

WHEREAS, Rule 32.2(c)(1) provides that "no ancillary proceeding is required to the extent that the forfeiture consists of a money judgment,"

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Defendants Janet Mavis Marcusse, George Terrance Besser, Donald Maynard Buffin, Jr., William

Edward Flynn and Jeffrey Alan Visser shall forfeit to the United States the sum of \$10,000,000 pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 1341, and 28 U.S.C. § 2461(c).

IT IS FURTHER ORDERED that the United States District Court shall retain jurisdiction in the case for the purpose of enforcing this Order; and

IT IS FURTHER ORDERED that pursuant to Rule 32.2(b)(3), this Order of Forfeiture shall become final as to the defendant at the time of sentencing, and shall be made part of the sentence and included in the judgment,

IT IS FURTHER ORDERED that the United States may, at any time, move pursuant to Rule 32.2(e) to amend this Order of Forfeiture to substitute property having a value not to exceed \$10,000,000 to satisfy the money judgment in whole or in part; and

IT IS FURTHER ORDERED that the United States Marshals Service is hereby authorized to seize the property and dispose of it in accordance with applicable law and regulations.

IT IS FURTHER ORDERED that the Clerk of the Court shall forward four certified copies of this Order to the United States Attorney's Office.

SO ORDERED:

Dated: July 11, 2005

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
Chief Judge
United States District Court
Western District of Michigan

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS:	\$6,000.00	\$	\$12,961,966.80

G The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.

[x] The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States.

<u>Name of Payee</u>	<u>Total Loss</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
SEE PAGES 6-9	\$12,651,244.80	\$12,651,244.80	
Internal Revenue Service	\$ 310,722.00	\$ 310,722.00	
 TOTALS	 \$12,961,966.80	 \$12,961,966.80	

G Restitution amount ordered pursuant to plea agreement \$ _____

G The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

[x] The court determined that the defendant does not have the ability to pay interest and it is ordered that:

[x] the interest requirement is waived for the G fine [x] restitution.

G the interest requirement for the G fine G restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994, but before April 23, 1996.

CERTIFICATE OF SERVICE

Package One of Two (Original pleading)

This is to certify, under penalty of perjury under the laws of the United States of America pursuant to 28 U.S.C. §1746, that I have served a true and correct copy of the foregoing:

MOTION FOR ACCOUNTING OF FORFEITURE AND RESTITUTION ORDERS; MOTION FOR A DECLARATORY JUDGMENT OF THE "FACTS" ALLEGED TO SUPPORT "ELEMENTS" OF 18 USC §1341 TRACEABLE AS "PROCEEDS" FOR FORFEITURE; MOTION TO PRODUCE ORIGINAL NOTES OR TAPES OF COURT REPORTER; MOTION TO VACATE FORFEITURE ORDER

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
EXHIBITS TO MEMORANDUM OF POINTS AND AUTHORITIES

upon the following address(es) by placing same in a sealed envelope, bearing sufficient postage for delivery via the United States Postal Service, to:

Clerk of Court
United States District Court
110 Michigan Street, NW
Grand Rapids, MI 49503

and deposited it in the postal box provided for inmates on the grounds of the Federal Correctional Institution, Tallahassee, Florida, 32301, on this 12th day of February, 2015.

Janet Mavis Marcusse

Signature

Janet Mavis Marcusse

Register No. 17128-045
Federal Correctional Institution Tallahassee
501 Capital Circle, N.E.
Tallahassee, Florida 32301

was delivered to prison authorities. See
1245, 108 S Ct. 2379 (1988)

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PS Form 3800, August 2006 See Reverse for Instructions