

IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO

Martin Desmond Plaintiff, v. Paul Gains, <i>et al.</i> Defendants.	Case No. 2018-CV-00771 Visiting Judge H.F. Inderlied, Jr.
PLAINTIFF MARTIN DESMOND'S NOTICE OF SUPPLEMENT TO HIS MOTION FOR EXTENSION OF TIME TO FILE HIS RESPONSE TO DEFENDANTS' SANCTIONS MOTION	

To supplement his pending motion for extension of time to file his response to Defendants' sanctions motion, Mr. Desmond respectfully submits the following documents as a further show of good faith. Defendants produced these on March 18, 2022, and they will be the subject of this week's SPBR hearing:

- Ausnehmer text to Eckman
- 2016-08-08 Modarelli Memo to Gains and Stratford
- Correspondence Regarding Ausnehmer
- 2014-09-24 FBI 302 Interview (Paul Gains)
- 2016-08-05 Ausnehmer Discipline Letter
- 2012-04-24 FBI 302 Interview (Jack Ausnehmer)
- FBI 302 Interviews (multiple witnesses)

Respectfully submitted,

/s/ Subodh Chandra

Subodh Chandra (0069233)

Donald P. Screen (0044070)

Patrick Haney (0092333)

The Chandra Law Firm LLC

The Chandra Law Building

1265 W. 6th St., Suite 400

Cleveland, OH 44113-1326

Phone: 216.578.1700 Fx: 216.578.1800

Subodh.Chandra@ChandraLaw.com

Donald.Screen@ChandraLaw.com

Patrick.Haney@ChandraLaw.com

Attorneys for Plaintiff Martin Desmond

Certificate of Service

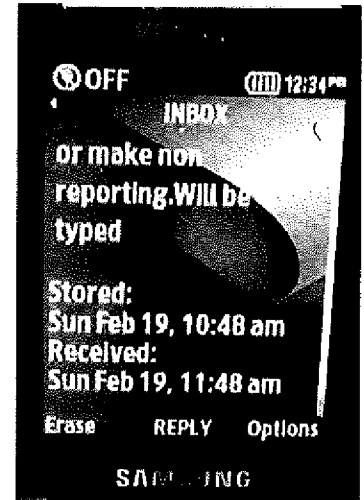
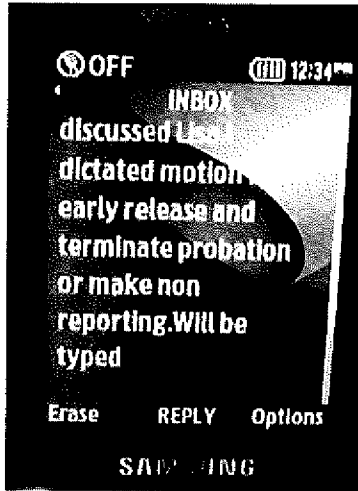
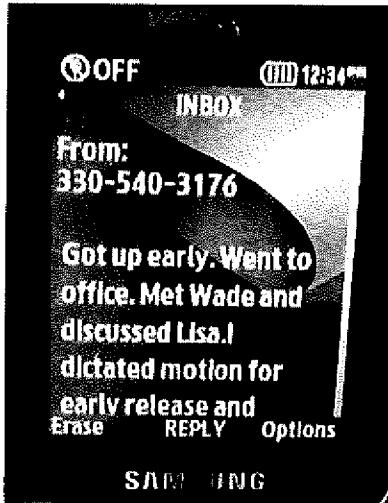
I certify that on March 22, 2022 the above document was served on all registered users by operation of the Court's electronic-filing system and emailed to:

Todd M. Raskin
Patricia Ambrose Rubright
100 Franklin's Row
34305 Solon Road
Cleveland, OH 44139
traskin@mrrlaw.com
prubright@mrrlaw.com

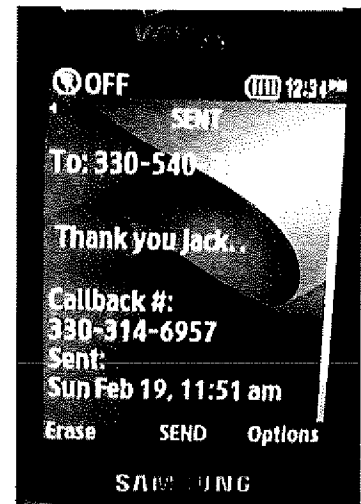
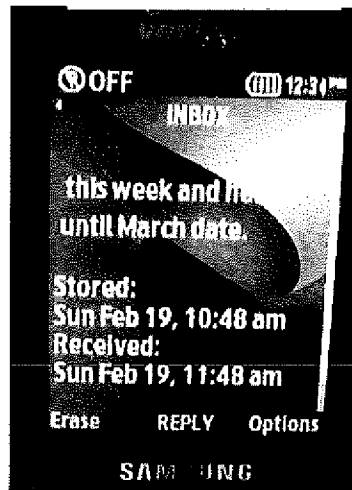
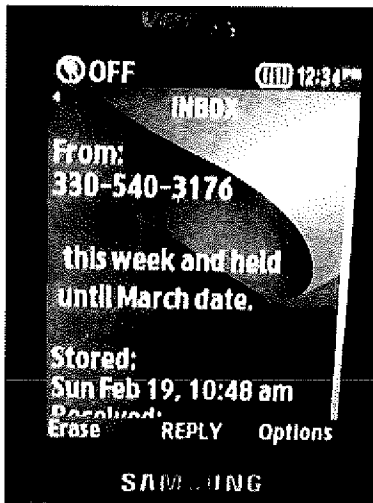
Gina DeGenova Zawrotuk
21 West Boardman Street, 5th Floor
Youngstown, OH 44503
gzawrotuk@mahoningcountyoh.gov

Attorneys for Defendants Paul Gains, Linette Stratford, and Mahoning County

/s/ Subodh Chandra
One of the attorneys for Plaintiff Martin Desmond



Jack Ausnehmer phone (330) 540-3176 / Dominic Eckman phone (330) 314-6957



Mahoning Co. 008122

MAHONING COUNTY
PROSECUTOR'S OFFICE

MEMORANDUM

DATE: August 8, 2016

TO: Prosecutor Paul Gains
Chief Assistant Prosecutor Linette Stratford

FROM: 1st Assistant Prosecutor Nick Modarelli

RE: 2012 Interview with FBI Special Agents Hassman and Sano

.....

I am writing this memorandum to document my 2012 interview by Special Agents Deane Hassman and Tony Sano to the best of my recollection.

In 2012, Federal Bureau of Investigation Special Agents Dean Hassman and Tony Sano appeared unannounced at my office. The agents did not explain the true nature of the interview. I thought Agent Hassman wanted to introduce me to Agent Sano. Also, unlike a traditional interview the agents did not show me their badge.

Agents Hassman and Sano then proceeded to ask me questions regarding the operation of the county courts and the role of assistant prosecutors. The agents asked if prosecutors were involved in probation violation hearings in county courts. I explained that it was the policy of this office that once the defendant is convicted and sentenced the case was closed. I also explained to the agents that under the county court's procedure probation violations are considered an issue that is exclusively between the defendant and the court. As such, violations are presented by the probation officers. The assistant prosecutor does not appear at the probation violation hearing. The court alone determines if the defendant breached the terms of his/her probation.

The agents then asked how an individual could be released from jail without input of this office. I advised that, like probation violations, sentencing is always within the purview of the court. Consequently, our office does not usually get involved in modification of sentences.

The agents then asked about a specific case wherein a female prisoner was released from jail without out involvement. They stated that the individual was before the court on one day and asked to be let out of jail, a motion was then filed and then she was released. Since the court in question was Austintown County Court, I asked the agents what days of the week these acts transpired and if they knew which day the court was in session. They stated that they did not know the courts schedule. I then asked if the female was in court on a Monday, if the motion for release was filed on Tuesday and she was released on Wednesday. They seemed shocked that I knew the exact days these events occurred. It was then that I informed them that they should have done their homework because Austintown Court is in session on Mondays and Wednesdays. The judge in that court is part-time and is only present on these days. Therefore, it would make sense that the defendant was in court on Monday, the motion was filed Tuesday and on Wednesday, when the judge returned, he ruled on the motion.

I told the agents that the only way this event would appear suspicious is if it occurred on off days such as at the end of the week when the judge was not typically present at the court. I also advised the agents that I could see no issue with how the release was handled based on the way they explained the sequence of events. The agents seemed disappointed with that opinion.

I later came to learn that the individual in question had served approximately one-half of her sentence, which would support the request for early release.

In 2012, FBI agents Dean Hassman and Tony Sano appeared unannounced at my office. They asked me if prosecutors were involved in probation violation hearings in county courts. I explained the procedure, being that probation violations were between the defendant and the court for some breach of the terms of their probation. Since the defendant was convicted and sentenced, this office was done with the case. The violations are presented by the probation officers to the court.

They then asked how an individual could be released from jail without input of this office. I advised them that sentencing is always within the purview of the court and that we don't usually get involved in modification of sentences.

They then asked about a specific case wherein a female prisoner was released from jail without involvement. They stated that the individual was before the court on one day and asked to be let out of jail, a motion was then filed and then she was released. Since the court in question was Austintown County Court, I asked them what days of the week these acts transpired and if they knew which day the court was in session. They stated that they did not know the court's schedule. I then asked if the female was in court on a Monday, if the motion for release was filed on Tuesday and she was released on Wednesday. They seemed shocked that they knew the exact days these events occurred. It was then that I informed them that they should have done their homework because Austintown Court is in session on Mondays and Wednesdays. The judge in that court is part time and is only present on these days. Therefore, it would make sense that the prisoner was in court on Monday, the motion was filed Tuesday and on Wednesday, when the judge returned, he ruled on the motion.

I further advised them that the only way this event would be suspicious is if it occurred on off days, such as at the end of the week when the judge was not around. As they explained the sequence of events, I could see no issue with the way it was handled by the parties involved. The agents seemed disappointed with that opinion.

I later came to learn that the individual in question had served approximately one half of her sentence, which would support the request for early release.

Stratford, Linette

From: Stratford, Linette
Sent: Tuesday, September 16, 2014 3:01 PM
To: Desmond, Marty
Subject: RE: Eckman

Thanks

From: Desmond, Marty
Sent: Tuesday, September 16, 2014 3:00 PM
To: Stratford, Linette
Cc: Gains, Paul
Subject: Re: Eckman

State v. Dominic Eckman (Case No. 12-CR-759A)

Agent Dean Hassman

I can't remember the specific date I met with him, but I believe it was the day after I originally spoke to Paul.

The case that Eckman testified on behalf of the State was State v. Zoltan Kozic and Jamle Kozic (Case No. 10-CR-506).

Sent from my iPhone

On Sep 16, 2014, at 2:28 PM, "Stratford, Linette" <LStratford@mahoningcountyoh.gov> wrote:

Marty,

Please send me the case name and number that the agents reviewed regarding Dominic Eckman. Also, on what date did that occur?

Thanks

Linette M. Stratford
Chief Assistant Prosecutor
Mahoning County Prosecutor's Office
21 West Boardman Street
Youngstown, OH 44503
Phone 330.740.2330
FAX 330.740.2829



U.S. Department of Justice

*United States Attorney
Northern District of Ohio*

United States Court House
801 West Superior Avenue, Suite 400
Cleveland, Ohio 44113-1852

June 2, 2016

The Honorable Paul J. Gains
Mahoning County Prosecutor
21 W. Boardman Street, 6th Floor
Youngstown, OH 44503

Re: Authorization to Disclose Grand Jury Information

Dear Prosecutor Gains:

Enclosed please find: 1) Application for Authorization to Disclose Grand Jury Information; 2) Order signed by Chief Judge Solomon Oliver, Jr.; and 3) a DVD-R which contains the materials referenced in the Application and Order.

Federal prosecution has been declined for technical and policy reasons. The undersigned is available to discuss this disposition with you or your representative.

As you are aware, despite the authorization for disclosure to you under Fed. R. Crim. P. 6(e)(3)(E)(iv), by court order, the evidence retains its character as grand jury materials entitled to secrecy under Fed. R. Crim. P. 6(e)(2). Accordingly, strict controls over the evidence should be maintained, and disclosure within your office should be on a "need-to-know" basis. Under no circumstance should this evidence be disclosed to Mr. Ausnehmer, or counsel retained by him (unless required by law, as in discovery in a pending criminal prosecution). We would appreciate being advised of any determination you make regarding state or local prosecution. As is apparent from the Application, we are seeking authorization from the U.S. Department of Justice Office of Professional Responsibility (OPR) to disclose the grand jury materials to the Ohio Disciplinary Counsel.

Should you have questions, please contact the undersigned. Alternatively, Special Agent Deane Hassman of the Youngstown Resident Agency of the FBI is available at (330) 965-2940 for questions about the case and its applicable facts.

Very truly yours,

James V. Moroney
Assistant U.S. Attorney
(216) 622-3827



PAUL J. GAINS

Mahoning County Prosecuting Attorney

6th FLOOR ADMINISTRATION BUILDING
21 WEST BOARDMAN STREET • YOUNGSTOWN, OHIO 44503
PHONE: (330) 740-2330
CRIMINAL DIVISION FAX: (330) 740-2008 • CIVIL DIVISION FAX: (330) 740-2829

July 12, 2016

James V. Moroney, AUSA
United State Attorney, Northern District of Ohio
United States Courthouse
801 West Superior Avenue, Suite 400
Cleveland, Ohio 44113-1852

Re: Attorney John "Jack" E. Ausnehmer

Dear Attorney Moroney:

I am in receipt of your correspondence dated June 2, 2016, wherein you write that the United States is declining to prosecute Attorney Ausnehmer. You will recall from my September 24, 2014 letter that it was my office that referred this matter to the FBI for investigation. Your letter also refers this matter to my office for consideration of state charges. Having reviewed the evidence provided, I agree with your conclusion and decline to prosecute any state crime. I do, however, see evidence of a violation of my office policies and perhaps the Ohio Code of Professional Responsibility.

The evidence suggests that Attorney Ausnehmer participated in drafting a motion to release a criminal misdemeanor defendant from jail, filed the motion, and discussed the matter with the judge on the case. As such it is my intention to discipline Attorney Ausnehmer and refer the matter to Ohio Disciplinary Counsel. Upon making the referral I will refrain from discussing or including any of the grand jury materials as you believe this would constitute a violation of Judge Oliver's Order. Instead, it is my understanding from our most recent conversation that you anticipate the U.S. Department of Justice Office of Professional Responsibility (OPR) will receive permission from the court to disclose these materials to Ohio Disciplinary Counsel.

As a final point, although not relevant to my decision on this matter, I thought you should be aware that the file sent to this office for review is not fully accurate or complete. For example I see no Form 302 indicating that my office referred this case to the local FBI. Also, as you

know, I was interviewed by two FBI Agents. There is a Form 302 setting forth the Agents' summary of my interview. The 302 states that I was informed that the purpose of the meeting was to discuss a criminal investigation of John Ausnehmer – but that is incorrect. I was not informed that the interview was concerning Attorney Ausnehmer until I arrived at the FBI Office. In fact, I was under the belief that the meeting was to discuss an entirely different matter. Additionally, during the pendency of the investigation I was informed that the FBI Agents spoke with Assistant Prosecutor Nicholas Modarelli and Attorney Martin Desmond; yet, the file sent to my office for review does not include a Form 302 regarding an interview of either of these attorneys.

If you have any questions or would like to discuss this matter further please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul J. Gains', written over a horizontal line.

Paul J. Gains
Mahoning County Prosecutor



U.S. Department of Justice

*United States Attorney
Northern District of Ohio*

United States Court House
801 West Superior Avenue, Suite 400
Cleveland, Ohio 44113-1852

August 29, 2014

The Honorable Paul J. Gains
Mahoning County Prosecutor's Office
Mahoning County Administration Building
21 West Boardman Street
6th Floor
Youngstown, OH 44503

Re: John "Jack" Ausnehmer

Dear Prosecutor Gains:

In the course of an ongoing investigation, this letter seeks the voluntary production by your office of records and documents as outlined below. The undersigned is the Assistant U.S. Attorney who is assigned to the investigation.

We are seeking:

1. Any and all written statements, policies, and correspondence, including emails, regarding outside employment by assistant county prosecutors employed by your office (to include those statements and policies in effect as of July 1, 2011);
2. Any and all written statements, policies, and correspondence, including emails, regarding permissible criminal defense practice by assistant county prosecutors (to include those statements and policies in effect as of July 1, 2011);
3. Any and all written requests to you or your office, including emails, from Assistant County Prosecutor John "Jack" Ausnehmer (hereinafter, Ausnehmer) regarding outside employment and/or criminal defense work;
4. Any and all non-privileged communications, including emails, involving or concerning Dominic Eckman, Lisa Andrews, and/or Ausnehmer;
5. The case file and any case-related materials for the criminal prosecution of Lisa Andrews in 2011-12, including those under Case No. 2011 CRB 00102 AUS; and,
6. A copy of all non-privileged materials in the personnel file of Ausnehmer.

As stated, this letter seeks voluntary production of the requested documents. If you would prefer that this request be made by a federal grand jury subpoena, please so advise the undersigned. Thank you for your cooperation.

Sincerely,

James Moroney

James V. Moroney, AUSA ^{BY}
216-622-3827 _{ISP/}

EM111355081US



PAUL J. GAINS

Mahoning County Prosecuting Attorney

6th FLOOR ADMINISTRATION BUILDING
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September 24, 2014

James V. Moroney, AUSA
United States Attorney, Northern District of Ohio
United States Court House
801 West Superior Avenue, Suite 400
Cleveland, OH 44113-1852

Re: John "Jack" Ausnehmer/Response to PRR

Dear AUSA Moroney,

On Tuesday September 2, 2014, I was contacted by Agents Deane Hassman and Tony Sano and asked to come to the local FBI Office in Boardman, Ohio to discuss an unrelated matter. During the meeting with the agents I was informed that Assistant Mahoning County Prosecutors Jack Ausnehmer was under investigation and I was asked questions pertaining to my knowledge of the allegations.

According to the agents, Attorney Ausnehmer took a fee and prepared a motion for early release of Lisa Andrews who was in jail on a probation violation to Mahoning County Court Judge David D'Apolito. Ms. Andrews was allegedly the girlfriend of a Dominic Eckman who is purported to be a private client of Attorney Ausnehmer. According to the agents, Attorney Ausnehmer had Attorney Wade Smith sign the motion for release, and then he, Attorney Ausnehmer filed the motion and went personally to meet with the Judge to request early release of Ms. Andrews. Judge D'Apolito signed the release.

It is unknown whether the assistant prosecutor who is assigned to Judge D'Apolito's court was served with the motion for release. The agents reported that the meeting with Judge D'Apolito was ex parte. But it is my understanding that it would not be unusual for a criminal defense attorney to meet with a judge ex parte on a probation violation as the prosecution's case is complete and the violation is between the judge and the defendant – not the prosecutor.

It is also my understanding from conversations I had with the agents and conversations the agents had with other members of my staff, that Attorney Ausnehmer is alleged to have represented to his private client Dominic Eckman that he could curry favor with my office by paying money to Attorney Ausnehmer.

Because of my concern over the seriousness of the allegations, I asked and the agents confirmed that they had no information that Attorney Ausnehmer was engaged in any similar conduct in his capacity as the assistant prosecutor assigned to Sebring County Court.

Of course, I vehemently oppose the alleged conduct of Attorney Ausnehmer. In fact, it was my office that forwarded the original information that gave rise to this investigation. And, if true, such conduct is likely illegal and most certainly unethical. Consequently, I would like to address this matter with my employee and disciplinary counsel.

The agents represented that they did not have an issue with me addressing this matter with Attorney Ausnehmer while the investigation continues. But as a law enforcement officer and prosecutor I respect your jurisdiction and contacted you. After discussing the matter, I understand your desire that I *not* speak with Attorney Ausnehmer at this time. I appreciate your concern that any discussion I may have with him could raise an issue under *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963). Consequently I will refrain from proceeding with an internal inquiry and discipline of Attorney Ausnehmer on this issue until I am notified by you that your investigation is concluded.

In addition, on the day I met with Agents Hasseman and Sano, I was presented with your public records request. You requested six categories of records. Please accept the following response to your requests.

Request 1: Any and all written statements, policies, and correspondence, including emails, regarding outside employment by assistant county prosecutors employed by your office (to include those statements and policies in effect as of July 1, 2011).

Response 1: Provided is a copy of the Mahoning County Prosecutor's Office Employee Policies and Procedure Manual. See Attachment 1. Upon review you will note that the Mahoning County Prosecutor's Office does not have any separate written policy regarding outside employment of assistant county prosecutors. Generally full-time prosecutors do not engage in private practice. Part-time assistant county prosecutors are permitted to engage in private practice as long as such representation does not create a legal conflict as provided in the Code of Professional Conduct. If such a conflict exists the Assistant Prosecutor could not represent the private client.

Enclosed are emails wherein Assistant Prosecutor Ausnehmer was instructed regarding such a conflict. See Attachment 2 Ausnehmer Emails. As a caveat, please be aware that the search for emails was limited given your desire that I not alert Attorney Ausnehmer. Only my current computer and those of 1st Assistant Modarelli and Chief Assistant Linette M. Stratford's were searched. Also I cannot assure you that there were not additional emails given that email retention is

somewhat sporadic depending on the nature of the communication and the updating of equipment.

Request 2: Any and all written statements, policies, and correspondence, including emails, regarding permissible criminal defense practice by assistant county prosecutors (to include those statements and policies in effect as of July 1, 2011)

Response 2: The Mahoning County Prosecutor's Office does not have any separate written policy regarding outside employment of assistant county prosecutors. Assistant prosecutors are, however, bound by the Ohio law and the Rules of Professional Conduct which prohibit assistant county prosecutors from representing private clients in criminal matters within the jurisdiction of this office. See Supreme Court of Ohio, Opinion 2014-2; Attachment 3.

Request 3: Any and all written requests to you or your office, including emails from Assistant County Prosecutor John "Jack" Ausnehmer (hereinafter, Ausnehmer) regarding outside employment and/or criminal defense work.

Response 3: See Response 1 above and Attachment 2 Ausnehmer Emails.

Request 4: Any and all non-privileged communications, including emails, involving or concerning Dominic Eckman, Lisa Andrews, and/or Ausnehmer.

Response 4: Regarding Ausnehmer, See Attachment 1. Regarding Dominic Eckman and/or Lisa Andrews, no such records were located. Except, be advised given your instruction not to alert Assistant Prosecutor Ausnehmer, the search was limited to my current computer and those of 1st Assistant Modarelli and Chief Assistant Linette M. Stratford and Assistant Prosecutor Martin Desmond. As you are aware, Attorney Desmond handled the *Eckman* criminal matter. See Response 5, below.

Also, Assistant Prosecutor Ausnehmer did have access to a county email address jausnehmer@mahoningcountyoh.gov. But according to the head of the data department, Jake Williams, Ausnehmer never once logged onto his account. See enclosed emails with Mr. Williams. See Attachment 2 Ausnehmer Emails. In conducting my search I found, however, that Attorney Ausnehmer maintained a private email address jealaw1302@aol.com. But again I did not contact him to inquire into any records in response to your request given our discussion and your preference to keep the investigation confidential.

James V. Moroney, AUSA
September 24, 2014
Page 4 of 4

Request 5: The case file and any case-related materials for the criminal prosecution of Lisa Andrews in 2011-12, including those under Case No. 2011 CRB 00102 AUS.

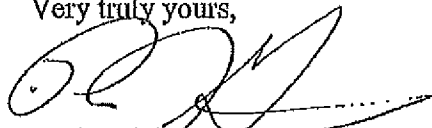
Response 5: Per our discussion you have withdrawn this request in that you informed me that your investigators have already obtained a copy of the Austintown Court File. Separate files are not maintained by this office in the county courts. If they were, however, such files are not public records. Under Ohio law, prosecutor files are exempt from disclosure under *Perry v. Onunwor*, 2000 WL 1871753; *State ex rel. Steckman v. Jackson* (1994), 70 Ohio St.3d 420. Of course, my office cooperates with law enforcement and would certainly permit inspection by your investigators of the criminal case files of this office. And, in fact, as we discussed, Assistant Prosecutor Marty Desmond provided access to the *State v. Dominic Eckman* (Case No. 12-CR-759A) criminal file to Agent Deane Hassman. Also, be advised, Eckman testified on behalf of the in *State v. Zoltan Kozic and Jamie Kozic* (Case No. 10-CR-506).

Request 6: A copy of all non-privileged materials in the personnel file of Ausnehmer.

Response 6: Enclosed is a copy of the personnel file of Ausnehmer. See Attachment 4 Ausnehmer Personnel File. The only information withheld or redacted is that which is exempt including, Social Security Numbers under R.C. 149.43(A)(7)(c), tax records under R.C. 149.43(A)(1)(v); R.C. 5703.50, and familial information of assistant prosecutors under R.C. 149.43 (A)(7)(a)(d).

I hope the information provided is helpful. Of course if you have any questions or need any additional information please do not hesitate to contact me at 330.502.4821 or you can e-mail me at pgains@mahoningcountyoh.gov or Chief Assistant Prosecutor Linette M. Stratford at 330.740.2330 or lstratford@mahoningcountyoh.gov.

Very truly yours,



Paul J. Gains
Mahoning County Prosecutor

cc. FBI Special Agent Deane Hassman
FBI Special Agent Tony Sano.

Stratford, Linette

From: Phillips, Liz
Sent: Wednesday, September 03, 2014 2:08 PM
To: Stratford, Linette
Subject: comp conflicts

Linette – I sent you the only information I could find on my computer. Please let me know if you need anything else.

Liz

Elizabeth M. Phillips
Assistant Prosecuting Attorney
Mahoning County Prosecutor's Office
21 W. Boardman St., 5th Floor
Youngstown, OH 44503
330-740-2330
Lphillips@mahoningcountyoh.gov

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Stratford, Linette

From: Phillips, Liz
Sent: Wednesday, September 03, 2014 2:03 PM
To: Stratford, Linette
Subject: FW: Attorney Ausnehmer

Elizabeth M. Phillips
Assistant Prosecuting Attorney
Mahoning County Prosecutor's Office
21 W. Boardman St., 5th Floor
Youngstown, OH 44503
330-740-2330
Lphillips@mahoningcountyoh.gov

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From: Phillips, Liz
Sent: Tuesday, May 13, 2014 8:19 AM
To: Jones, Cathy
Cc: Stratford, Linette
Subject: RE: Attorney Ausnehmer

Cathy – can you please forward the claim information listing him as rep? Thanks - Liz

Elizabeth M. Phillips
Assistant Prosecuting Attorney
Mahoning County Prosecutor's Office
21 W. Boardman St., 5th Floor
Youngstown, OH 44503
330-740-2330
Lphillips@mahoningcountyoh.gov

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From: Jones, Cathy
Sent: Monday, May 12, 2014 5:04 PM
To: Phillips, Liz

Cc: Stratford, Linette
Subject: Attorney Ausnehmer

Liz:

John Ausnehmer has again agreed to represent a Mahoning county employee in their workers' compensation claim. Kristy Gore. Please address this issue with him as he is still employed by Mahoning County as a part time assistant prosecutor.

Let me know. Thanks.

Cathy Jones

Mahoning County Risk Manager
21 W Boardman St.
Youngstown, OH 44503
Phone: 330-740-2130
Fax: 330-740-2667
cjones@mahoningcountyoh.gov

Stratford, Linette

From: Phillips, Liz
Sent: Wednesday, September 03, 2014 2:03 PM
To: Stratford, Linette
Subject: FW: Kristy Gore

Elizabeth M. Phillips
Assistant Prosecuting Attorney
Mahoning County Prosecutor's Office
21 W. Boardman St., 5th Floor
Youngstown, OH 44503
330-740-2330
Lphillips@mahoningcountyoh.gov

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From: Phillips, Liz
Sent: Monday, June 02, 2014 10:58 AM
To: Ausnehmer, John
Cc: Stratford, Linette
Subject: Kristy Gore

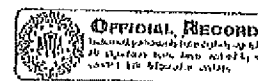
Jack – I am following up on our conversation regarding the above-referenced claimant. Your name is listed as the representative on the 5/29/14 BWC Order. Can you please have your name removed as her representative?

Thanks for your cooperation.

Liz

Elizabeth M. Phillips
Assistant Prosecuting Attorney
Mahoning County Prosecutor's Office
21 W. Boardman St., 5th Floor
Youngstown, OH 44503
330-740-2330
Lphillips@mahoningcountyoh.gov

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FEDERAL BUREAU OF INVESTIGATION

Date of entry 09/24/2014

PAUL GAINS, Mahoning County Prosecutor, was invited to the Youngstown Office of the FBI on September 2, 2014. He was told, by telephone, in advance about a records request of the Prosecutor's office involving the criminal investigation of JOHN "JACK" AUSNEHMER. Special Agent (SA) ANTHONY SANO joined SA HASSMAN in the conversation with GAINS at the FBI office. GAINS provided the following information:

Right from the outset of the conversation, GAINS said he had "kind of forgotten" about the FBI investigation of his assistant prosecutor JACK AUSNEHMER.

GAINS was provided a records request letter from AUSA JAMES MORONEY at the very start of the conversation. As he started to review the letter, GAINS said that none of the employees of the County Prosecutor's office are allowed to do private "criminal" defense work. GAINS said it would even be a violation of the attorney disciplinary rules. GAINS doubts his office has a "written" policy prohibiting assistant prosecutors from having a private criminal practice; GAINS said it is such a no brainer that it cannot be done that his office may not have committed it to writing, but he would check. GAINS said the office policy is that every one of his employees are bound to follow the code of professional conduct and that prevents his employees from representing criminal defendants.

GAINS asked: Is AUSNEHMER doing criminal work? and where? SA HASSMAN reminded GAINS this discussion involves the same topic GAINS was briefed on by the FBI nearly a year and a half ago about AUSNEHMER assisting in getting LISA ANDREWS out of the Mahoning County jail. GAINS proceeded to ask several questions like: what did Jack do? did he act in the capacity of a prosecutor? Was this the case involving ECKMAN? - GAINS seemed to have trouble recalling the general facts of the accusation against his assistant prosecutor.

SA HASSMAN reminded GAINS this is the case where AUSNEHMER took cash from ECKMAN, drafted the legal motions to get LISA ANDREWS out of jail, had WADE SMITH sign the motions, AUSNEHMER had ex-parte conversations with

Investigation on 09/02/2014 at Youngstown, Ohio, United States (In Person)

File # 194B-CV-78111

Date drafted 09/05/2014

by Deane Robert Hassman

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Continuation of FD-302 of interview of PAUL GAINS, On 09/02/2014, Page 2 of 4

Judge DAVID D'APOLITO, and got ANDREW released from jail. GAINS had a general recollection, but is not sure, that AUSNEHMER might have had a civil lawyer relationship with DOMINIC ECKMAN.

After being told of the shadow drafted motion and ex-parte conversations, GAINS responded by saying: obviously AUSNEHMER knew he could not be doing that. GAINS asked if AUSNEHMER had "stood in" as prosecutor on behalf of KEN CARDINAL in the ANDREWS case and he was told AUSNEHMER did not.

GAINS made the unsolicited statement: "I hope you're wrong. I like Jack, but he should not have done this shit".

SA HASSMAN showed GAINS photographs of screens shots from AUSNEHMER's cellular telephone showing that AUSNEHMER wrote that he had drafted ANDREWS motion for release. GAINS reacted by saying: he should not have done that. GAINS was shown the actual court filed motion for ANDREWS release, signed by attorney WADE SMITH. GAINS noticed the motion actually had AUSNEHMER's e-mail address near the signature line of WADE SMITH. GAINS made the unsolicited statement: what a dumb ass.

SA HASSMAN asked for an update from GAINS as to what if any internal office investigation may have revealed since the accusation was brought to GAINS nearly a year and a half ago. GAINS said he has done absolutely nothing because GAINS did not want to effect the FBI investigation. GAINS asked if AUSNEHMER and SMITH had criminal counsel and GAINS was told they both do. GAINS made the unsolicited statement: these guys are friends of mine.

GAINS did not recall having any conversations with AUSNEHMER in which AUSNEHMER would have brought up the names of either DOMINIC ECKMAN or LISA ANDREWS. GAINS acknowledged that AUSNEHMER did call GAINS the night (April 24, 2012) the FBI went to AUSNEHMER's home. GAINS said he advised AUSNEHMER not to lie to the FBI; he told AUSNEHMER to get counsel and deal with it. GAINS claims to have not spoken with AUSNEHMER about the FBI visit with him since that night.

GAINS said the County Prosecutor's office does not maintain a separate office case file for cases in the outer County courts like Austintown, the Prosecutor's office just uses the official Clerk of Court case file. So, GAINS said his office would not have any records of ANDREWS' case in the Austintown Court independent of the Clerk's office. In Common Pleas Court, the prosecutors do maintain a case file and there would be one for ECKMAN. GAINS said he would have assistant prosecutor MARTY DESMOND contact SA HASSMAN for a review of that case file.

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Continuation of FD-302 of interview of PAUL GAINS, On 09/02/2014, Page 3 of 4

From memory, GAINS did not have a recollection of how DOMINIC ECKMAN'S case went from an indictment on RICO charges to a resolution of a recommendation of probation for ECKMAN. GAINS referred SA HASSMAN to DESMOND to answer that. GAINS said he does not remember the ECKMAN case. GAINS does not recall being told that ECKMAN called AUSNEHMER on the night the local police executed a search warrant on ECKMAN'S business in 2012.

In general terms, GAINS said it would bother him as Prosecutor to know one of his assistant prosecutors had a civil legal client that GAINS' office had a criminal case against.

GAINS expressed frustration that he would have to take AUSNEHMER off the payroll if the Federal Government indicts him and it would be a hassle to replace him. After GAINS linked the timing of removing AUSNEHMER to after the indictment, SA HASSMAN told GAINS he was free to make any decisions on his own at any time and those decisions would not interfere with the criminal investigation. GAINS was advised if he was withholding a decision to discipline or conduct an internal review under the belief it might interfere with the criminal investigation, it would not. GAINS was told he was free to handle AUSNEHMER as he would in any normal management and administration of his office.

GAINS said it is clear that AUSNEHMER had ghosted court pleadings and he should not have done SMITH'S pleadings. GAINS said the information he was told today about AUSNEHMER shocks GAINS.

Continuing to look at the records request letter, GAINS said it looks like the items being requested are public records and he does not anticipate his office wanting a subpoena to release any of it, but GAINS said he wanted to run it by his Chief Assistant of Civil, LINETTE STRATFORD, as well.

In reading the records request, GAINS said his office has a lot of office policies and assumes the U.S. Attorney's office does not want all of them. SA HASSMAN clarified the specific interest is in policy that covers outside employment.

Political Contributions:

GAINS acknowledged that AUSNEHMER has been a regular donor of political contributions to GAINS' re-election campaigns for Mahoning County Prosecutor. When asked if AUSNEHMER has ever given GAINS a contribution in "cash", GAINS said: "we" would not have accepted cash and "Barbie" would not take cash (referring to his secretary that helps with his campaign finance reports).

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Continuation of FD-302 of Interview of PAUL GAINS, On 09/02/2014, Page 4 of 4

GAINS was advised that AUSNEHMER solicited \$2,000 in cash from ECKMAN, asking ECKMAN for cash for Prosecutor GAINS and that the solicitation occurred within days of AUSNEHMER writing a \$1,000 contribution check to GAINS' re-election campaign in February 2012. GAINS responded: he did not give us cash. GAINS said AUSNEHMER knows he cannot raise a contribution on behalf of GAINS and accept it in "cash"; GAINS said AUSNEHMER knows better than that. GAINS said he was not aware of AUSNEHMER giving his campaign cash and GAINS is certain, his secretary BARBIE, would not accept it.

GAINS did think that AUSNEHMER has routinely given a \$1,000 contribution to GAINS every four years.

Workers Comp:

GAINS knew that AUSNEHMER's private law practice handles workers compensation cases. GAINS said his office has had problems in the past with AUSNEHMER representing County employees in workers comp claims and GAINS said that it is a conflict because the Prosecutor's office represents the County in those matters. GAINS is certain that AUSNEHMER has, on more than one occasion, been sent letters advising him of his conflict of interest. GAINS offered to locate those letters and provide them in response to the records request.

Other:

AUSNEHMER was off work for a while with health issues. GAINS is pretty sure he is back to work in the Sebring, Ohio Court for Mahoning County.

MAHONING COUNTY
PROSECUTOR'S OFFICE

MEMORANDUM

DATE: August 5, 2016

TO: Assistant Prosecutor John Ausnehmer

FROM: Prosecutor Paul J. Gains

CC: 1st Assistant Prosecutor Nick Modarelli
Chief Assistant Prosecutor Linette Stratford

RE: Discipline *State of Ohio v. Lisa Andrews*, Case No. 2011 CRB 102

.....

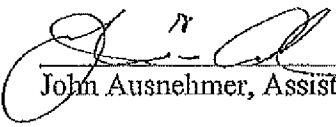
As we are all aware, there has been an ongoing federal investigation surrounding the release of one Lisa Andrews from the Mahoning County Jail in March of 2012. *State of Ohio v. Lisa Andrews*, Case No. 2011 CRB 102. Portions of the investigatory file were recently provided to this office to consider state charges. Having reviewed the evidence I do not see sufficient evidence to warrant a state criminal prosecution. I do, however, see evidence of violations of the policies of this office and the Ohio Rules of Professional Conduct. The evidence indicates that, while being an assistant prosecutor, you, at the behest of a private client, took an active role in obtaining the release of a Ms. Andrews. Such conduct is a direct violation of the Ohio Rules of Professional Conduct and the policies of this office. See, Ohio Sup. Ct., Bd. of Comm'rs on Grievances and Discipline, Op. 2014-2 (August 8, 2014). The evidence further indicates there may have been a lack of complete candor with the Federal Agents. Consequently I have determined you will be disciplined by forfeiting four weeks of accumulated vacation and serving a four week un-paid suspension in October 2016. Additionally, this matter will be reported to the State Disciplinary Counsel and you are hereby ordered to self-report.



Paul J. Gains, Prosecutor

8/5/2016
Date

By signing this statement I agree to accept the discipline:



John Ausnehmer, Assistant Prosecutor

8/5/16
Date

The Supreme Court of Ohio

BOARD OF COMMISSIONERS ON GRIEVANCES & DISCIPLINE

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OPINION 2014-2

Issued August 8, 2014

Imputation of Conflicts in a Part-Time County Prosecutor's Law Firm

SYLLABUS: When a part-time county prosecutor practices in a firm, the prosecutor is prohibited from representing criminal defendants prosecuted on behalf of the state of Ohio. Such representation creates a conflict of interest under Prof.Cond.R. 1.7(a) that cannot be ameliorated through Prof.Cond.R. 1.7(b). If the part-time county prosecutor is also authorized to prosecute cases brought by a municipal corporation, the prosecutor is further prohibited from representing criminal defendants against that municipal corporation. The other lawyers in a part-time county prosecutor's firm, however, are permitted to represent criminal defendants in cases prosecuted on behalf of the state and municipal corporations represented by the prosecutor. Prof.Cond.R. 1.10(f) and 1.11 indicate that the conflicts of the part-time county prosecutor associated with government practice are not imputed to the other lawyers in the firm. To protect client interests, the part-time prosecutor should be timely screened from the firm's criminal defense matters and the prosecutor should not be apportioned fees from the firm's criminal defense work. Lawyers in an elected part-time prosecutor's firm may not represent criminal defendants in the county in which the part-time prosecutor is the elected official, but may represent criminal defendants outside of the county in which the prosecutor is elected.

Advisory Opinion 88-008 is withdrawn in part.

QUESTION PRESENTED: Are the lawyers in a part-time elected county prosecutor's or part-time assistant prosecutor's law firm permitted to represent criminal defendants in cases against the state or municipal corporations represented by the prosecutor?

APPLICABLE RULES: Rules 1.7, 1.10, and 1.11 of the Ohio Rules of Professional Conduct

OPINION:

An elected county prosecutor has asked the Board to consider the imputation of a part-time prosecutor's government practice conflicts to the other lawyers in the prosecutor's law firm. Both elected county prosecutors and assistant prosecutors are permitted to engage in the private practice of law. See R.C. 325.11(B); 2009 Ohio Atty.Gen.Ops. No. 2009-053. Especially in rural and sparsely-populated Ohio counties, there are limited legal resources and the elected prosecutor often employs part-time assistant prosecutors to handle both criminal and civil cases. The practices of these hybrid public and private sector lawyers present a challenge when applying the conflict imputation provisions found in the Rules of Professional Conduct (Rules). This Opinion addresses the imputation of the conflicts created by a part-time county prosecutor's government practice in criminal cases.¹ For purposes of this Opinion, "part-time county prosecutor" includes both a part-time elected county prosecutor and a part-time assistant county prosecutor.

Part-Time County Prosecutor's Ability to Represent Criminal Defendants

In Advisory Opinion 88-008, the Board was asked to determine under what circumstances a part-time county prosecutor could represent criminal defendants. At that time, the Code of Professional Responsibility (Code) was in effect, and DR 5-105 governed lawyers' conflicts of interest. DR 5-105(A) and (B) required lawyers to decline or refuse to continue a representation if "the exercise of [the lawyer's] independent professional judgment in behalf of a client will be or is likely to be adversely affected by the acceptance of the proffered employment" or the "representation of another client." Under DR 5-105(C), a client could consent to a lawyer's conflict of interest after full disclosure, and DR 5-105(D) imputed a lawyer's conflict to the partners and associates of the lawyer's firm.

Applying DR 5-105, and relying on a 1971 Ohio Attorney General Opinion, the Board concluded that "[a] county prosecuting attorney, whose duty it is to prosecute,

¹ Although under R.C. 309.09 the county prosecutor is the civil legal advisor to a number of county entities, the imputation of the conflicts associated with a part-time county prosecutor's civil government practice is outside the scope of the current question posed to the Board. For guidance on the civil representation of multiple statutory clients by a county prosecutor, see Ohio Sup. Ct., Bd. of Comm'rs on Grievances and Discipline, Op. 2009-3 (June 12, 2009).

on behalf of the State, all complaints, suits and controversies in which that state is a party, may not represent private clients in criminal cases against the State of Ohio." Ohio Sup. Ct., Bd. of Comm'rs on Grievances and Discipline, Op. 88-008 (June 17, 1988), at 3. See also 1971 Ohio Atty.Gen.Ops. No. 71-050. The Board also quoted a 1967 Ohio State Bar Association informal opinion which stated that it would be "improper for an attorney who holds the public office of County Prosecutor or Assistant County Prosecutor to accept employment adverse to his employer, the public." Ohio State Bar Assn., Informal Op. 67-1 (March 21, 1967), at 5.

The Supreme Court of Ohio repealed the Code effective February 1, 2007 and adopted the Rules. A part-time county prosecutor's ability to represent criminal defendants in private practice is now governed by Prof.Cond.R. 1.11, which is a special conflict rule for current government officers and employees, and Prof.Cond.R. 1.7, which addresses conflicts of interest involving current clients.²

Prof.Cond.R. 1.11 does not differentiate between part-time and full-time government officers and employees. Division (d) of that rule applies to lawyers currently engaged in public service, and states that, except as otherwise permitted by law, such lawyers shall comply with Prof.Cond.R. 1.7 regarding current-client conflicts of interest.

Prof.Cond.R. 1.7(a)(1) states that "[a] lawyer's acceptance or continuation of representation of a client creates a conflict of interest if...the representation of that client will be directly adverse to another current client." By statute, county prosecutors and assistant prosecutors represent the state of Ohio. Under R.C. 309.08(A), county prosecutors "may inquire into the commission of crimes within the county" and "shall prosecute, on behalf of the state, all complaints, suits, and controversies in which the state is a party * * * and other suits, matters, and controversies that the prosecuting attorney is required to prosecute within or outside the county, in the probate court, court of common pleas, and court of appeals." Further, by agreement, some county prosecutors represent municipal corporations in criminal prosecutions. See R.C. 1901.34(D). Because a county prosecutor's client in criminal cases is the state of Ohio, criminal defense representation by a part-time prosecutor in cases brought on behalf of the state is a conflict of interest under Prof.Cond.R. 1.7(a)(1). Such representation

² This Opinion does not apply to city directors of law or village solicitors. For guidance on their conflicts of interest, the following Advisory Opinions should be consulted: Ohio Sup. Ct., Bd. of Comm'rs on Grievances and Discipline, Op. 2007-4 (June 8, 2007); Ohio Sup. Ct., Bd. of Comm'rs on Grievances and Discipline, Op. 2008-5 (Aug. 15, 2008); Ohio Sup. Ct., Bd. of Comm'rs on Grievances and Discipline, Op. 2008-6 (Dec. 5, 2008).

would involve the representation of one client, the criminal defendant, in a case directly adverse to another current client, the state of Ohio. If the part-time prosecutor represents a municipal corporation in criminal cases by agreement, representation of criminal defendants in cases brought on behalf of the municipal corporation would likewise create a conflict of interest under Prof.Cond.R. 1.7(a)(1). Accordingly, a part-time prosecutor would not be able to represent criminal defendants in these types of cases unless it is possible for the conflict of interest to be ameliorated.

Prof.Cond. R. 1.7(b) indicates that a conflict of interest created by the representation of two directly-adverse current clients in different matters may be ameliorated if the lawyer is able to provide competent and diligent representation to both clients, the clients provide informed consent, confirmed in writing, to the simultaneous representation, and the representation is not prohibited by law. The nature of a part-time prosecutor's government practice makes amelioration of the conflict created by criminal defense work impossible for two reasons. First, a part-time prosecutor's client is the state of Ohio, which is not able to provide informed consent, confirmed in writing. Advisory Opinion 88-008. *See also* Tenn.Sup.Ct., Bd. of Prof'l Responsibility, Op. 2002-F-146 (Mar. 8, 2002). Even though Prof.Cond.R. 1.7(b) allows clients to consent to representation by a conflicted lawyer, "[s]ome conflicts are nonconsentable because both clients cannot give informed consent." Prof.Cond.R. 1.7, Comment [38]. "Where a lawyer continuously represents the state for criminal prosecutions, only the legislature can provide client consent for the lawyer to dilute required loyalty, by representing another client against the state in a criminal case." *Melling v. Stralka*, 8th Dist. Cuyahoga No. 45622, 1983 WL 3092, 13 (June 16, 1983) (Markus, J., dissenting). Accordingly, a part-time prosecutor would not be able to obtain the client consent required to ameliorate the conflict created by representing criminal defendants in private practice.

Second, the representation of criminal defendants by a part-time prosecutor is a conflict of interest that cannot be overcome because it is prohibited by law. In an opinion addressing whether an assistant county prosecutor may simultaneously engage in the private practice of law, the Attorney General stated that a prosecutor "who engages in the private practice of law is clearly subject to divided loyalties when, as a private practitioner, he participates in matters that align him against the county prosecuting attorney." 2009 Ohio Atty.Gen.Ops. No. 2009-053, at 3. Given that the statutory legal advisor for Ohio prosecutors³ has determined that a prosecutor's private practice of law is incompatible with the prosecutor's public position when that private

³ See, R.C. 109.14.

practice involves the representation of defendants in criminal proceedings brought by the state or a municipal corporation that has entered into an agreement with the county prosecuting attorney whereby the county prosecuting attorney prosecutes criminal cases for the municipal corporation, such representation is a conflict of interest that is prohibited by law which, under Prof. Cond. R. 1.7(c)(1), cannot be ameliorated by client consent.

Revised Code 102.03 states that “[n]o present or former public official or employee shall, during public employment or service or for twelve months thereafter, represent a client or act in a representative capacity for any person on any matter in which the public official or employee personally participated as a public official or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other substantial exercise of administrative discretion.” R.C. 102.03 indicates that a part-time county prosecutor can not represent a criminal defendant in a matter in which the prosecutor personally participated.

Like the Code, the Rules indicate that a part-time prosecutor’s representation of criminal defendants against the state of Ohio would be a nonconsentable conflict of interest. The Rules also dictate that a part-time prosecutor can not represent criminal defendants against a municipal corporation when the prosecutor is authorized by agreement to prosecute criminal cases for the municipal corporation. The Board drew a similar conclusion in Advisory Opinion 88-008 as to a part-time prosecutor’s ability to represent criminal defendants. Accordingly, the Board hereby reaffirms that portion of Opinion 88-008.

Representation of Criminal Defendants by Other Lawyers in Part-Time Prosecutor’s Firm

In the 1988 Opinion, the Board also determined that “[m]embers of a part-time prosecuting attorney’s law office may not accept employment that the prosecutor is precluded from accepting.” Advisory Opinion 88-008 at 3. Because the Board concluded that part-time prosecutors could not represent criminal defendants against the state of Ohio in their private practices, the practical effect of this statement was that the other lawyers in a part-time prosecutor’s law firm also could not engage in criminal defense work. The basis for the Board’s conclusion was DR 5-105(D), which stated that “[i]f a lawyer is required to decline employment or to withdraw from employment [for a conflict of interest], no partner or associate of his or his firm may accept or continue such employment.” The Supreme Court adopted this provision of the Code effective October 5, 1970.

The concept of conflict imputation that originated in DR 5-105(D) is now found in Prof.Cond.R. 1.10(a):

While lawyers are associated in a firm, none of them shall represent a client when the lawyer knows or reasonably should know that any one of them practicing alone would be prohibited from doing so by Rule 1.7 or 1.9, unless the prohibition is based on a personal interest of the prohibited lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm.

Reading Prof.Cond.R. 1.10(a) alone, it would appear that the conflicts of part-time county prosecutors remain imputed to the other lawyers in the prosecutor's law firm, thereby prohibiting criminal defense work by those lawyers against the state and, in some instances, municipal corporations. However, when the Supreme Court adopted the Rules in 2007, it included new language from the Model Rules of Professional Conduct that speaks directly to lawyers in practice with lawyers who also work in the public sector. This language is found in Prof.Cond.R. 1.10(f), which states that "[t]he disqualification of lawyers associated in a firm with former or current government lawyers is governed by Rule 1.11." The drafters of the Model Rules added this language in 2002 to "[clarify] that Rule 1.11 is intended to be the exclusive rule governing the imputation of conflicts of interest of current or former government lawyers." ABA Ctr. for Prof'l Responsibility, *A Legislative History: The Development of the ABA Model Rules of Professional Conduct 1982-2013*, at 264 (2013).

A "firm" is defined as "a lawyer or lawyers in a law partnership, professional corporation, sole proprietorship, or other association authorized to practice law; or lawyers employed in a private or public legal aid or public defender organization, a legal services organization, or the legal department of a corporation or other organization." Prof.Cond.R. 1.0(c). A government office is not a "firm" for purposes of the Rules. See Prof.Cond.R. 1.0, Comment [4A]. Because Prof.Cond.R. 1.10(f) refers to lawyers associated in a "firm" with "current government lawyers," it clearly governs the lawyers in a part-time prosecutor's private law firm.

Applying Prof.Cond.R. 1.10(f) to the present inquiry, the ability of the lawyers in a part-time county prosecutor's law firm to represent criminal defendants must be analyzed under Prof.Cond.R. 1.11, the special conflict rule for current government officers and employees, not Prof.Cond.R. 1.10, the general rule on imputation of

conflicts in firms. Again, Prof.Cond.R. 1.11(d)(1) obligates a part-time prosecutor to abide by the general conflict of interest provisions of Prof.Cond.R. 1.7, including the prohibition against representing current clients who are directly adverse. As previously stated in this Opinion, Prof.Cond.R. 1.7(a) indicates that part-time county prosecutors have a conflict of interest in criminal defense cases against the state and some municipal corporations, and under Prof.Cond.R. 1.7(b) and (c) this conflict may not be ameliorated. Nevertheless, the conflict imputation principles of Prof.Cond.R. 1.10 in the firm setting are not applicable to the conflicts of government lawyers addressed in Prof.Cond.R. 1.11(d)(1). See Prof.Cond.R. 1.11, Comments [2] and [3]. Reading all of these provisions together, the Board concludes that, unlike the Code, the Rules do not impute a part-time county prosecutor's conflict of interest in criminal representations against the state and certain municipal corporations to the other lawyers in the prosecutor's firm. For this reason, Advisory Opinion 88-008 is withdrawn in part.

Court-Appointed Criminal Defense Work by Other Lawyers in Part-Time Prosecutor's Firm

Although the Board's view is that the lawyers in a part-time county prosecutor's firm may represent criminal defendants against the state and municipal corporations, this option is not available in every criminal case. Under R.C. 120.39, "counsel appointed by the court, co-counsel appointed to assist the state public defender or a county or joint county public defender, and any public defender, county public defender, or joint county defender, or member of their offices, shall not be a partner or employee of any prosecuting attorney..." This statutory prohibition "does not extend to retained counsel, but relates solely to counsel appointed at state expense to provide legal services to indigents." *In re Appeal of a Juvenile*, 61 Ohio App.2d 235, 238, 401 N.E.2d 937, 939 (1978). Despite the failure of a part-time prosecutor's government practice conflicts to impute to the other lawyers in the prosecutor's firm, the other lawyers are statutorily-prohibited from accepting court-appointed criminal cases if they are partners or employees of any prosecutor.

Additional Considerations when Lawyers and Part-Time Prosecutors Practice in the Same Firm

Prof.Cond.R. 1.11(c) addresses situations in which a former government lawyer acquires confidential government information, subsequently enters private practice, and considers the representation of a private client who is adverse to the person to whom the information pertains. The former government lawyer is prohibited from representing the private client if the confidential government information could be used to the person's disadvantage. The former government lawyer's firm is only permitted

to undertake or continue the representation if a timely screen is implemented and the lawyer does not receive any portion of the fee associated with the matter.

While Prof.Cond.R. 1.11(c) only appears to apply to former government lawyers, rather than current, part-time government lawyers, the Board believes that the approach to screening and fees set forth in Prof.Cond.R. 1.11(c) is an appropriate method for protecting the interests of the criminal defense clients of a part-time county prosecutor's law firm. To preserve information required to be kept confidential by Prof.Cond.R. 1.6, the part-time prosecutor should be screened from the firm's criminal defense matters. "Screened" means "the isolation of a lawyer from any participation in a matter through the timely imposition of procedures within a firm that are reasonably adequate under the circumstances to protect information that the isolated lawyer is obligated to protect under these rules or other law." Prof.Cond.R. 1.0(l). Also, because the part-time prosecutor is disqualified under Prof.Cond.R. 1.7 from representing criminal defendants in cases brought by the state and possibly certain municipal corporations, the prosecutor should not be apportioned any part of the fee associated with the criminal defense representations of his or her colleagues. A screened lawyer may be able to receive compensation "established by prior independent agreement, but that lawyer may not receive compensation directly related to the matter in which the lawyer is disqualified." Prof.Cond.R. 1.10, Comment [5C].

Within the county prosecutor's office, the part-time prosecutor should be screened from any criminal defense cases involving the lawyers in the part-time prosecutor's firm. See Prof.Cond.R. 1.11, Comment [2]. "Because of the special problems raised by imputation within a government agency, [Prof.Cond.R. 1.11(d)] does not impute the conflicts of a lawyer currently serving as an officer or employee of the government to other associated government officers or employees, although ordinarily it will be prudent to screen such lawyers." *Id.* Further, the part-time prosecutor should not handle criminal prosecutions in which the lawyers in the prosecutor's firm would be opposing counsel. In the opinion of the Board, this would be a material limitation conflict under Prof.Cond.R. 1.7 that cannot be ameliorated though consent due to the inability of the state to provide informed consent to the representation.

Additionally, a distinction must be drawn for conflicts of interest for lawyers in a firm with the elected part-time prosecutor and those in a firm with part-time assistant prosecutors, who are not elected officials. Revised Code Section 309.08 governs the powers and duties of the elected county prosecuting attorney. The powers and duties of the elected county prosecuting attorney include prosecuting all complaints, suits, and

controversies on behalf of the state of Ohio within the county where that prosecutor is elected. R.C. 309.08. As a result, the elected prosecutor is the lawyer of record on all matters involving the county prosecutor's office. Therefore, lawyers in an elected part-time prosecutor's firm may not represent criminal defendants in the county in which the part-time prosecutor is the elected official. However, lawyers in an elected part-time prosecutor's firm may represent criminal defendants in matters outside of the county in which the prosecutor is elected. This restriction does not apply to lawyers in a part-time assistant prosecutor's firm.

CONCLUSION:

In this Advisory Opinion, the Board revisits Opinion 88-008, which is hereby affirmed in part and withdrawn in part. The Rules of Professional Conduct prohibit part-time county prosecutors from representing criminal defendants against the state of Ohio, and if the part-time prosecutor is authorized by agreement to prosecute cases on behalf of a municipal corporation, he or she is also prohibited from representing criminal defendants against that municipal corporation. Such criminal defense representation is a conflict of interest under Prof.Cond.R. 1.7(a) that cannot be ameliorated through Prof.Cond.R. 1.7(b).

The imputation of a part-time county prosecutor's conflict of interest regarding criminal defense representations is governed by Prof.Cond.R. 1.10(f) and 1.11. These rules indicate that the prosecutor's conflict does not impute to the other lawyers who practice with the prosecutor in a firm. Accordingly, these lawyers are permitted to represent criminal defendants in cases against the state of Ohio and any municipal corporations for which the prosecutor is authorized to act. The lawyers may be prohibited from representing indigent defendants in court-appointed cases, however, as the partners and employees of county prosecutors are statutorily-prohibited from accepting such appointments.

To protect the interests of the criminal defense clients of a part-time county prosecutor's law firm, the Board recommends the approach set forth in Prof.Cond.R. 1.11(c) regarding former government lawyers in possession of confidential government information. A part-time county prosecutor also engaged in private practice should be timely screened from the firm's criminal defense matters and the prosecutor should not be apportioned any fee from these matters. Additionally, within the county prosecutor's office, the part-time prosecutor should be timely screened from criminal cases involving the other lawyers in the prosecutor's firm. Finally, the part-time prosecutor should not oppose lawyers from the prosecutor's firm. This scenario creates

a material limitation conflict under Prof.Cond.R. 1.7(a) that cannot be ameliorated pursuant to Prof.Cond.R. 1.7(b).

Advisory Opinions of the Board of Commissioners on Grievances and Discipline are informal, nonbinding opinions in response to prospective or hypothetical questions regarding the application of the Supreme Court Rules for the Government of the Bar of Ohio, the Supreme Court Rules for the Government of the Judiciary, the Ohio Rules of Professional Conduct, the Ohio Code of Judicial Conduct, and the Attorney's Oath of Office.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 04/27/2012

██████████ JOHN "JACK" E. AUSNEHMER, Social Security Account Number ██████████, date of birth June 26, 1954, was interviewed at his residence at ██████████ - cellular telephone (330) 540-3176 and home telephone of (330) 726-8596. Also present in the home throughout interview, but not in the room of the interview was AUSNEHMER's wife and daughter, AMBER. He was previously aware of the identity of Special Agent (SA) HASSMAN and was introduced to SA HARTMANN. He was advised the nature of the interview concerned a court case that went through the Mahoning County court. He then provided the following information:

LISA ANDREWS:

AUSNEHMER was shown a photograph of LISA ANDREWS. While immediately recognizing the photograph, he had trouble remembering her last name. AUSNEHMER knew her to be LISA and later acknowledged that ANDREWS was her last name.

AUSNEHMER described her as a drug addict who had come to AUSNEHMER for legal representation to try to get custody of her child. AUSNEHMER came to know LISA ANDREWS through DOMINIC ECKMAN, who first came to AUSNEHMER about representing ANDREWS in her child custody case.

AUSNEHMER can only recall being in the physical presence of ANDREWS maybe two (2) times at ECKMAN's business and spoke to her on the telephone maybe one (1) other time. AUSNEHMER told ANDREWS before he could start representation of her in a custody case, she would have to be clean of drugs and get a job. AUSNEHMER does have a general recollection of once being at ECKMAN's business when ECKMAN was on the telephone with ANDREWS in jail and ECKMAN put AUSNEHMER on the telephone briefly to say hello to ANDREWS, but that was about it.

Before AUSNEHMER really got any child custody case going, ANDREWS found herself getting into trouble and got sent to the County jail by judge DAVID D'APOLITO in the Austintown Court. The custody case never really got started and AUSNEHMER said he never took any fee from ANDREWS on the custody matter.

Investigation on 04/24/2012 at Boardman, OhioFile # 194B-CV-78111Date dictated 04/25/2012by SA DEANE ROBERT HASSMAN and
SA MATT HARTMANN; DRH/drh

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Continuation of FD-302 of JOHN JACK F. AUSNEHMER, On 04/24/2012, Page 2DOMINIC ECKMAN:

AUSNEHMER has represented the ECKMAN family for years. He represented Ace Jewelers. AUSNEHMER has civilly represented DOMINIC ECKMAN and his brother JIM ECKMAN for years. AUSNEHMER met DOMINIC years ago from going into the Ace Jewelry store. A few years ago, DOMINIC ECKMAN separated from his brother and has since opened a gold and silver exchange on Midlothian Blvd in Youngstown. DOMINIC's current business is in DOMINIC's wife name, LESLIE. AUSNEHMER was retained to help with the purchase of ECKMAN's business on Midlothian Blvd.

AUSNEHMER said he is a personal friend of DOMINIC ECKMAN and they actually were friends before AUSNEHMER ever starting legal representation of ECKMAN.

AUSNEHMER had regular contact ECKMAN, maybe every other day, sometimes daily. AUSNEHMER would see ECKMAN as much as once a week, sometimes more.

AUSNEHMER knows LISA ANDREWS to be DOMINIC ECKMAN's girlfriend. AUSNEHMER said it is not a relationship that ECKMAN hides from anyone. AUSNEHMER said ECKMAN has an odd relationship with his wife, who might also have a boyfriend of her own.

AUSNEHMER said there is no question that ECKMAN wanted ANDREWS out of jail, ECKMAN expressed that in conversations with AUSNEHMER. ECKMAN would say: she was not doing well in jail, or she's getting beat up in there, or she is clean now.

Attorney WADE SMITH represented ANDREWS:

Attorney WADE SMITH Jr and AUSNEHMER office together in a law office in Boardman, Ohio. AUSNEHMER said they are not law partners; SMITH rents an office in AUSNEHMER's building for \$1,000 a month.

AUSNEHMER said he could represent ANDREWS in her custody case, but could not represent ANDREWS in her drug cases because AUSNEHMER was a part-time prosecutor in Mahoning County. AUSNEHMER said he would have a conflict and could not represent ANDREWS in any criminal matter. AUSNEHMER is not sure if there is any statutory provision that would prevent him from representing a criminal defendant, but initially said it was office policy of the Mahoning County Prosecutor's office that he could not. AUSNEHMER

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immediately followed by saying he was not really sure if there was an office policy or not, but that it is his personal policy to not represent any criminal defendants.

AUSNEHMER claims he told DOMINIC ECKMAN that he, AUSNEHMER, could not represent ANDREWS in a criminal matter.

AUSNEHMER asked WADE SMITH if he would represent LISA ANDREWS in her criminal case in Austintown Court before Judge D'Apolito. AUSNEHMER claims he told SMITH that SMITH would have to personally talk with ECKMAN and ANDREWS on his own, because AUSNEHMER would be completely out of the case. Early in this interview AUSNEHMER stated: "I have nothing to do with that case". AUSNEHMER said he absolutely did not accept any legal fee from DOMINIC ECKMAN or from LISA ANDREWS in ANDREWS' criminal case in Austintown. AUSNEHMER also denies having received any fee split or referral fee from SMITH for referring the ANDREWS case to SMITH.

It is AUSNEHMER's understanding that ANDREWS failed a lot of drug tests and had a probation violation case because of the failures. AUSNEHMER said he personally never attended any court appearances of ANDREWS, but is pretty certain that SMITH did attend the court appearances.

AUSNEHMER claims what ever fee was paid went between ECKMAN and SMITH or ANDREWS and SMITH. AUSNEHMER said the fee was none of his business. AUSNEHMER claims to have no idea how much money SMITH charged to represent ANDREWS in her criminal case. AUSNEHMER does not recall any conversation with SMITH or ECKMAN about how much SMITH was charging ANDREWS to represent her. AUSNEHMER denies receiving any fee split or referral fee from SMITH for referring ANDREWS to SMITH.

AUSNEHMER was asked to look over a two (2) page motion for early release and asked to speculate on how much would have been reasonable for SMITH to charge for the motion. AUSNEHMER declined to speculate on what someone else would charge. AUSNEHMER was asked if that motion was something he had done, how much would he charge. AUSNEHMER said maybe a \$1,000 dollars. AUSNEHMER explained however, that is not the way it works for legal defense though, an attorney does not charge a specific fee for each item filed, a fee is charged for the over all representation.

To the best of AUSNEHMER's knowledge, SMITH represented ANDREWS in her Austintown case from the very beginning. AUSNEHMER

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was told by investigating agents that the court docket reflects the initial attorney in the case was HOLLY HANNI. AUSNEHMER has no recollection of HANNI having been in the case at all. AUSNEHMER denies having ever spoken with HANNI about the ANDREWS case.

Following ANDREWS probation violation hearing on December 28, 2011, AUSNEHMER recalls SMITH telling him that Judge D'APOLITO struggled with putting ANDREWS into the County jail because she was such a young girl and thought she might struggle in jail. AUSNEHMER claims SMITH told him that Judge D'APOLITO had said: tell me when the time is right to let her out on early release, and that the Judge said he would do so. AUSNEHMER assumes the Judge's comments are on the court record. AUSNEHMER said the Austintown Court runs an audio recorder during the court sessions.

AUSNEHMER claims to not know how SMITH was paid - check or cash, to represent ANDREWS.

Money to get Andrews out:

AUSNEHMER said if DOMINIC ECKMAN was willing to pay money, extra money, or a lot of money to get ANDREWS out of jail if she could get out with no more probation or drug tests, AUSNEHMER insists that ECKMAN never said or expressed that to AUSNEHMER.

AUSNEHMER was asked if any text messages were sent to him from ECKMAN about ECKMAN's willingness to pay money to get ANDREWS out with no more probation. AUSNEHMER said: "there could have been, I don't know that". AUSNEHMER said there certainly has been texts between himself and ECKMAN, so AUSNEHMER is reluctant to absolutely say no to the question about ECKMAN sending texts expressing to pay money to get ANDREWS out without probation.

AUSNEHMER was asked if he received a text which read: "no probation or no deal" and AUSNEHMER responded with: I want to say no, but I can not say that's true. AUSNEHMER said he would not deny the possibility of that text, he just does not remember.

AUSNEHMER was asked if he remembering receiving a text that said the case has to be closed or no deal. AUSNEHMER does not remember receiving that text.

AUSNEHMER denies having ever been "shown" cash by ECKMAN for the representation of ANDREWS. AUSNEHMER said he is firm in saying: no, that ECKMAN never showed him cash for representation of

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ANDREWS to get her out of jail. AUSNEHMER was asked if ECKMAN ever texted him that there was money waiting in the safe for AUSNEHMER if and when AUSNEHMER gets ANDREWS out of jail. AUSNEHMER said if that text happened, he does not remember it. AUSNEHMER said he did not taken any money for LISA ANDREWS, ever, never.

AUSNEHMER repeatedly said that he did not represent ANDREWS in the criminal case, so ECKMAN would not have paid him any money. AUSNEHMER said ECKMAN would have paid WADE SMITH. AUSNEHMER assumes SMITH does his own invoicing and is pretty sure that AUSNEHMER's secretary does not do SMITH's invoices.

AUSNEHMER does not think a defense attorney in a criminal case is allowed to accept a legal fee based upon the outcome of the case. He said it does not work that way, the fee is worked out before you know what the outcome is. AUSNEHMER thinks it would be unethical for an attorney to charge a higher amount if the outcome of a case is better than another outcome. AUSNEHMER said he does not know how a defense attorney could even promise an outcome of a case to a client.

AUSNEHMER described ECKMAN as kind of a wise-guy who would say all sorts of things that may or may not be possible. AUSNEHMER is sure ECKMAN probably did say some things to AUSNEHMER about wanting ANDREWS out of jail with no probation and may have even texted something similar; but as a lawyer, AUSNEHMER said that is not something a lawyer can promise they can deliver.

Motion file for early release of Andrews:

Interviewing agents showed AUSNEHMER a two (2) page motion for early release filed with the Austintown Court on March 6, 2012. AUSNEHMER recognized the motion because he said SMITH had shown it to him and they had also talked about it. SMITH said to AUSNEHMER: I'm gonna do a motion and try and get her out.

AUSNEHMER said he did not help SMITH draft the motion for early release. AUSNEHMER repeatedly throughout this interview denied that he drafted the motion himself. AUSNEHMER denied that his secretary, MICHELLE SIMCOX, drafted the motion. AUSNEHMER said it is possibly his secretary typed it because she sometimes does typing for SMITH, because SMITH does not have his own secretary. SMITH does have student from ETI by the name of DAVID LNU (Last name unknown), but goes by GEORGE that does some office work for SMITH, but DAVID LNU is not a secretary.

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AUSNEHMER acknowledges that he personally was the one who filed SMITH's motion for release with the Austintown Court Clerk's office. AUSNEHMER said he was going out to Austintown and SMITH asked him to file it for him.

Looking at the motion for release, AUSNEHMER said to the best of his belief the signature on it appears to be SMITH's own signature. AUSNEHMER doubts it could be his secretary because she does not sign anybody's name to anything and is not allowed to sign AUSNEHMER's name to anything.

Interviewing agents pointed out to AUSNEHMER that the motion read: "Defendant has been incarcerated since December 28, 2011 in excess of one half of the jail sentence ...". A counting of the days from December 28, 2011 to March 6, 2012 was only 70 days and not in excess of 75 that he needed to be half way. AUSNEHMER does not think SMITH was trying to mislead the court; maybe SMITH intended on filing it at 75 days, but then AUSNEHMER was available to file it and it got filed. AUSNEHMER said he can not get into SMITH's thinking, but maybe he thought that by the time a hearing would be set, ANDREWS would be past the halfway point of her sentence.

AUSNEHMER does not recall specific urgency being expressed by anyone about needing to get ANDREWS out of jail around the 6th of March 2012. In general, ECKMAN was always expressing some urgency. ECKMAN would tell AUSNEHMER that ANDREWS was not doing well at the jail and can SMITH get her out.

AUSNEHMER does not see anything unusual about Judge D'APOLITO releasing ANDREWS on March 7, 2012, just one day after the motion for release was filed. AUSNEHMER said it is the judicial discretion whether he decides to have a hearing or to just rule on the motion. AUSNEHMER said if Court was in session on March 7, 2012, he sees nothing unusual about the quick timing of the release of ANDREWS from the jail.

If the judge decides to sign an order based upon a motion and without a hearing, AUSNEHMER said it is very possible the signing of the order may not have taken place in open court. If a defendant is not present in the courtroom, AUSNEHMER said a judge would generally not make a point of calling a case on the record to announce an action he took in that case.

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AUSNEHMER knew ANDREWS got out of jail, but denies knowing prior to this interview whether or not Judge D'APOLITO terminated the probation or made it non-reporting.

More than an hour and half into this interview AUSNEHMER was asked again if he drafted the motion for early release, AUSNEHMER answered: no. He was asked if he assisted in drafting the motion, his answer was: no. AUSNEHMER again confirmed SMITH had showed it to him before it was filed, but AUSNEHMER did not assist in its preparation. Interviewing agents advised AUSNEHMER there was some discomfort in his response that AUSNEHMER denies preparing the motion, to which AUSNEHMER said: WADE SMITH did this and I looked it over.

Interviewing agents showed AUSNEHMER a photograph of the first three (3) sentences of a hand written note which read: "Got up early. Went to office, met Wade and discussed Lisa. I dictated motion for early release and ...". AUSNEHMER said it was not his hand writing and he does not recognize whose it would be. AUSNEHMER voluntarily offered to and did hand write in the presence of interviewing agents the statement: "Got up early. Went to office, met Wade and discussed Lisa" on a sheet of paper. AUSNEHMER said he personally does write sometimes in both cursive and print, but the hand written note shown to him does not look like his.

Contact with Probation officer:

Around the time ANDREWS was facing her probation violation hearing, AUSNEHMER recalls telephone calling the probation officer in ANDREWS case and saying something like: if ANDREWS is going to keep failing these drugs tests and if I'm going to represent her in a custody case, then probation should just violate ANDREWS and send to jail to get ANDREWS clean and save her life.

AUSNEHMER said the probation officer was ANGELA, but could not think of her last name at the time of this interview. AUSNEHMER knew ANGELA from having worked with her for years in the Boardman Court. AUSNEHMER said he felt comfortable calling the probation officer. AUSNEHMER denies having charged ANDREWS any legal fee for his conversation with the probation officer. AUSNEHMER said his motive for calling on ANDREWS behalf was because he intended to represent her in a future child custody case. AUSNEHMER claims to recall telling the probation officer that he

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does not represent ANDREWS in the criminal case, that WADE SMITH did. AUSNEHMER felt getting ANDREWS clean was what was going to be needed to save ANDREWS life and AUSNEHMER told the probation officer to send ANDREWS to jail.

AUSNEHMER denied talking to probation around the time the motion was filed for ANDREWS early release.

Despite the motion for early release claiming to have "hand delivered" a copy of the motion to the Probation Department, AUSNEHMER acknowledges that he did not provide a copy to the Probation Department.

Contact with the Austintown Prosecutor:

Despite the motion for early release claiming to have "hand delivered" a copy of the motion to the Prosecutor KEN CARDINAL, AUSNEHMER acknowledges that he did not provide a copy to the Austintown prosecutor. AUSNEHMER said as a county prosecutor he does not want to get an extra copy of documents filed with the court, AUSNEHMER just uses the clerk of courts file when he is in court and he believes CARDINAL does the same thing. So, as far as AUSNEHMER was concerned, if he hand delivered an original to the clerk, then he effectively gave a copy to the prosecutor.

AUSNEHMER acknowledged that if the Court never officially calls a case for another court hearing, it would be possible for a prosecutor to never see a motion filed in a case.

AUSNEHMER said, to be frank, the prosecutors do not generally weigh in on a probation violation. That's between the judge and probation.

Contact with Judge's bailiff:

On March 6, 2012 when AUSNEHMER went to the Austintown Court to file SMITH's motion for early release, AUSNEHMER recalls speaking with Judge DAVID D'APOLITO's bailiff. AUSNEHMER can not recall her name, but knew her to be the Judge's bailiff. AUSNEHMER recalls giving her a copy of motion for release. AUSNEHMER recalls telling the bailiff he was filing this motion on behalf of WADE SMITH. The bailiff said she would make sure the motion is given to the judge.

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Continuation of FD-302 of JOHN JACK E. AUSNEHMER, On 04/24/2012, Page 9Contact with Judge D'Apolito:

AUSNEHMER used to be the prosecutor in the Boardman Court back when Judge DAVID D'APOLITO first started out as a Magistrate Judge. AUSNEHMER described his relationship with D'APOLITO as friendly, but professional. AUSNEHMER said he does not socialize with Judge D'APOLITO.

Judge D'APOLITO is a part time judge and has a private law practice and occasionally refers workers compensation cases to AUSNEHMER because of the specialty of that type of case; not all attorneys handle workers comp cases. AUSNEHMER does pay a client referral fee to D'APOLITO when a case is referred. On an annual basis, AUSNEHMER said he might pay D'APOLITO a \$1,000 in total for any given year.

AUSNEHMER recalls having a conversation with Judge D'APOLITO and telling the Judge that he, AUSNEHMER, was representing ANDREWS in a child custody matter. AUSNEHMER thinks this conversation may have taken place around the time Judge D'APOLITO sentenced ANDREWS to jail. AUSNEHMER believes he also told the Judge: we need to incarcerate this girl to save her life and that's what is making AUSNEHMER think the conversation was around the time of ANDREWS' sentencing.

When AUSNEHMER was initially asked if he had another conversation with the judge about ANDREWS around the time of the motion to release her, AUSNEHMER's initial answer was he did not think so, he does not remember. AUSNEHMER was asked again, much later in this interview if he spoke with Judge D'APOLITO around the time frame of motion for release being file, AUSNEHMER again said he just can not remember.

AUSNEHMER doubts that Judge D'APOLITO would due a favor for him just because AUSNEHMER asked. He said the Judge has an obligation to look at the case and make a decision.

AUSNEHMER does recall that he may have said to ECKMAN that he, AUSNEHMER, needed to speak with the judge and afterwards he would let ECKMAN know what the judge said. AUSNEHMER said the reason for doing that was based on his understanding that Judge D'APOLITO had said at sentencing that he would consider letting ANDREWS out later. So, AUSNEHMER said he would check with the judge and see.

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More than two (2) hours into this interview, AUSNEHMER now recalled he did have a telephone conversation with Judge DAVID D'APOLITO on either March 6 or 7, 2012 about the motion for release of ANDREWS. AUSNEHMER's recollection is the judge called him on his law office telephone number and AUSNEHMER called the judge back. AUSNEHMER recalls the conversation starting off with AUSNEHMER having to refresh D'APOLITO who LISA ANDREWS was. AUSNEHMER told the judge this was that girl you locked up on a probation violation, that the judge did not want to do it, but did, and ANDREWS has done some time and if D'APOLITO wanted to let her out, let her out. AUSNEHMER believes the judge called him because of the motion for release was dropped off with D'APOLITO's bailiff by AUSNEHMER. The judge might even had said: the bailiff said you dropped off this motion for SMITH, refresh my recollection. As the call ended, AUSNEHMER was left with the impression from the judge that D'APOLITO was inclined to sign the motion for release. AUSNEHMER claims to not know based on the phone conversation that judge D'APOLITO was going to do it without setting it for a hearing.

AUSNEHMER claims that an ex-parte conversation only occurs when one attorney of record has a conversation with a judge. AUSNEHMER said he was not the attorney in the case, SMITH was, and AUSNEHMER was not representing ANDREWS. So, AUSNEHMER did not think his conversation with Judge D'APOLITO was an ex-parte conversation.

In hind sight, AUSNEHMER acknowledges that having a conversation with the judge was not the brightest thing to do. But, AUSNEHMER insisted that it was never his intention during the conversation with judge D'APOLITO to try to persuade him of anything or for the purpose of trying to get money.

AUSNEHMER eventually did agree that his conversation with the judge was an ex-parte conversation

AUSNEHMER is pretty sure he did relay to ECKMAN that SMITH motion for release had been filed and that AUSNEHMER had spoken with the judge and it would probably set for a hearing.

AUSNEHMER is pretty sure he told SMITH the context of the conversation he had with the judge and that the judge was inclined to grant SMITH's motion for release.

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AUSNEHMER denies knowing of any money going to Judge D'APOLITO.

Jail house phone calls:

AUSNEHMER acknowledged he knows that telephone calls from the Mahoning County jail are recorded.

When asked why ECKMAN would be recorded saying that AUSNEHMER is doing everything he can to get ANDREWS out of jail, AUSNEHMER said he did not know and investigators would have to ask ECKMAN. AUSNEHMER said he was not the attorney representing ANDREWS criminally, SMITH was, so AUSNEHMER does not know why ECKMAN would be recorded in jail calls saying something like that.

An audio clip from a recorded jail telephone call between ECKMAN and ANDREWS was played for AUSNEHMER in which ECKMAN said: "I know I showed him a package of money" and "I'm not going to give that kind of money if they're gonna cut 30 days of the fucking sentence". AUSNEHMER said ECKMAN never showed him a package of money and he has no idea why ECKMAN would have been recorded saying that to ANDREWS.

An audio clip was played of ECKMAN saying: "here's the deal ... I'm working on you walking out the door with no paper". AUSNEHMER has no specific recollection of ECKMAN saying something similar to AUSNEHMER, but he could have, AUSNEHMER just does not remember. AUSNEHMER said: that's just the way ECKMAN talks. AUSNEHMER said it was common conversation with ECKMAN to say things like: I don't want LISA in jail, I don't want her on probation.

An audio clip was played of ECKMAN saying: "I have enough money to get you out, you know, but I'm not going to do that without, you know, with no paper." ANDREWS asks: "Will I have to go back to Court?" and ECKMAN says: "No, you shouldn't. No, it's just going to be on a judicial. No, no paper, no, nothing". AUSNEHMER said he has no idea how much money ECKMAN paid WADE SMITH, AUSNEHMER said he knows he got nothing.

AUSNEHMER insisted he took no money, none from ECKMAN to do anything favorable for ANDREWS.

An audio clip was played of ECKMAN saying: "There's 22 texts from me and Jack back and forth". AUSNEHMER said ECKMAN

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talks to AUSNEHMER more than SMITH because AUSNEHMER is at ECKMAN's business a lot.

An audio clip was played of ECKMAN saying: "enough is enough. That's what I texted Jack, Jack, enough is enough". AUSNEHMER does not know why ECKMAN was invoking his name as opposed to WADE's other than saying: I'm the guy ECKMAN would talk to, I'm his friend, I'm his attorney, I'm down at his business. AUSNEHMER said ECKMAN talked to AUSNEHMER more than SMITH, that's just the way it was.

AUSNEHMER said it may sound like from listening to recordings that ECKMAN was willing to pay money to get ANDREWS out of jail, but there was no money between ECKMAN and AUSNEHMER to do that.

An audio clip was played of ECKMAN saying: "I'm not giving him that kind of money for fuckin probation though either. I'm not gonna, that's too much money for probation". AUSNEHMER said he never quoted ECKMAN a fee to do anything and never took any money off of ECKMAN related to ANDREWS.

The fee would have been between SMITH and ECKMAN. AUSNEHMER said he does not think SMITH would have shaken ECKMAN down for extra money if he thought ECKMAN was willing to pay more. AUSNEHMER's feeling SMITH would have quoted him a fee and said: this is what I can do. AUSNEHMER said he has no idea what the fee arrangement was between ECKMAN and SMITH.

An audio clip was played of ECKMAN saying: "I mean, I'm giving him a lot of fuckin money, you know what I mean. A lot of fuckin money and I'm not gonna give it to him unless he does what he's supposed to do". AUSNEHMER has no idea why ECKMAN would have said that he was gonna give AUSNEHMER a lot of money, because AUSNEHMER said ECKMAN did not give him money. AUSNEHMER said any statement that ECKMAN gave a lot of fuckin money to AUSNEHMER is an absolute lie.

An audio clip was played of ECKMAN saying: "I said, Jack that's 5K with your name on it in the safe, if or when the time comes. I says, and then I texted him back: case has to be closed, or no deal". AUSNEHMER does not ever recall ECKMAN telling him there was 5K with his name on it. AUSNEHMER denied receiving \$5,000 dollars from ECKMAN.

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AUSNEHMER was asked if he recalled receiving a text that said the case had to be closed. AUSNEHMER said: "If there's a text, I wouldn't deny any text". While AUSNEHMER does not recall having received a text saying the case has to be closed, he said he can not deny the possibility of it, if the text exists. AUSNEHMER said if the text is there, it's there, he just does not remember getting it. AUSNEHMER says the fact of the matter is, he did not take any money for the intent to influence anybody.

An audio clip was played of ECKMAN saying: "Okay, all they have to do is sign the order and you're out. Okay, no hearing or nothing, alright". AUSNEHMER said he does not know how ECKMAN came to having an understanding that there was not going to be a hearing. When AUSNEHMER's phone call ended with the judge, he knew the judge was going to sign the order, he did not know that the judge was not going to have a hearing.

Theoretical example:

Interviewing agents presented AUSNEHMER with a theoretical example of a court in which AUSNEHMER is the prosecutor and a motion gets filed that he never gets a chance to see or decide if he wants to oppose, and the judge decides the matter without a hearing, and after the fact AUSNEHMER finds out that an attorney had an ex-parte conversation with the judge that might have influenced his decision without AUSNEHMER knowledge.

AUSNEHMER said that fact pattern would not upset him. He said: I'm guessing it happens all the time.

Ausnehmer paid to represent Eckman business:

AUSNEHMER did do legal work for ECKMAN related to the transfer of real estate of ECKMAN's current business location. ECKMAN bought the property in 2011. The closing occurred in January 2012. AUSNEHMER could not remember exactly how much money he was paid, but gave a ballpark estimate of a few thousand dollars.

The real estate transfer was done by checks that went through AUSNEHMER's trust account at his law office. AUSNEHMER assumes the legal fee to him from ECKMAN may have been paid to AUSNEHMER in cash. AUSNEHMER said he was using the word assumed because he does not remember ECKMAN writing AUSNEHMER a check for his legal fee. AUSNEHMER thinks he was paid cash because that's

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what ECKMAN's business is, a cash business. AUSNEHMER would have to check his client file to be certain because he said his fee might have been included in the closing check that went through his trust account.

AUSNEHMER was not involved in the original sales contract between ECKMAN and the seller of the property, whose name might have been something like BAKLAYAN VICKEN from Florida. The seller was wanting more money. AUSNEHMER got involved and help draft up some of the restrictions and other legal work. AUSNEHMER used Chicago Title out of Cleveland to do the closing.

Another Andrews case in Boardman Court:

AUSNEHMER was aware that ANDREWS had another criminal case in the Boardman Court. AUSNEHMER thinks he might only know about ANDREWS having cases in Boardman Court from conversations with ECKMAN. Because AUSNEHMER intended to represent ANDREWS on the custody case, he had some interest in knowing what was going on with ANDREWS in others cases, but AUSNEHMER does not remember many specifics about her Boardman Court cases.

AUSNEHMER has no recollection of having any conversations with assistant prosecutor MARTY HOME, Judge JOE HOUSER, or the probation officer in the Boardman court.

Ausnehmer bank accounts:

AUSNEHMER said if a client paid him in cash, he likely would not have deposited it into a bank unless he needed it in the bank to cover something. He would just report the amount to his accountant for tax purposes. AUSNEHMER said he rarely has a client pay him in cash.

AUSNEHMER has a personal bank account, a law office account, and his law office trust account at PNC Bank.

AUSNEHMER and attorney JACK VAUGHN have a bank account at Home Savings & Loan from when they built their office building. AUSNEHMER said there is less than \$3,000 in that account.

AUSNEHMER and VAUGHN also have account together at Farmers National Bank, where they have the mortgage on their office building. The rent from their tenants goes into that account and that account is used to pay the mortgage on the building.

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Continuation of FD-302 of JOHN JACK E. AUSNEHMER, On 04/24/2012, Page 15

AUSNEHMER, his secretary MICHELLE SIMCOX, attorney VAUGHN, or his secretary, PAM PETRYCKI have made deposits into the Farmers Bank account.

AUSNEHMER has a small money market account at the credit union located across the street from his law office.

On a quarterly and annual basis, AUSNEHMER uses the accounting services of NICK CERIMELE; who also does his tax returns.

Paul Gains:

AUSNEHMER denies having had any conversations about ANDREWS with Mahoning County Prosecutor PAUL GAINS.

During GAINS' March 2012 primary election campaign for re-election as Mahoning County Prosecutor, AUSNEHMER made a total of about \$2,000 in campaign contributions. AUSNEHMER went to picnics, dinners, and fund raisers throughout the year, including buying fund raising tickets. Closer to the primary, AUSNEHMER was asked by telephone from his supervisory assistant prosecutor NICK MODARELLI and assistant prosecutor TIM TUSEK to make another \$1,000 contribution and AUSNEHMER did. AUSNEHMER said all of his contributions including campaign ticket were made by check. While not certain of the exact total, AUSNEHMER said the \$1,000 dollars at the end of the campaign plus all of the fund raisers, picnic, etc would have come to a total of somewhere around \$1,750 to \$2,000 total. AUSNEHMER said he was never asked directly by GAINS to make these contributions.

AUSNEHMER never felt any concern of his job being in jeopardy depending on whether he did or did not make campaign contributions. AUSNEHMER said that was different when he worked for previous prosecutors like JAMES PHILOMENA and GARY VAN BROCKLIN where you were expected to make contributions.

AUSNEHMER does not really do any fund raising for GAINS other than maybe trying to sell a couple of campaign fund raiser tickets. While not sure, AUSNEHMER said he may have sold tickets to attorneys WADE SMITH and JACK VAUGHN in his office, but that would be about it.

AUSNEHMER asked DOMINIC ECKMAN to put up PAUL GAINS re-election signs in front of his business on Midlothian and the cross

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Continuation of FD-302 of JOHN JACK E. AUSNEHMER, On 04/24/2012, Page 16

street of Zedaker. AUSNEHMER did not ask ECKMAN for a campaign contribution and if ECKMAN gave one, it was not at AUSNEHMER'S direction.

AUSNEHMER said he has contributed to GAINS campaigns in the past and made a contribution of \$1,000 to GAINS four (4) years ago when he ran.

As a part time assistant prosecutor, AUSNEHMER acknowledges he only grosses about \$25,000 dollars a year plus health care benefits.

The primary election was March 6, 2012. AUSNEHMER filed the motion for early release of ANDREWS on March 6, 2012. AUSNEHMER said he did not even realize it occurred on the same day and the that the election had nothing to do with the timing of the filing of the motion.

Eckman's other legal troubles:

AUSNEHMER is aware that ECKMAN currently has other legal issues ECKMAN is dealing with. Recently, AUSNEHMER said he got a phone call from ECKMAN who said the local police and the Ohio Department of Commerce were executing a search warrant on his business. AUSNEHMER recalls being put on the telephone with one of the officer at the scene, possibly JEFF SOLIC. AUSNEHMER said he disclosed to the officer that he is a part county prosecutor, but also represents ECKMAN'S business. AUSNEHMER told ECKMAN he had to cooperate with the search warrant and that he would need to get a separate attorney to represent him in the matter of the search warrant and suggested the names of attorneys RON YARWOOD and JOHN SHULTZ to ECKMAN.

AUSNEHMER said the search of ECKMAN'S business was based on an accusation that ECKMAN had accepted stolen merchandise.

Other:

In approximately November 2009 or maybe 2010, AUSNEHMER said NICK MODARELLI transferred him from the Boardman Court to the Sebring Court because AUSNEHMER had been having health issues and was missing to much work and it was hard to get people to keep covering the busier Boardman Court.

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Continuation of FD-302 of JOHN JACK E. AUSNEHMER, On 04/24/2012, Page 17

AUSNEHMER and SMITH have split legal fees on clients in the past. Within the past six (6) months, AUSNEHMER could only recall one client, DONALD BUCCI. AUSNEHMER said he and SMITH equally split a \$25,000 fee for \$12,500 to each of them. The client was originally SMITH's client and a neighbor of SMITH.

{administrative note: prior to the start of this interview, interviewing agents knocked on the front door of AUSNEHMER's residence for approximately 10 minutes before AUSNEHMER came out the garage door with a hand gun in his waist band.}

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 04/25/2012

WADE W. SMITH, JR. was interviewed at his residence, 7677 Spring Park Drive, Boardman, Ohio. After being advised of the identity of the interviewing agents, SMITH provided the following information:

SMITH's law office is located at 120 Marwood Circle, Boardman, Ohio. SMITH shares this office space with Attorneys JACK AUSNEHMER, JACK VAUGHN, GARY ZAMARY, RENEE LACIVITA and ED HARTWIG. SMITH and these other attorneys are not a firm, they just share the office space.

Attorneys AUSNEHMER and VAUGHN own the building at 120 Marwood Circle, in which SMITH's office is located. SMITH pays rent to AUSNEHMER and VAUGHN for his share of the space.

Attorneys ZAMARY, LACIVITA and HARTWIG also lease space from AUSNEHMER and VAUGHN inside of the office at 120 Marwood Circle.

SMITH was/is a sole practitioner. At times, SMITH has co-counseled items with other attorneys in his office. The attorneys at SMITH's office are not partners, and they do not share any employees or expenses. The attorneys do assist each other from time to time.

SMITH teaches at Kent State University and ITT Technical Institute. SMITH practices law "very little" anymore. SMITH has "wound down" his law practice. SMITH continues to handle legal matters for old clients.

SMITH has practiced general law doing probate, personal injury, civil, traffic, and some criminal law. SMITH never had an area of specialty.

SMITH has an intern from ITT who helps him with typing and other clerical jobs. SMITH has not employed a secretary for six years. The attorneys do not share any secretaries. Each attorney has their own secretary.

Occasionally, another attorney's secretary may do some typing for SMITH.

Investigation on 4/24/12 at Boardman, Ohio

File # 194B-CV-78111

Date dictated 4/25/12

by SSRA JOHN E. STOLL and
SA WALLACE E. SINES, JR./WES:cmn

78111
194B-CV-68254

Continuation of FD-302 of WADE W. SMITH, JR., On 4/24/12, Page 2

All the attorneys at SMITH's office are "pretty close" with each other. Occasionally, the attorneys in the office will work together or help each other out.

SMITH does not have any idea as to how many times he has worked with AUSNEHMER or co-counseled a case with AUSNEHMER in the past five years. SMITH has worked with AUSNEHMER and co-counseled cases with AUSNEHMER.

SMITH then asked the interviewing agents what specifically they wanted to know. SMITH was then shown a photo of LISA ANDREWS and asked if he recognized her. SMITH said he did not recognize ANDREWS and she did not look familiar.

SMITH was asked if he knew a LISA ANDREWS. SMITH said he recognized the name LISA ANDREWS, but was not sure from where. SMITH said may be ANDREWS came to the law office, but he was not sure.

SMITH then said he believed he spoke with ANDREWS and then added that he did speak with ANDREWS. SMITH then said he represented ANDREWS.

SMITH was then shown a copy of a "Motion for Early Release" filed march 6, 2012, for ANDREWS, advised of the ANDREWS case time line, and read portions of transcripts from recorded telephone conversations between ANDREWS and DOMINIC ECKMAN, when ANDREWS was in the Mahoning County Jail.

SMITH advised the interviewing agents he did not wish to say anything further since he did not have counsel, and until he had time to think about it.

SMITH is described as follows:

Sex:	Male
Race:	White
DOB:	May 3, 1951
SSAN:	[REDACTED]
Address:	7677 Spring Park Drive Boardman, Ohio 44512
Telephone:	(330) 540-0601
Work:	120 Marwood Circle Boardman, Ohio

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Continuation of FD-302 of WADE W. SMITH, JR., On 4/24/12, Page 3

Telephone (W): (330) 726-1654

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 04/25/2012

DOMINIC E. ECKMAN (ECKMAN), a white male, date of birth 03/18/1961, Social Security Account Number of [REDACTED] residential address of 8759 Woodland Avenue, Poland, Ohio, business address of 890 E. Midlothian Blvd., Youngstown, OH, home telephone number (330) 757-9076, cellular/business telephone number of (330) 314-6957, was interviewed at his business, LESLIE'S PRECIOUS METALS, dba PRECIOUS METALS. After being advised of the identity of the interviewing Agents and the purpose of the interview ECKMAN provided the following:

ECKMAN is a Graduate Gemologist and has been so since September 11, 1998. ECKMAN is married to LESLIE ECKMAN, and although the two still reside in the same home with their three children, they have effectively been estranged for the past twelve years. ECKMAN is the brother of JIMMY ECKMAN, the owner of ACE DIAMOND (ACE) on Market Street in Boardman. ECKMAN said that his father was murdered in 1986 and his brother inherited all of their father's assets, including ACE. ECKMAN worked for his brother at ACE until approximately two years ago when he decided to go into business for himself and open PRECIOUS METALS (PAWN SHOP). ECKMAN stated that all of his assets, to include the PAWN SHOP, are in his wife's name. ECKMAN stated that he put everything in his wife's name because the PAWN SHOP is in a very dangerous area and in case he was murdered, his wife would be taken care of.

ECKMAN advised the interviewing Agents that although he is married, he has been in an extramarital relationship with LISA ANDREWS (ANDREWS) for approximately one year. However, ECKMAN believes that ANDREWS most probably has another boyfriend on the side. According to ECKMAN, ANDREWS was arrested on theft or shoplifting related charges and sentenced to 150 days by Judge D'Apolito at the Austintown court on Mahoning Avenue. ECKMAN said that after ANDREWS failed a court ordered urinalysis, she self surrendered and asked to be placed in jail to help her eliminate her addiction to heroin. ECKMAN believes that ANDREWS' heroin addiction was the cause of most of her problems. ECKMAN said that he has made numerous attempts to help ANDREWS eliminate her addiction, to include attending a number of AA and NA meetings with her.

Investigation on 04/24/2012 at Youngstown, OhioFile # 194B-CV-78111Date dictated 04/25/2012by SA Michael S. Pikunas
SA Anthony J. Sano:ajs

194B-CV-78111

Continuation of FD-302 of Dominic E. Eckman, On 04/24/2012, Page 2

According to ECKMAN, WADE SMITH (SMITH) was always ANDREWS' attorney, and at no time did JACK AUSNEHMER (AUSNEHMER) represent ANDREWS. ECKMAN claims that he paid SMITH \$500 to represent ANDREWS and although he initially claimed that he and ANDREWS had met with SMITH on numerous occasions, ECKMAN changed his story to that he believes it was SMITH's voice he heard in court.

When asked how he came to hire SMITH, ECKMAN initially stated that he heard through the grapevine that SMITH was a good attorney and that SMITH was a Magistrate for two or three years, so he called SMITH. ECKMAN ultimately recanted that statement and advised the interviewing Agents that he has been friends with AUSNEHMER for many years and that AUSNEHMER was a client at ACE. ECKMAN said he ran into AUSNEHMER and asked him to represent ANDREWS. According to ECKMAN, AUSNEHMER said that it was a conflict and that he could not represent ANDREWS, and subsequently referred SMITH to ECKMAN. ECKMAN said that he had met with a couple other attorneys regarding ANDREWS, but ultimately hired SMITH. ECKMAN added that he has worked with LYNN BRUNO and JOHN JUHASZ in the past, but did not discuss the ANDREWS' matter with them.

ANDREWS was released on March 8, 2012, which according to ECKMAN was midway through her sentence of 150 days. ECKMAN denied paying AUSNEHMER any money to assist in getting ANDREWS released from jail early. ECKMAN further denied that AUSNEHMER had any involvement at all in getting ANDREWS out of jail early. When asked about the number of jail recordings between himself (ECKMAN) and ANDREWS, whereby he tells ANDREWS that he has been in discussions with AUSNEHMER to get ANDREWS out of jail early for \$5,000.00 (Five Thousand Dollars), ECKMAN stated that he was "bullshitting" ANDREWS to make it appear that he had more influence than he does. ECKMAN informed the interviewing Agents that he is a "pretty good bullshitter" with a "silver tongue", which he has developed over his years of working in the jewelry and pawn business.

ECKMAN was shown and questioned about the handwritten note that was photographed during the search by local law enforcement that read "Got up early. Went to office. Met Wade and discussed Lisa. I dictated motion for early release and terminate probation or make non-reporting. Will be typed this week and held until March date." ECKMAN emphatically stated on numerous occasions that the handwriting was his. However, ECKMAN could not

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Continuation of FD-302 of Dominic E. Eckman, On 04/24/2012, Page 3

provide the interviewing Agents with any rationale as to why, or to whom, he would have dictated a motion.

ECKMAN said that AUSNEHMER would never take money from him. ECKMAN relayed the following story as proof of AUSNEHMER's ethical practices. Months prior to this interview, AUSNEHMER asked ECKMAN to create two sets of identical diamond earrings, one pair for each of AUSNEHMER's daughters. ECKMAN did this and gave them to AUSNEHMER to show to his wife. AUSNEHMER's wife reportedly did not think the earrings were identical enough and therefore did not want them. ECKMAN said that he told AUSNEHMER just to keep the earrings and give them to a secretary or friend. However, a couple weeks passed and AUSNEHMER returned the earrings to ECKMAN.

ECKMAN did confirm that AUSNEHMER did know ANDREWS through ECKMAN. ECKMAN further advised that AUSNEHMER provided legal representation for ECKMAN during the purchase of the business location sometime during the beginning of 2012. However, ECKMAN does not believe that he paid AUSNEHMER any money for the legal representation.

ECKMAN did confirm that he and AUSNEHMER did exchange SMS/text messages, but not regarding getting ANDREWS out of jail early. The interviewing Agents asked ECKMAN to consent to a search of his business/cellular telephone, number (330) 314-6957, to affirm that no SMS/text were sent or received regarding ANDREWS. ECKMAN declined.

ECKMAN asked if he could call his lawyer. When asked who he was going to call, ECKMAN replied AUSNEHMER. ECKMAN was permitted to call AUSNEHMER which went to his voice mail. The interviewing Agents, at this point, informed ECKMAN that AUSNEHMER or SMITH were also being interviewed by the FBI. ECKMAN also asked permission to contact another attorney, specifically, JOHN JUHASZ. ECKMAN was permitted to attempt to contact JUHASZ, but could not find his telephone number. ECKMAN said that he wished to speak to an attorney before making any other statements to the FBI because AUSNEHMER was friend of his and he did not want to make any statements that could get him (AUSNEHMER) in trouble.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 05/03/2012

Judge DAVID D'APOLITO was interviewed at his private law office located at 23 Lisbon Street - suite K, Canfield, Ohio 44406 - office telephone (330) 286-1920, cellular telephone (330) 509-4950. He was previously aware of the identities of the interviewing agents and advised the nature of the interview concerned the criminal case of LISA ANDREWS that went through the Austintown Court. D'APOLITO then provided the following information:

D'APOLITO was shown a color photograph and told it was LISA ANDREWS. D'APOLITO did not recognize the photograph or the name. He said he would be more inclined to recall a fact pattern than a face or name of one of many defendants who came before the Austintown Court.

Interviewing agents provided D'APOLITO with the following background facts: ANDREWS case started from a shoplifting case that progressed to a failure on a drug screen which resulted in D'APOLITO sentencing her to 150 in the county jail, and that the attorney of record was WADE SMITH.

D'APOLITO now recalled the case for two reasons: one (1) because it was a WADE SMITH client, who rarely handles criminal cases, and two (2) because the defendant herself asked to go to jail to get clean of drugs. D'APOLITO recalled ANDREWS having a terrible drug problem and wanted to get off the streets. ANDREWS was sentenced to 150 days in jail. D'APOLITO remembers SMITH saying that ANDREWS needed to be put into jail for her own safety.

D'APOLITO said he would never have put her in jail for a 150 days in the first place, but ANDREWS asked to go to jail to get off the streets, away from drugs. Sometime later, her attorney filed a motion to let her out and D'APOLITO agreed to let her out early.

D'APOLITO said if a case is a plea in his court, he would not remember of all of the facts of the case because he would not have read all of the reports in a case that plead. D'APOLITO said he wants to have an open mind in any case that might go to trial, so he intentionally does not read all of the reports filed early in a case proceeding. The one fact that stands out in D'APOLITO'S

Investigation on 04/27/2012 at Canfield, Ohio

File # 194B-CV-78111

Date dictated 04/30/2012

by SA DEANE ROBERT HASSMAN and
SA ANTHONY J. SANO; DRH/drh

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Continuation of FD-302 of DAVID D'APOLITO, On 04/27/2012, Page 2

mind about the ANDREWS case is that she wanted to go to jail.

D'APOLITO said he does care to hear the position of the Probation department on a violation case. D'APOLITO said he generally does not send someone to jail the first time they fail a drug test, and maybe only a few days the second time they fail. D'APOLITO said it is almost unheard of for him to send someone to jail for 150 days like he did in the ANDREWS case.

Conversation with Ausnehmer:

Judge D'APOLITO recalls having had a conversation with JOHN "JACK" AUSNEHMER about ANDREWS. The conversation started out with AUSNEHMER saying: do you remember WADE SMITH's client; to which the judge said he did not. AUSNEHMER then reminded him of ANDREWS, who had a bad drug problem and she wanted to go to jail and that WADE SMITH represented her. Base on that, Judge D'APOLITO said he kind of did remember the ANDREWS case.

AUSNEHMER said ANDREWS was clean now and asked the judge if he would consider releasing her. Judge D'APOLITO told AUSNEHMER to file a motion and he would consider it. AUSNEHMER told D'APOLITO that SMITH was going to file a motion to release ANDREWS.

While not being 100% certain how or when D'APOLITO's conversation occurred with AUSNEHMER, he thinks the conversation may have occurred on February 23, 2012 at AUSNEHMER's law office. In an unrelated matter, D'APOLITO had a mediation meeting on a personal injury case with attorney RENEE LACIVITA, who has an office in AUSNEHMER's building and D'APOLITO thinks he might have spoken to AUSNEHMER then about ANDREWS. In the presence on interviewing agents, D'APOLITO checked his calendar and confirmed the date he was in AUSNEHMER's law office to be February 23, 2012 at 9:00 AM.

Judge D'APOLITO did not really perceive AUSNEHMER as being an attorney of ANDREWS, he saw AUSNEHMER as being someone who shared an office with WADE SMITH, who represented ANDREWS.

At the time of the conversation with AUSNEHMER, D'APOLITO said he did not find anything about it to be in-appropriate, he just perceived it as two (2) guys having a conversation and AUSNEHMER mentioned that SMITH was going to be filing a motion.

Motion for release:

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Continuation of FD-302 of DAVID D'APOLITO, On 04/27/2012, Page 3

Judge D'APOLITO was shown an unsigned copy of the motion for release of ANDREWS filed with the clerk's office on March 6, 2012 with a post it note on it that read: "set for hearing?". D'APOLITO said the note would have been from his bailiff, HEIDI MILSTEAD, asking if she should set the matter for a hearing or not.

D'APOLITO acknowledged that had he not had the conversation with AUSNEHMER that refreshed his recollection of the case, he probably would have set the motion for a hearing to bring all of the parties back before him to remind him of the case so he could rule. As a result of the conversation with AUSNEHMER, Judge D'APOLITO decided he could rule on the motion without setting it for a hearing and did so.

D'APOLITO said it is likely that he checked with his probation officer first before ruling to make sure that all fines and costs were paid, because D'APOLITO said he is big on making sure the fines are paid.

D'APOLITO was shown the March 7, 2012 order to release ANDREWS from jail. D'APOLITO recognized the hand written order as being his hand writing.

Interviewing agents advised D'APOLITO that this investigation has revealed that AUSNEHMER personally delivered a copy of the ANDREWS motion for release to D'APOLITO's bailiff. D'APOLITO was unaware of that occurring and does not have a specific recollection of his bailiff relaying that to him, but he said he does not deny the possibility that it could have occurred.

Decision to release:

Judge D'APOLITO said the jail is always wanting the judges to release people because of overcrowding. Since he would not have been inclined to normally have put ANDREWS in jail that long in the first place, D'APOLITO said he was inclined to release ANDREWS.

D'APOLITO said when he decides a motion in writing without a hearing, he generally would not announce his ruling in open court if there was no hearing.

D'APOLITO was asked by interviewing agents why he would have released ANDREWS from jail to a non-reporting status of probation with likely no future drug tests when failure of a drug

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Continuation of FD-302 of DAVID D'APOLITO, On 04/27/2012, Page 4

test was the reason she went to jail in the first place. Judge D'APOLITO said it is common for him to reduce someone's sentence to a non-reporting status if they have met the minimum standards of the conditions of their release; served their time, paid all fine and restitution. Judge D'APOLITO said the Probation Department is always working toward getting the defendants off probation.

D'APOLITO does not recall having a telephone conversation with AUSNEHMER on March 7, 2012, the same day the order was signed, however D'APOLITO does not deny the possibility that he might have.

D'APOLITO said nobody offered him anything to release ANDREWS from jail with no probation, no drug test, no nothing.

Prosecutor Ken Cardinal:

Judge D'APOLITO said Austintown Prosecutor KEN CARDINAL has generally taken a stance that he does not weigh in on probation violation cases. CARDINAL thinks probation cases are not his domain, that it is the Court's domain. Prosecutor CARDINAL sometimes does not even come to court when the probation violation is being contested. Since CARDINAL has taken this position that he does not have to weigh in on probation violations, Judge D'APOLITO said he no longer seeks CARDINAL's position before making a decision.

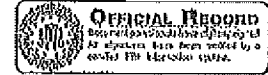
Dominic Eckman:

D'APOLITO said the name ECKMAN sounds familiar, but does not know why.

Other:

D'APOLITO said he does not socialize with AUSNEHMER. He has known AUSNEHMER through the courts for years. D'APOLITO does not know AUSNEHMER's cellular telephone number nor his home telephone number. The only way he would have called AUSNEHMER at any telephone number other than AUSNEHMER's law office would be if D'APOLITO was left a note with a number to reach AUSNEHMER at.

In the past, D'APOLITO has referred workers compensation cases to AUSNEHMER, but he can even recall the last time he has made a referral to AUSNEHMER. When a referral has happen, D'APOLITO thinks AUSNEHMER has paid him a referral fee.



FEDERAL BUREAU OF INVESTIGATION

Date of entry 03/26/2013

MICHELLE SIMCOX, Social Security Account Number [REDACTED] date of birth of 03/05/1970, - cellular telephone (330) 519-6454, was interviewed at her residence located at 103 Spring Street, Struthers, Ohio 44471. She was advised the nature of the interview concerned WADE SMITH and JACK AUSNEHMER. Also present in the residence, but not in the room of the interview was SIMCOX's son. She then provided the following information:

SIMCOX has worked as a secretary for JOHN "Jack" AUSNEHMER for the past 10 years. She works for AUSNEHMER only on the private civil practice of his law office and does not do any work for him in his capacity as an assistant Mahoning County Prosecutor.

SIMCOX has never worked as a secretary for attorney WADE SMITH. SMITH SMITH has an office in the same office suite as AUSNEHMER. Currently SMITH has a paralegal, DAVID POZSCA, who does SMITH's typing. POZSCA has been with SMITH for approximately two years. When SMITH was between secretary's, SIMCOX occasionally typed some letters for SMITH.

SIMCOX would not normally do any typing for SMITH unless it related to a case in which both AUSNEHMER and SMITH were co-counsel on. Occasionally AUSNEHMER and SMITH would co-counsel on a civil personal injury case.

SIMCOX thinks that happened maybe a half dozen times or fewer.

LISA ANDREWS:

SIMCOX was shown a color photograph of LISA ANDREWS. SIMCOX said the photo was not familiar to her and not sure she has ever seen that person before.

SIMCOX immediately recognized the name LISA ANDREWS, and recalled that she had typed some court document related to ANDREWS' case. SIMCOX said: "we did a motion on that case for Wade" [Smith]. When asked to define "we", SIMCOX said AUSNEHMER and herself. From memory, SIMCOX thought maybe the legal motion was for an expungement or something. SIMCOX did not know why AUSNEHMER would have been involved in this criminal case. SIMCOX speculated that maybe SMITH had conferred with AUSNEHMER, because AUSNEHMER was a prosecutor.

Investigation on 03/25/2013 at Struthers, Ohio, United States (In Person)

File # 194B-CV-78111

Date dictated 03/26/2013

by Deane Robert Hassman

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Continuation of FD-302 of Interview of Michelle Simcox, On 03/25/2013, Page 2 of 4

SIMCOX did not know LISA ANDREWS to be a client of SMITH and had no knowledge of ANDREWS having any relationship with AUSNEHMER. SIMCOX thinks the motion she typed was a one time: "can you type this",

SIMCOX was shown a two (2) page "motion for early release" of LISA ANDREWS, Mahoning County case 2011 CRB 102 AUS and immediately identified it as the document she typed. SIMCOX said: "I definitely typed this. It's my font and everything."

SIMCOX knows SMITH's hand writing to see it and believes the signature of Wade Smith Jr. does appear to be SMITH's on the motion, as she knows it.

SIMCOX said this type of court motion can be filed by mail and routinely is mailed. SIMCOX has no idea why this motion was filed in person with the Austintown Court or who would have done that.

SIMCOX cannot recall with certainty how she received the information to prepare the motion. SIMCOX said most of what she gets from AUSNEHMER for typing is dictated to her. AUSNEHMER still uses the old cassette tapes and dictates to her on tape. The cassette tape are reused and any dictation from a year ago almost certainly would not still exist; it would have been taped over since.

SIMCOX does not rule out the possibility that she was e-mailed a similar motion and just asked to change the dates for this one.

SIMCOX does not recall any sense of urgency in needing to get the ANDREWS motion done quickly. SIMCOX said she generally gets everything typed the same day AUSNEHMER gives it to her, so he would not normally need to express any sense of urgency to her because AUSNEHMER would know it would be done quickly.

SIMCOX recognized the cellular telephone (330) 540-3176 to be that of AUSNEHMER. SIMCOX was shown a text message from (330) 540-3176 that read: "Got up early. Went to office. Met Wade and discussed Lisa. I dictated motion for early release and terminate probation or make non reporting. Will be typed this week and held until March date. Thank you Jack,"

SIMCOX was unaware of the text message and its existence does not refresh her memory that the motion she typed was dictated to her.

When asked why SIMCOX would remember a name as common as "ANDREWS", she responded that is what her job is all about: clients. She said all of her work revolves around what was done for which client; so SIMCOX said she is pretty good at remembering names; if she did some work on their case.

SIMCOX does not recall having any conversations with anyone about the

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Continuation of FD-302 of Interview of Michelle Simcox, On 03/25/2013, Page 3 of 4

ANDREWS' motion for release since the date it was done.

SIMCOX regularly gets in and out of AUSNEHMER's client file folders and is certain there is not a client file for ANDREWS with in AUSNEHMER's file cabinets.

DOMINIC ECKMAN:

SIMCOX was shown a color photograph of DOMINIC ECKMAN. Her initial reaction was: the picture looked familiar and possibly was someone who had come by the law office. After being asked about if she knew who DOMINIC ECKMAN was, SIMCOX said the photo shown to her was ECKMAN.

SIMCOX has known ECKMAN to have previously had some ownership interest in ACE Jewelers. SIMCOX said AUSNEHMER had previously done some legal work for ACE Jewelers. SIMCOX knows ECKMAN to have come to the office a couple of times to see AUSNEHMER, but SIMCOX does not know ECKMAN to be anything other than a client of AUSNEHMER's. SIMCOX did not perceive ECKMAN to be a personal friend of AUSNEHMER. SIMCOX said AUSNEHMER does not really socialize with anyone to the best of her knowledge.

SIMCOX thinks the last time she has seen ECKMAN in the law office was, maybe, in the Fall of 2012.

SIMCOX has seen in the news that ECKMAN was charged in Mahoning County with receiving stolen property. SIMCOX does not recall any office cooler conversations with AUSNEHMER about ECKMAN getting charged criminally.

SIMCOX has no reason to associate the name LISA ANDREWS with the name DOMINIC ECKMAN.

Banking:

SIMCOX does the billing for AUSNEHMER's law office and said there is very little billing because most of AUSNEHMER's cases are contingency worker's comp cases. SIMCOX has no recollection of ever sending a bill related to the ANDREWS case. SIMCOX also does not recall ever sending a legal bill to ECKMAN.

SIMCOX said AUSNEHMER does all of his own banking. Handles his own bank statements and does his own deposits.

HARTWIG:

About a year ago, attorney ED HARTWIG became a tenant in the law office building of AUSNEHMER. SIMCOX said if a criminal client would come to AUSNEHMER, AUSNEHMER would likely refer the case to HARTWIG.

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Continuation of FD-302 of Interview of Michelle Simcox, On 03/25/2013, Page 4 of 4

SIMCOX said because AUSNEHMER is an assistant county prosecutor, he does not handle any criminal cases.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 05/04/2012

ANGELA TESTA, Probation officer for the Mahoning County Court in Austintown, Ohio was interviewed at her place of employment at 6000 Mahoning Avenue, Austintown, Ohio 44515. She was advised the identity of the interviewing agent and the nature of the interview concerned LISA ANDREWS / Austintown case 2011 CRB 00102. She then provided the following information:

Diversion program:

The Austintown Court does not officially have a drug diversion program. However, it is fairly common for the judge to order a community control drug treatment program for a defendant prior to officially putting the defendant on Probation. The probation department maintains a "dummy jacket" on these defendants that are somewhat under the control of probation, but not officially on probation. The results of the drug treatment program are forwarded to the Probation Department. In the case of a successful drug treatment, the defendant might never be officially put on probation.

Andrews initial sentencing:

TESTA reviewed the original sentencing journal entry for LISA ANDREWS dated February 28, 2011 on the original charges of petty theft and child endangering. The sentencing order did not have the box checked on it placing ANDREWS on Probation. As of February 28, 2011, the probation department would not have even known about the ANDREWS case. The Court Clerk's office would only forward copies of sentencing orders to the Probation department if probation was ordered.

In the ANDREWS case, TESTA suspects that the failure to put ANDREWS on probation was just missed and probably should have had probation ordered in 2011 because of everything else that TESTA observed in the sentencing order to include: restitution, court fines, 30 days to submit a drug screen, house arrest, and partially suspended sentence. Had TESTA seen this form in real time in February 2011, she said she likely would have taken it back to the prosecutor or judge to make sure that it was not just an oversight or failure to check the probation box on the sentencing order.

Investigation on 04/27/2012 at Austintown, OhioFile # 194B-CV-78111Date dictated 04/28/2012by SA DEANE ROBERT HASSMAN / drh

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Continuation of FD-302 of ANGELA TESTA, On 04/27/2012, Page 2Compliance hearing:

TESTA reviewed the clerk of courts case jacket for ANDREWS case and did recognize her (TESTA) own hand writing of the jacket dated June 17, 2011 requesting a compliance hearing, which was set for July 13, 2011, reset to July 25, 2011, reset to August 8, 2011, reset to October 31, 2011 and again reset to December 28, 2011. TESTA said she somehow must have become aware of the ANDREWS' case at some point even though ANDREWS was not officially on probation and learned that ANDREWS was not complying with the original order of the court and wanted ANDREWS brought back in for a hearing.

Conversations with Jack Ausnehmer:

TESTA remembers the LISA ANDREWS case because she had conversations with JOHN "Jack" AUSNEHMER about ANDREWS. TESTA recalls AUSNEHMER saying he represented ANDREWS in some other matter, maybe a divorce or child custody or something like that. TESTA never perceived AUSNEHMER as being the criminal defense attorney for ANDREWS.

TESTA recalls having a couple of conversations with AUSNEHMER. Each time ANDREWS failed a drug test, ANDREWS can recall telling AUSNEHMER that ANDREWS failed another test. ANDREWS can recall AUSNEHMER saying that ANDREWS needs to go to jail because she just can not get clean out on the streets.

TESTA thinks she may have documented the dates of her conversations with AUSNEHMER. From memory, TESTA thinks all of the conversations she had with AUSNEHMER occurred prior to December 28, 2011, the compliance hearing date.

Journal entry from compliance hearing:

A compliance hearing was held on December 28, 2011 because ANDREWS had failed to comply with drug screens and treatment. TESTA reviewed the Judge's journal entry from December 28, 2011 and said the typed portions of the journal entry would have been prepared by TESTA. In advance of a compliance hearing, TESTA prepares a journal entry which documents which portions of the original sentence are in compliance and which are not. On the sentencing portion of the journal entry, TESTA pre-populates the sentence with the number of days in jail that was suspended from the original sentence. In ANDREWS case, TESTA prepared the journal

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Continuation of FD-302 of ANGELA TESTA, On 04/27/2012, Page 3

entry to read: "to serve 150 days in jail". If the judge wants to give less than the previously suspended sentence, he will manually strike it on the journal entry and change it to the number of days he wants the defendant to serve. In ANDREWS case, Judge DAVID D'APOLITO left the sentence at 150 days.

On December 28, 2011 everyone, from defense counsel, to the judge, to ANDREWS had an expectation that ANDREWS was going to go to jail that day because she could not stay clean on the streets on her own. TESTA could only speculate that either AUSNEHMER or WADE SMITH had a conversation with Judge D'APOLITO prior to the hearing. TESTA recalls ANDREWS saying herself that she could not stay clean from drugs on her own.

Early release from jail:

As of the date of this interview, TESTA was never aware that a motion for early release of ANDREWS from jail was filed on March 6, 2012 or that Judge D'APOLITO signed an order on March 7, 2012 to release ANDREWS. TESTA reviewed her on-line probation department docket which did not reflect that the probation department ever knew about this early release of ANDREWS.

The motion for release claimed that a copy of the motion was hand delivered to the probation department. TESTA does not have a recollection of that and if it happened, a copy of it would be in the dummy jacket file for ANDREWS; TESTA would have to check.

TESTA said if she had been consulted about releasing ANDREWS to "non-reporting probation", TESTA's comment to the judge would have been: how do we know she's clean? How do we know she will stay clean? What makes her different from all the others like her?

TESTA has no recollection of anybody having contact with TESTA around March 6, 2012 about trying to release ANDREWS from jail. TESTA recalls no one asking TESTA to not oppose any release of ANDREWS without any probation or drug screens.

MAYHONING COUNTY COURT

STATE OF OHIO

11 CNA 92

CASE NOS. 11 CRB 102

VS.

Alisa C Andrews
DEFENDANT

2011 FEB 28 P 4 18

CRIMINAL - CRIM. R. 11
JOURNAL ENTRY
CONVICTION/SENTENCE
Prior Criminal Convictions

DEFENDANT HAVING APPEARED WITH WITHOUT COUNSEL FOR THE PURPOSE OF CHANGING THE FORMER PLEA OF NOT GUILTY OR ENTERING A PLEA AGREEMENT WITH PROSECUTOR AS FOLLOWS:

DEFENDANT ENTERS A PLEA OF GUILTY TO THE CHARGE(S) OF:
COUNT 1: VIOLATION OF 1804.01, 1804.02 SECTION 2913.03 R.C.
COUNT 2: VIOLATION OF Child Endangerment SECTION 2919.22 R.C.
COUNT 3: VIOLATION OF _____ SECTION _____ R.C.

DEFENDANT'S PLEA AND PLEA AGREEMENT ARE ACCEPTED.
DEFENDANT IS FOUND GUILTY OF THE OFFENSE(S) AS SET FORTH IN THE COMPLAINT/AMENDED COMPLAINT.
ORDERED, THAT DEFENDANT: TRANSFERRED TO DRUG COURT PROSECUTOR'S DIVERSION PLAN;

BE FINED COUNT 1: \$ 250, COUNT 2: \$ 150, COUNT 3: \$ _____ AND PAY COURT COSTS
ORDER OF PAYMENT SHALL BE COSTS, COMMUNITY CONTROL FEES, FINE(S) AND RESTITUTION.
 GIVEN 30 DAYS TO PAY FINES AND COSTS AS A TERM AND CONDITION OF COMMUNITY CONTROL.

ORDERED, THAT DEFENDANT BE SENTENCED TO:

COUNT 1: JUSTICE CENTER FOR A TERM OF 180 DAYS TO COMMENCE ON _____
SUSPEND 150 DAYS.

COUNT 2: JUSTICE CENTER FOR A TERM OF 60 DAYS TO COMMENCE ON _____
SUSPEND 0 DAYS.

COUNT 3: JUSTICE CENTER FOR A TERM OF _____ DAYS TO COMMENCE ON _____
SUSPEND _____ DAYS. GIVEN CREDIT FOR _____ DAYS TIME SERVED.

SENTENCES TO BE SERVED CONCURRENT; CONSECUTIVE WITH EACH OTHER AND CASE NOS. _____

PLACED ON _____ MONTHS REPORTING NON REPORTING AFTER ALL FEES ARE PAID, GOOD BEHAVIOR CONTROL WITH THE COMMUNITY CORRECTIONS AND SUBJECT TO TERMS AND CONDITIONS SET FORTH IN THE COMMUNITY CONTROL AGREEMENT.

ORDERED, THAT IN LIEU OF INCARCERATION OR IN ADDITION TO INCARCERATION, DEFENDANT SHALL BE REQUIRED TO SERVE _____ HOURS COMMUNITY SERVICE, AS DETERMINED BY THE COMMUNITY CORRECTIONS.

ORDERED, THAT DEFENDANT SHALL MAKE RESTITUTION TO THE VICTIM, IN THE AMOUNT OF COUNT 1: \$ 793.95; COUNT 2: \$ _____; COUNT 3: \$ _____ WITHIN 120 DAYS. PAYMENT TO BE MADE THROUGH COMMUNITY CONTROL.

ORDERED, THAT DEFENDANT SHALL REFRAIN FROM HAVING ANY VERBAL OR PHYSICAL CONTACT WITH THE VICTIM(S) _____ DURING THE TERM OF PROBATION THAT COULD RESULT IN CRIMINAL CHARGES BEING FILED.

NO VERBAL OR PHYSICAL CONTACT, DIRECT OR INDIRECT WITH VICTIM K. MART

ORDERED, THAT DEFENDANT SHALL HAVE FIREARMS DISABILITY 180 DAY OPERATOR'S LICENSE SUSPENSION OCCUPATIONAL DRIVING PRIVILEGES GRANTED. IN LIEU OF THE JUSTICE CENTER SHALL SERVE 30 DAYS OF E.M.H.A., EXCEPT ON WORK RELEASE AND MEDICAL PURPOSES. DRUG SCREEN ANGER MANAGEMENT COUNSELING. FORFEITURE OF (U.S. CURRENCY SEIZED IN THE AMOUNT OF \$ _____ AS CONTRABAND) (FIREARM(S) SEIZED AS CONTRABAND) (PERSONAL PROPERTY SEIZED AS CONTRABAND) TO THE STATE (_____).

PURSUANT TO CRIM. R. 11-GOOD FAITH PLEA NEGOTIATIONS, FOLLOWING COMPLAINTS ARE DISMISSED AT DEFENDANT'S COSTS: _____

APPROVED AND SUBMITTED ON THIS THE _____ DAY OF _____

[Signature] DEFENDANT

[Signature] ATTORNEY

[Signature]

HON. [Signature] JUDGE

PROSECUTOR
2-28-11

PROSECUTOR'S NOTE(S) Case NO. 11 CRB 101; 11 CNA 91 C-X

Restitution Total is \$793.95. Once All Paid
Once NOT DUAL RESTITUTION

MAHONING COUNTY COURT NO. - 4
AUSTINTOWN, OHIO

MAHONING COUNTY COURT
AREA 4

2011 DEC 28 ~~ADJUDICATION~~ CASE NUMBER 11-CRB102

STATE OF OHIO
AUSTINTOWN

ANTHONY VIVO, CLERK
JUDGEMENT ENTRY

VS

LISA ANDREWS
DEFENDANT

THE DEFENDANT WAS SERVED WITH A COMPLIANCE HEARING/ PROBATION VIOLATION
HEREIN AND FURTHER PLED NOT GUILTY TO THE SAME. THE MATTER WAS SET THIS DATE.

THE DEFENDANT APPEARED WITH / ~~WITHOUT~~ COUNSEL.

THE DEFENDANT OWES THE COURT THE AMOUNT OF \$ 0 AND PLED NOT GUILTY ON
6-17-11. THE CASE WAS RESET FOR TODAY.

THE COURT FINDS THAT THE DEFENDANT HAS FAILED TO COMPLY WITH DRUG SCREENS
AND TREATMENT.

UPON INQUIRY, DEFENDANT STIPULATES TO THE VIOLATION AND THE FOLLOWING
CONDITIONS:

TO SERVE 150 DAY(S) IN JAIL COMMENCING ON September 28, 2011 @ 9:00 AM

IF THE DEFENDANT SERVES THE BALANCE OF JAIL TIME IMPOSED, ALL OF THE JAIL TIME ON
THE ABOVE CASE AND/OR CASES WILL HAVE BEEN SERVED AND THE DEFENDANT'S
COMMUNITY CONTROL SHALL BE TERMINATED. ALL FINES AND FEES WILL STILL BE OWED
TO AUSTINTOWN COURT UPON RELEASE.

IT IS FURTHER ORDERED, THAT IF THE FINE, COSTS, AND FEES ARE PAID IN FULL, TO THE
AUSTINTOWN COURT, THE DEFENDANT SHALL BE RELEASED FROM JAIL IMMEDIATELY AND
THE COMMUNITY CONTROL WILL BE TERMINATED.

*NOTE:

12-28-11
DATE

HON. David A. D'Apolito
JUDGE DAVID A. D'APOLITO

Lisa Andrews
DEFENDANT

Angela Leto
COMMUNITY CONTROL OFFICER

Anthony Vivo
ATTORNEY

IN THE MAHONING COUNTY COURT NO. 4
AUSTINTOWN,
MAHONING COUNTY, OHIO

MAHONING COUNTY COURT
AREA 4

2012 MAR -6 AM 9:56

ANTHONY VIVO, CLERK

STATE OF OHIO)

CASE NO. 2011-CRB 102 AUS)

Judge David A. D'Apolito)

PLAINTIFF)

v.)

LISA C. ANDREWS)

MOTION FOR EARLY
RELEASE)

DEFENDANT)

Now comes Defendant, LISA C. ANDREWS, by and through counsel, Wade W. Smith, Jr., and hereby moves this Honorable Court for early release from the Mahoning County Jail, and further moves this Court to terminate probation and/or make probation non-reporting, or such other alternative that the Court deems just.

W. Smith, Jr.

WADE W. SMITH, JR. (0001515)

Attorney for Defendant

P.O. Box 3965

Youngstown, Ohio 44513-3965

Phone: (330) 726-1654

FAX: (330) 726-5608

E-mail: jealaw1302@zoominternet.net

MEMORANDUM

Defendant, Lisa C. Andrews, was placed on probation by this Honorable Court, and admitted violating the terms thereof by continually testing positive for drugs on random urine samples. Defendant appeared before this Honorable Court on October 31, 2011 and implored this Court to sentence her to incarceration in the Mahoning County Jail for the Defendant felt incarceration would be the only way to clean her system of drugs.

Defendant was sentenced to 150 days incarceration. Defendant has been incarcerated since December 28, 2011 in excess of one half of the jail sentence imposed by this Court, and the Defendant now feels she may be able to go on with her life without the need for drugs. Additionally, continuation of reporting probation would serve no just purpose.

Defendant therefore moves this Honorable Court for early release and termination of probation/or non-reporting probation.

W. Smith, Jr.

WADE W. SMITH, JR.
Attorney for Defendant

NOTICE OF HEARING

Motion for Early Release scheduled for hearing on the _____ day of _____, 2012 at _____ a.m./p.m.

W. Smith, Jr.

WADE W. SMITH, JR.
Attorney for Defendant

PROOF OF SERVICE

Hand delivered on the 6th day of March, 2012 to Assist. Co. Pros. Kenneth Cardinal and The Probation Department, Mahoning County Court #4 Austintown, 6000 Mahoning Avenue, Youngstown, Ohio, 44515:

W. Smith, Jr.

WADE W. SMITH, JR.
Attorney for Defendant

IN THE MAHONING COUNTY COURT #4
AUSTINTOWN, OHIO

MAHONING COUNTY COURT
AREA 4

STATE OF OHIO
PLAINTIFF

CASE NO. 11 CRB 1074
2012 MAR 7 AM 11:34

JUDGE DAVID A. D'APOLITO
ANTHONY J. CLERK

VS.

LISA C. ANDREWS
DEFENDANT

JUDGMENT ENTRY

3/7/12 - This matter came before
the Court upon Motion for Early Release
filed by Counsel on behalf of the Defendant.
Upon review of the record, the
Court finds that the Defendant has served in excess
of (1/2) one-half of the 150 day sentence. Further, all
fines, costs, and fees have been satisfied. Therefore, the
Motion is granted. Defendant to be released from jail
immediately and placed non-reporting comm. contact. It is so ordered.

DATED: 3/7/12

HON.

D. A. D'Apolito
DAVID A. D'APOLITO, JUDGE

CC: PLAINTIFF DEFENDANT
ATTY FOR PLAINTIFF FILE
ATTY FOR DEFENDANT OTHER
OTHER OTHER

DEFENDANT
ATTORNEY FOR DEFENDANT

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 04/16/2012

MICHELLE WHITED, Austintown Clerk of Courts, was interviewed at her residence at 96 Edgewater, Austintown, Ohio 44515. Also present during the interview was her husband, ROB WHITED. She was advised the identities of the interviewing agents and the nature of the interview concerned a court case that went through the Austintown Court. She then provided the following information:

WHITED has a general recollection of Austintown Court case of 2011 CR B 00102 of defendant LISA ANDREWS who was released from the Mahoning County Jail following a motion filed by attorney WADE SMITH JR.

On March 6, 2012, WHITED has a recollection that Assistant Mahoning County Prosecutor JOHN "JACK" AUSNEHMER was actually the one who hand delivered WADE SMITH's motion for release of LISA ANDREWS to the Austintown Court clerk's office. WHITED personally did not receive the motion from AUSNEHMER, but WHITED recalls her attention being drawn to the clerk's counter because one of her employees, possibly LEONA KOROCZYNSKY, said something to AUSNEHMER like: hey stranger, we haven't seen you in a while; which drew WHITED's attention to the counter where she observed AUSNEHMER filing the motion.

While WHITED personally did not receive the motion from AUSNEHMER, she might have been the one who time stamped its receipt. WHITED said she was time stamping some incoming mail to the court and one of her clerk's may have handed her the motion to be time stamped.

WHITED said it is very rare that AUSNEHMER would personally come to the Austintown Court to file a motion. In fact, in the past year or so, the LISA ANDREWS motion for release is the only time WHITED can recall AUSNEHMER personally filing a motion.

Austintown Prosecutor:

KEN CARDINAL is the Mahoning County Assistant Prosecutor assigned to the Austintown Court. CARDINAL is usually there and rarely needs to be covered for by another Prosecutor. If CARDINAL

Investigation on 04/12/2012 at Austintown, Ohio

File # 194B-CV-78111

Date dictated 04/13/2012

by SA DEANE ROBERT HASSMAN and
SA ANTHONY J. SANO; DRH/drh

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Continuation of FD-302 of MICHELLE WHITED, On 04/12/2012, Page 2

does need to be covered for, it is usually done by Assistant Prosecutor NICK MODARELLI.

AUSNEHMER is assigned to the Sebring Court. WHITED said it is not very often that AUSNEHMER covers the Austintown Court for KEN CARDINAL.

While one would expect the prosecutor to be aware of all motions filed by the defense attorneys, WHITED said it is possible in a case like LISA ANDREWS, which was a probation violation, that the prosecutor might not have seen the motion.

Prosecutor CARDINAL considers the official case files of the clerk's office to be his case file and does not keep a separate Prosecutor file of the docket documents filed in a case. Even when a defense attorney files a document and provides an extra copy for the prosecutor, the clerk's office does not always pass the extra copy on to CARDINAL. The original motion is put into the official court case file. Prosecutor CARDINAL reviews the court case file before court appearances to become aware of what has been filed. If there is a filing that needs CARDINAL's attention, the clerk's office sometimes gives him a copy in addition to the official court case file.

WHITED said KEN CARDINAL is an experienced assistant prosecutor and WHITED assumes that CARDINAL would have the independent authority to make a decision on his own whether to oppose or not oppose a motion for release from jail on a probation violation without having to seek approval from the County Prosecutor's office. WHITED does not recall any cases having been delayed on a request by CARDINAL while he was awaiting guidance for a decision from the County Prosecutor's office.

The assistant county prosecutors that are part time are allowed to have civil law practices, but they are not supposed to have criminal cases in their private practice. It is WHITED's understanding that AUSNEHMER would not have been allowed to represent LISA ANDREWS in the capacity as her criminal defense attorney.

Motion before the Judge:

The Judge in the Austintown Court is Judge DAVID D'APOLITO. WHITED said the Judge likes to keep his docket moving and does not like things to sit that requires his decision. The

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Continuation of FD-302 of MICHELLE WHITED, On 04/12/2012, Page 3

Austintown Court is in session on Mondays at 1 pm, again Monday nights at 6 pm and then again on Wednesdays at 9 am.

When a motion is filed with the clerk's office, a copy is routed to the Judge's bailiff right away. If it is something that needs to be rule on, the bailiff will bring it to the attention of the judge.

In the case of a probation violation, like ANDREWS, WHITED said it would not be unusual for the Judge to have more interest in contact with the Probation Department than the Prosecutor in that type of case.

The motion for release filed in the LISA ANDREWS case was filed on Tuesday, March 6, 2012. WHITED said the Austintown Court is in session on Wednesday mornings. WHITED said it would not surprise her to learn that Judge D'APOLITO would have seen ANDREWS' motion the day after it was filed.

WHITED said the Court can accept a faxed motion, but Judge D'APOLITO requires an original motion to eventually be filed with the Court.

Probation:

The probation officer assigned in the Austintown Court is ANGELA TESTA, who used to be the probation officer in the Boardman Court. MARIA MEEK used to be the Probation officer in the Austintown Court, but she switched courts with ANGELA TESTA.

WADE SMITH:

While the court would normally expect an attorney to file a motion for a notice of appearance in a case, WHITED said it does not always happen. In the case of ANDREWS, it is possible the first time the clerk's office might have become aware of WADE SMITH's role as counsel may have been when the motion for release was filed on his behalf.

WHITED said attorney WADE SMITH does not do very many criminal cases, he does mostly civil cases. SMITH has had very few cases in the Austintown Court and WHITED is not familiar enough with SMITH's signature to offer an opinion on whether SMITH's signature on the motion for release of ANDREWS actually looked like SMITH's or not.

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Continuation of FD-302 of MICHELLE WHITED, On 04/12/2012, Page 4

Release from Jail:

After Judge D'APOLITTO signed the order for release of ANDREWS from the County Jail, the Austintown Clerk's office would have to type a warrant for discharge and then fax it to the Mahoning County Jail.

WHITED was advised that jail records reflect ANDREWS being release from the jail at approximately 9:07 pm on March 7, 2012. WHITED said she would not necessarily read anything into the jail release being at night. The Court order of the release might very well have been sent down to the jail during business hours, but the jail shortage of staffing may have had them backed up causing the release to occur when they had enough people in booking to process ANDREWS out of jail.

Rumors:

WHITED does not know why AUSNEHMER would have filed a motion on behalf of WADE SMITH.

WHITED said there was some sort of rumor that LISA ANDREWS might have been affiliated in some way with a client of AUSNEHMER.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 05/29/2012

WADE SMITH, Jr, Social Security Account Number [REDACTED] [REDACTED] date of birth May 3, 1951, was interviewed at the Youngstown office of the FBI in the presence of his attorney TIM E. FRANKEN. Also present with interviewing agents was Poland Township Police officer GREG WILSON. SMITH was advised the identities of the interviewing agents and the nature of the interview concerned the criminal case of LISA ANDREWS. SMITH then provided the following information:

SMITH first came to know LISA ANDREWS in approximately July 2011 when he was asked by JOHN "Jack" AUSNEHMER to represent ANDREWS in a criminal compliance violation hearing in Austintown Court. SMITH does not recall what the original charge was that had ANDREWS before the Austintown Court in the first place; SMITH did not represent ANDREWS in the original case. AUSNEHMER described ANDREWS to SMITH as being a friend of DOMINIC ECKMAN and asked SMITH if he would represent ANDREWS. SMITH said AUSNEHMER could not represent ANDREWS himself because AUSNEHMER is an assistant Mahoning County Prosecutor and he can not represent a criminal defendant.

SMITH believes he represented ANDREWS at three (3) court appearances for probation violations. The first one was in either July or August 2011, the next on October 31, 2011 and the last on December 28, 2011. SMITH does not recall having met with ANDREWS in person at anytime prior to meeting her in court at the first hearing SMITH represented her.

Motion to appear:

On August 1, 2011, SMITH filed with the Austintown Court a notice of appearance in the ANDREWS case along with a motion for continuance of a compliance violation hearing scheduled for August 8, 2011.

SMITH was shown copies of both court filings. He recognized the signature on them as being his own. SMITH said these were relatively common filings. While SMITH can not recall with certainty who typed them, he speculated it might have been a part time employee and intern of his by the name of DAVID POZGA, who does some typing for SMITH.

Investigation on 05/23/2012 at Youngstown, OhioFile # 194B-CV-78111Date dictated 05/24/2012by SA DEANE ROBERT HASSMAN and
SA ANTHONY J SANO; DRH/drh

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Continuation of FD-302 of WADE SMITH Jr, On 05/23/2012, Page 2

SMITH said he likely filed the notice of appearance and motion to continue with the Austintown Court by way of mail. He does not recall taking them to the court.

Compliance hearings:

SMITH recalls that ANDREWS had failed drug tests in advance of both of the first two (2) hearings he attended with her and the result of the court hearings were the same, the court ordered her to produce negative drug screen results before her next hearing date and scheduled another court date. SMITH said the first two (2) court hearings were very short, maybe only 30 seconds to one minute or so.

On October 31, 2011, after ANDREWS had now failed several drugs tests, SMITH himself was surprised that Judge DAVID D'APOLITO did not send ANDREWS to jail that day. SMITH said he was expecting that to be the outcome because of how many drug tests ANDREWS had failed by that point and was surprised that Probation recommended to the judge to set another hearing in 60 days to give ANDREWS another chance to provide two (2) clean drug screens. SMITH thinks even ANDREWS was expecting and prepared to go to jail following the October 31, 2011 hearing.

Contact with Probation:

SMITH had no contact with the Probation Department prior to his first court appearance with ANDREWS. SMITH recalls Judge D'APOLITO asking SMITH if he had spoken with Probation and when SMITH said no, the judge pointed to ANGELA TESTA and introduced her.

SMITH can only recall having one conversation of substance with ANGELA TESTA from the Probation Department and it occurred in TESTA's office on the same date as one of the court hearings. SMITH recalls discussing with TESTA that ANDREWS does have a problem with drugs and really needs some sort of treatment program and even whether putting ANDREWS in jail for a period of time might be the best thing for ANDREWS.

December 28, 2011 sentencing hearing:

SMITH met with ANDREWS prior to court hearing on December 28, 2011 and ANDREWS told SMITH the same thing she said on the

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Continuation of FD-302 of WADE SMITH Jr, On 05/23/2012, Page 3

record to the Judge; that she was having trouble staying off drugs on her own and that she was prepared to go jail.

As of the date of this interview, SMITH was not aware of how the court arrived at a number of 150 days in jail. SMITH was not aware that 150 days was the amount of jail days suspended from ANDREWS original sentence on the charges that brought her before the court in the first place.

SMITH acknowledges that he made no argument to the court for anything less than the full 150 days sentence. SMITH said it is kind of an odd role to be standing next to a client and not arguing to keep your client out of jail, but SMITH insists that is what ANDREWS wanted; to go to jail and get clean of drugs.

SMITH denies having had any conversation with Judge D'APOLITO prior to the December 28, 2011 court hearing.

Contact with Prosecutor:

SMITH did not have any conversations with assistant prosecutor KEN CARDINAL about the ANDREWS case. SMITH said CARDINAL does not even come to probation violation hearings.

Contact with Meridian:

SMITH has a general recollection that he had some contact with a male from Meridian Service, where ANDREWS was going for drug treatment and testing. SMITH recalls being told that ANDREWS was showing up for her meetings, but was continuing to fail her drug tests and the result of the tests were being forwarded to the Probation Department.

Conversation between SMITH and AUSNEHMER:

SMITH does not really recall having many conversations with AUSNEHMER about the ANDREWS case. SMITH does recall telling AUSNEHMER after the October 31, 2011 court hearing that he (SMITH) was surprised ANDREWS did not get sent to jail and AUSNEHMER said he was surprised too.

SMITH denies having knowledge of AUSNEHMER having had any contact with Judge D'APOLITO. SMITH said he would be surprised to learn that AUSNEHMER had multiple conversations with Judge D'APOLITO. SMITH said if AUSNEHMER had any conversations with

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Continuation of FD-302 of WADE SMITH Jr, On 05/23/2012, Page 4

Judge D'APOLITO, SMITH knew nothing about it. SMITH said he was representing ANDREWS, so he does not know why AUSNEHMER would be talking with the judge.

SMITH was not aware of any conversations between AUSNEHMER and ANGELA TESTA or the Probation Department regarding ANDREWS. SMITH does not think AUSNEHMER ever mentioned he (AUSNEHMER) was speaking with Probation.

Paid \$500:

SMITH was paid \$500 dollars to represent ANDREWS on the compliance violation. SMITH was paid the \$500 dollars in cash from DOMINIC ECKMAN after one of the court appearances. SMITH never sent an invoice and provided no receipt for the cash. While not certain of the date of the cash payment, SMITH recalls it being done at one of the court hearings and is pretty certain it was not on December 28, 2011. As the case progressed with additional court hearings and additional court motions, SMITH said he never asked for any additional money and was not paid any additional money.

SMITH denies sharing any of the \$500 dollars with AUSNEHMER and did not pay any client referral fee to AUSNEHMER for the ANDREWS case.

When asked if SMITH recorded the \$500 dollars on any sort of receipt ledger or revenue log of his law office, attorney FRANKEN directed SMITH not to answer that question claiming the answer is not relevant to the investigation. SMITH agreed to look through his records to try to determine the date he received the \$500 from ECKMAN.

ANDREWS wanted out of jail:

SMITH can not recall how he first learned that ANDREWS wanted to get out of jail early or who told SMITH she wanted out. SMITH never had any conversations with ANDREWS while she was in jail, so SMITH acknowledges he did not hear it directly from ANDREWS that she wanted out.

SMITH just can not recall if ECKMAN said, or AUSNEHMER said it, or maybe a secretary at the law office, but at some point SMITH came to know that ANDREWS wanted out of jail early. SMITH is comfortable saying that AUSNEHMER also knew that ANDREWS wanted out

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Continuation of FD-302 of WADE SMITH Jr, On 05/23/2012, Page 5

of jail, SMITH just can not recall the specifics of conversations between him and AUSNEHMER that leads SMITH to that conclusion.

Motion for early release:

SMITH was shown a two (2) page motion asking for the early release of ANDREWS from jail. SMITH did recognize the signatures on the motion as being his.

SMITH said he does not dictate, if he drafts a document, he does it by writing. SMITH said he absolutely did not draft the motion for early release of ANDREWS. SMITH said: "I didn't ask anyone to prepare this" motion for early release. SMITH insists he does not know who authored the motion. SMITH recalls AUSNEHMER's secretary, MICHELLE SIMCOX, bringing the motion into his office to be sign. SMITH said he read it, signed it, and returned it to SIMCOX. SMITH does not recall discussing the motion with AUSNEHMER.

SA HASSMAN read a text message to WADE SMITH during this interview that was sent from AUSNEHMER's cell phone to ECKMAN's cell phone on Sunday February 19, 2012 which read: "Got up early. Went to office. Met Wade and discussed Lisa. I dictated motion for early release and terminate probation or make non reporting. Will be typed this week and held until March date." SMITH was not previously aware of the existence of this text message. SMITH has no idea what was meant by the phrase, and held until March. SMITH assumes the motion for release was prepared at the time it was presented to him for signature by AUSNEHMER's secretary. SMITH has no idea why this text would have been sent on February 19, 2012 yet the motion for release was not filed until March 6, 2012.

SMITH acknowledged that he sometimes does go into the law office on weekends to include Sunday mornings to get work done. SMITH does not specifically recall if he went into the law office on Sunday February 19, 2012. SMITH does not deny the possibility that he might have bumped into AUSNEHMER and they might have discussed getting ANDREWS out of jail, but SMITH just not recall for sure.

To the best of SMITH's recollection, he recalls signing the motion for release of ANDREWS in close calendar time frame of when SMITH became aware that ANDREWS wanted out of jail. SMITH said, had he learned earlier, early February, mid-February, late February, he would have filed the motion then, SMITH saw no reason

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Continuation of FD-302 of WADE SMITH Jr , On 05/23/2012 , Page 6

to have to wait until any specific date like half way through ANDREWS sentence to ask for her release.

Either the secretary SIMCOX and/or AUSNEHMER said AUSNEHMER was going to the Austintown Court and SMITH consented to AUSNEHMER filing the motion for early release on his behalf with the court.

It was pointed out to SMITH that his motion for release claimed that ANDREWS had been incarcerated "in excess of one half of the jail sentence imposed", when in fact as of March 6, 2012, ANDREWS was only 70 days into the 150 day sentence. SMITH does not believe his motion was a false statement to the court and SMITH was comfortable signing it. SMITH figured by the time the court actually got around to reading and setting the matter for a hearing, ANDREWS would have been past the half point of her sentence.

SMITH acknowledges his signature is on the motion for early release below the statement that claims a copy of the motion was hand delivered to Assistant Prosecutor Ken Cardinal and hand delivered to the Probation Department. SMITH personally did not hand deliver a copy to anyone and has no knowledge of anyone hand delivering copies. SMITH said that it would have been the responsibility of whoever files the document. SMITH does acknowledge that he did not provide multiple copies of the motion to either AUSNEHMER or his secretary. SMITH said: "The last thing I did on this case was sign" the motion for early release.

SMITH has no recollection of AUSNEHMER mentioning to him that AUSNEHMER had spoken with Judge D'APOLITO's bailiff on the day AUSNEHMER filed SMITH's motion for early release with the court. SMITH can only vaguely recall having once briefly speaking with either AUSNEHMER or the judge's bailiff concerning availability of a calendar date for court.

SMITH does not think that it was unrealistic for him to ask for in his motion for early release for the court to either terminate ANDREWS probation and/or make it non-reporting probation considering that ANDREWS had failed many drugs tests prior to going to jail. SMITH said ANDREWS had just done 70 days in jail, so obviously she was clean of drugs at that point. SMITH said it was the court's discretion to do what ever it wants to.

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Continuation of FD-302 of WADE SMITH Jr, On 05/23/2012, Page 7

Prior to ANDREWS going to jail, SMITH recalls having a conversation with ANDREWS about just doing a lot of jail time to get clean and then get released. While ANDREWS was locked up, SMITH did not have any conversations with ANDREWS. SMITH can not specifically recall having any conversations with either DOMINIC ECKMAN or AUSNEHMER that the motion for release needed to have specific language in it about trying to get the judge to terminate ANDREWS probation or make it non-reporting.

SMITH had expected the court to set a hearing on the motion for release. SMITH said he would not be surprised if the judge remembered this defendant because not many defendants stand before the court and ask to go to jail.

Judge signed the entry to release ANDREWS:

SMITH is not aware of any telephone conversation between AUSNEHMER and Judge D'APOLITO just prior to the motion for release being signed by the judge. SMITH said if that happened, it was not done at his direction and he has no knowledge of it.

After Judge D'APOLITO had signed the entry to release ANDREWS from jail, AUSNEHMER had told SMITH that the Judge has signed it. SMITH has no idea how AUSNEHMER knew that the judge had signed the entry.

Either the day the judge signed the entry, or maybe the next day, SMITH had run into Judge D'APOLITO at the Antones restaurant in Austintown, Ohio and Judge D'APOLITO mentioned he signed the release. SMITH recalls that he knew the order had been signed even before the judge said it and assumes SMITH must have heard it from AUSNEHMER. SMITH said he assumes AUSNEHMER because SMITH can not think of anybody else who could have told him the order had been signed.

AUSNEHMER and ECKMAN:

SMITH has no idea how AUSNEHMER and ECKMAN met or how long they have known each other. SMITH has no idea how often AUSNEHMER and ECKMAN communicate and would be surprised to learn if it is nearly daily.

SMITH is not aware of any business relationship between AUSNEHMER and ECKMAN. SMITH is not aware of any attorney / client relationship between them. SMITH is also not certain whether

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Continuation of FD-302 of WADE SMITH Jr, On 05/23/2012, Page 8

AUSNEHMER was ever a customer of ECKMAN. SMITH is not aware of any social relationship between AUSNEHMER and ECKMAN.

SMITH is not aware of any money given by ECKMAN to AUSNEHMER. SMITH has never observed any money change hands. While SMITH is not aware of any business relationship between AUSNEHMER and ECKMAN, SMITH can only assume that ECKMAN would be paying him for that if it exists.

ECKMAN:

SMITH met DOMINIC ECKMAN through AUSNEHMER. SMITH does not know ECKMAN very well at all. On one occasion, SMITH sold some old vase or tea pot with gold trim at ECKMAN's shop and thinks he received about \$100 dollars for it. SMITH does not recall signing anything. SMITH can not recall exactly when this transaction took place but thinks it occurred somewhere between July and December 2011.

SMITH has seen ECKMAN at the law office he shares with AUSNEHMER, but does not recall ECKMAN ever coming to the law office for the purpose to see SMITH, it was to see AUSNEHMER. SMITH acknowledges that he probably had some brief conversations with ECKMAN when ECKMAN was at the law office. SMITH does not recall telling ECKMAN that after ANDREWS is in jail for 90 days that they could try and get her out into a treatment program.

Other:

SMITH rents law office space from AUSNEHMER and pays him \$1,000 per month. SMITH has no other financial relationship AUSNEHMER other than maybe splitting the cost of a court fee, like a filing fee or cost of a medical report.

SMITH and AUSNEHMER occasionally send text messages back and forth, but not regular. SMITH does not specifically recall any texts between himself and AUSNEHMER regarding ANDREWS, but said he can not rule out the possibility that there were. SMITH said that there were some unusual events in this case and cited the example of ANDREWS not being sent to jail on October 31, 2011 and SMITH said it is possible he sent an update to AUSNEHMER about the result of the court hearing. SMITH does not keep texts on his phone and as of the date of this interview has no undeleted text messages viewable on his phone.

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Continuation of FD-302 of WADE SMITH Jr, On 05/23/2012, Page 9

Over the years AUSNEHMER has referred other clients to SMITH. SMITH said his law practice is very limited and referrals from AUSNEHMER have been infrequent. SMITH can not ever recall splitting a legal fee or paying any referral fee to AUSNEHMER for the referral.

SMITH has no other business relationships with AUSNEHMER.

SMITH uses the accounting services of BILL LEIGHT.

Campaign contributions:

AUSNEHMER sold campaign fund raising tickets for the re-election of PAUL GAINS for Mahoning County Prosecutor. SMITH thinks he bought two (2) tickets; from AUSNEHMER and from assistant prosecutor LAURA SHELLS-CONNE. While not specifically remembering the amounts, SMITH said the tickets were probably around \$125 each.

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 05/14/2012

HEIDI MILSTEAD, court bailiff to Austintown Judge DAVID D'APOLITO, was interviewed at the Canfield Courthouse located at 72 N. Broad Street, Canfield, Ohio 44406. She was advised the identities of the interviewing agents and the nature of the interview concerned the case of LISA ANDREWS. She then provided the following:

MILSTEAD did not recognized a photograph of LISA ANDREWS nor did she have a recollection of the name as a defendant in the Austintown court. MILSTEAD said the name ANDREWS means nothing to her.

MILSTEAD knows JOHN "Jack" AUSNEHMER to be an assistant Mahoning County Prosecutor. She knows AUSNEHMER to see him, but she does not know him well or have any sort of personal relationship with him.

MILSTEAD was shown a motion for release from jail for LISA ANDREWS filed on March 6, 2012. MILSTEAD was asked if she recalled receiving a hand delivered copy of this motion from AUSNEHMER. MILSTEAD said it was possible, she just does not recall.

MILSTEAD was shown an unsigned copy of the motion for release with post note on it that read: "Set for not hear?". MILSTEAD recognized the note as her hand writing in which she said she would have been writing to Judge D'APOLITO asking if the matter should be set for a hearing or not. MILSTEAD had no recollection of whether the matter was ultimately set for a hearing or not.

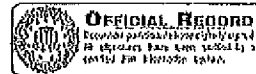
MILSTEAD can not say with any degree of certainty exactly how she received the LISA ANDREWS motion for early release.

Investigation on 04/27/2012 at Canfield, Ohio

File # 194B-CV-78111

Date dictated 04/30/2012

by SA DEANE ROBERT HASSMAN and
SA ANTHONY J SANO, DRH/drh



FEDERAL BUREAU OF INVESTIGATION

Date of entry 08/08/2012

EDWARD WHEELER, Social Security Account Number [REDACTED], date of birth 05/20/1987, was interviewed at the Mahoning County Jail. He was advised the identities of the interviewing agents and the nature of the interview. Investigating agents advised WHEELER that his co-operation was sought in an investigation and his choice to answer questions was voluntary. He then provided the following information:

Burglary ring arrests:

WHEELER said he is familiar with several of the people recently arrested in a burglary ring because some of them are from New Springfield, which is where WHEELER is from. WHEELER said he is not really hooked up with any of those burglars anymore.

Sold stolen jewelry:

When WHEELER stole jewelry from retail stores, he mainly sold it at three (3) places:

DOMINIC ECKMAN

Southern Park Mall - gold/jewelry kiosk

Struthers coin shop - possible called coin and jewelry

WHEELER has heard that DOMINIC ECKMAN is the place to go to sell jewelry and was for a while WHEELER's main guy to go to. ECKMAN pays good prices and does not ask a lot of questions about where the jewelry came from.

Reason for stealing:

WHEELER acknowledges having struggled with staying off drugs and has stolen to support his habit. Both WHEELER and his former finance, LISA

Investigation on 08/03/2012 at Youngstown, Ohio, United States (In Person)

File # 194B-CV-78111

Date drafted 08/06/2012

by Deane Robert Hassman, SANO ANTHONY J

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Confirmation of FD-302 of Interview of Edward Wheeler, On 08/03/2012, Page 2 of 5

ANDREWS (whom WHEELER has a baby with) had a problem with heroin. The addiction at one point had both WHEELER and ANDREWS spending \$50 each on heroin every day; even more on days they had more money.

WHEELER and ANDREWS used to be together all of the time and ANDREWS was present many of the times that stolen jewelry was sold to ECKMAN.

Sometimes WHEELER was driving and sometimes ANDREWS was driving when they went through ECKMAN's drive-thru. ANDREWS was present many of the times while WHEELER stole jewelry from stores.

ANDREWS directly benefited from the cash received from the stolen jewelry. While WHEELER said they did not split the money, they were together all the time and used the money to buy drugs and things like gas together.

WHEELER said he and ANDREWS got drug money by misleading his parents, ANDREWS' parents, and grandparents about needing things for their baby and then spending the money of drugs. WHEELER said they probably got more money from misleading family than they did from stealing.

WHEELER said ANDREWS main drug problem was with heroin, although she occasionally used crack and also smoked marijuana.

WHEELER does not recall stealing any jewelry in Pennsylvania and taking it to ECKMAN. WHEELER said his arrest for theft at the Wal-Mart in PA was for a television. WHEELER said despite being interviewed by a police detective about a theft of jewelry from a K-Mart in Hermitage, PA, WHEELER said he was not responsible for that theft. WHEELER said he was actually in custody in the Mahoning County jail on the date of the Hermitage theft.

DOM ECKMAN:

A buddy of WHEELER's by the name of JAY WESTON, approximately a 26 year old male from Springfield, first introduced WHEELER to ECKMAN as someone who would buy jewelry without a lot of questions. WESTON had taken WHEELER to ECKMAN's a couple times when WESTON was selling something to ECKMAN.

WHEELER said the general word was: ECKMAN was the place to go if you needed to sell some jewelry. WHEELER said ECKMAN did not really ask questions about where the jewelry was coming from, ECKMAN would sort the junk from the real thing and pay a good price. ECKMAN would encourage WHEELER to come back again. While WHEELER never told ECKMAN the jewelry was stolen, WHEELER said; ECKMAN had to have known because WHEELER would be selling to ECKMAN to often to not have known. WHEELER said he would see ECKMAN multiple times a month and nobody should have that much jewelry to sell. WHEELER does not think ECKMAN cared where the jewelry came from.

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Continuation of FD-302 of Interview of Edward Wheeler, On 08/03/2012, Page 3 of 5

Sometimes ECKMAN would write "scrap" on the receipts for the jewelry he bought from WHEELER, but the majority of times ECKMAN would be descriptive of what was sold on the receipt.

From experience with stolen jewelry, WHEELER said: sometimes you come up with all fake jewelry. Even when that happens, sometimes ECKMAN would still give him a \$20.00 bill to go get some cigarettes and invite WHEELER to come back if he had anything else.

WHEELER sold jewelry to ECKMAN more than 10 times, mainly in 2010, maybe as early as late 2009. WHEELER stopped selling to ECKMAN after WHEELER's arrest in December 2010. About the same time, WHEELER had found out that his finance, LISA ANDREWS, was hooking up with ECKMAN.

WHEELER came to know through ANDREWS that ECKMAN was paying for an apartment for her on Mathews Road, giving her money, and supplying her with drugs.

WHEELER came to learn through ANDREWS that ECKMAN was actually giving her heroin. ANDREWS said ECKMAN was actually buying the heroin in bulk, because ECKMAN thought he was saving money buying it that way and then rationing it out to ANDREWS. WHEELER does not know who the drug supplier was for ECKMAN.

WHEELER did not have any social relationship with ECKMAN; only the relationship of selling jewelry to him. WHEELER did occasionally run into ECKMAN while visiting ANDREWS at her apartment. WHEELER acknowledges having had some unkind words with ECKMAN about ECKMAN's relationship with ANDREWS. ECKMAN did not want ANDREWS talking with WHEELER.

WHEELER has no knowledge of ECKMAN using drugs himself. ANDREWS said ECKMAN does use prescription percocet.

WHEELER said jewelry was not the only thing ECKMAN would buy. WHEELER heard ECKMAN would also buy electronics.

ANDREWS arrest and jail time:

ANDREWS got arrested in 2011 for the same jewelry theft as WHEELER from the Austintown K-Mart.

ANDREWS used to tell WHEELER that she was not worried because ECKMAN was friends with the prosecutor. ANDREWS seemed to think that ECKMAN could get her out of anything. ANDREWS told WHEELER that ECKMAN had enough money

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Continuation of FD-302 of Interview of Edward Wheeler, On 08/03/2012, Page 4 of 5

to "keep me out". ANDREWS said ECKMAN help her get an attorney. It's WHEELER's understanding that ECKMAN help ANDREWS get her court fines paid off.

WHEELER said some sort of deal was worked out for ANDREWS to get probation and get into a drug diversion program, but ANDREWS kept messing up the program by failing drug tests. ANDREWS had also gotten house arrest, but needed a place to stay. ECKMAN paid to put ANDREWS up in an apartment; possibly in ANDREWS' mother's name.

When ANDREWS did get sent to the County jail, WHEELER had heard she was supposed to be there for five (5) months, but somehow was only there for 70 some days. WHEELER does not have any direct knowledge of how ANDREWS got out, but can speculate that ECKMAN got her out.

WHEELER did not speak directly with ANDREWS during the entire time ANDREWS was in the County jail.

Prior to going to jail, WHEELER was hearing that ANDREWS was failing drug tests in her drug diversion program. WHEELER never heard of the failed drug tests directly from ANDREWS; she was claiming to be clean and hiding it from WHEELER because of wanting access to their son, DERRICK.

ECKMAN's arrest:

Following ECKMAN's arrest in burglary ring a week or so before this interview, ECKMAN was booked into the County Jail and put in the same pod as WHEELER. ECKMAN claimed to WHEELER that he, ECKMAN, has broken up with ANDREWS and ANDREWS is back on crack. ECKMAN claimed to be done trying to help ANDREWS. WHEELER questions how ECKMAN could be helping her by giving her drugs and money. ECKMAN said ANDREWS is bad on crack right now and is hanging out with a prostitute. ECKMAN told WHEELER he could have ANDREWS back. WHEELER is not sure whether to believe that ECKMAN and ANDREWS broke up or whether ECKMAN said it to avoid any trouble while at the jail.

Drug dealers:

WHEELER and ANDREWS used to buy drugs from a black male on the Southside of Youngstown with a street name B. B has driven a Chevy Blazer and also a blue charger.

After WHEELER and ANDREWS split up, WHEELER had heard that ANDREWS was buying drugs from a guy with the street name T.

Misc:

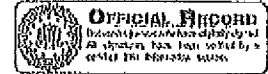
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Continuation of FD-302 of Interview of Edward Wheeler, On 08/03/2012, Page 5 of 5

ANDREWS spent some time working at a flea market on the Eastside of Youngstown with ECKMAN's cousin, possibly TOMMY, who had a silver shop at the flea market.

When WHEELER gets out of the County jail, he will likely stay with his parents (Larry and Sue) at 11140 Youngstown-Pittsburgh Road - lot 2, New Middletown, Ohio 44442 and hopes to reactivate his cellular telephone (330) 951-7744.

WHEELER's dad has temporary custody of WHEELER and ANDREWS' son.



FEDERAL BUREAU OF INVESTIGATION

Date of entry 08/09/2012

LISA ANDREWS, Social Security Account Number [REDACTED] date of birth 03/09/1990 was interviewed at her residence of 245 Mathews Road - apartment 5, Boardman, Ohio 44512 - cellular telephone (330) 623-2889. Also present throughout the interview was MEGAN MCLAUGHLIN. ANDREWS was previously aware of the identities of the interview agents. She was advised the nature of the interview concerned her relationship with DOMINIC ECKMAN and how she got out of jail in March 2012. She then provided the following information:

ANDREWS advised that she was not avoiding the FBI. She was scared because DOMINIC ECKMAN directed her not to speak with the FBI and if she did, she could be arrested for lying to the FBI.

ANDREWS advised she has broken up with ECKMAN. After looking at a calendar, ANDREWS advised that they broke up on July 20, 2012.

ANDREWS describes ECKMAN as a "big talker" who has said a lot of things to her and made a lot of promises to her that he later failed to deliver on. ANDREWS said ECKMAN has promised her the world, he promised to never leave her, to take care of her, and so on, and now they are broken up and she's on her own.

ECKMAN friend with AUSNEHNER:

ANDREWS knew that ECKMAN was friends / buddies with Attorney JACK AUSNEHMER. ECKMAN said he has known AUSNEHMER for a long time. ANDREWS also knew that AUSNEHMER was an assistant prosecutor, but ANDREWS claimed to not know where. ANDREWS thinks ECKMAN said once or twice where AUSNEHMER was a prosecutor and Boardman sounded familiar to her.

Investigation on 08/07/2012 at Boardman, Ohio, United States (In Person)
 File # 194B-CV-76111 Date dictated 08/09/2012
 by Deane Robert Hassman, SANO ANTHONY J

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Continuation of FD-302 of 302 - Andrews, Lisa_08-07-2012, On 08/07/2012, Page 2 of 7

AUSNEHMER would sometimes stop by ECKMAN's business to see ECKMAN and ANDREWS said she would usually leave when AUSNEHMER came. ANDREWS was little intimidated to be around AUSNEHMER because she perceived him to be an important attorney and ANDREWS felt she was a little person or a peon compared to someone like AUSNEHMER, also ANDREWS did not feel like she has proper speech and felt uncomfortable and would leave.

ANDREWS thinks ECKMAN may have used AUSNEHMER as an attorney when ECKMAN was buying his business.

ANDREWS said ECKMAN and AUSNEHMER would text back and forth more than they would actually talk. For a while, it seemed that AUSNEHMER would stop by ECKMAN's business about once a week or every two (2) weeks. ANDREWS would usually leave when AUSNEHMER stopped by.

ANDREWS had an expectation that AUSNEHMER would help her after she got out of jail with a child custody case involving her child with ED WHEELER.

WADE SMITH:

ANDREWS recalls AUSNEHMER saying that attorney WADE SMITH is a good attorney and SMITH would handle ANDREWS' criminal case. AUSNEHMER could not handle it because it was a criminal case.

ANDREWS had not previously known who SMITH was. ANDREWS does recall complaining to ECKMAN that she did not think her court appointed counsel, HOLLY HANNI, really cared about her case. ECKMAN said: maybe he could help get WADE SMITH to take ANDREWS' case.

ANDREWS does not recall meeting attorney SMITH at any time prior to her first court appearance with SMITH in the Austintown Court. ECKMAN went to court with ANDREWS and was probably the one who pointed out SMITH to her. ECKMAN refused to sit next to ANDREWS during the court appearance

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because ECKMAN claimed that one of the women in the Clerk of Courts office was a friend of ECKMAN's wife and ECKMAN did not want to be seen sitting next to ANDREWS.

ANDREWS personally never paid any money to WADE SMITH to be her attorney. ANDREWS knew ECKMAN took care of paying SMITH. While not sure how much, ANDREWS thinks she overheard once that SMITH was paid \$500 dollars. ANDREWS does recall at least once during a court appearance that ECKMAN and SMITH briefly left the courtroom together and ANDREWS stayed in the courtroom.

ANDREWS believes SMITH and JACK AUSNEHMER share the same law office. ANDREWS has never been in that law office to meet either SMITH or AUSNEHMER.

Oct 31, 2011 court appearance:

When ANDREWS went to court for a hearing on October 31, 2011 (which she remembers because it was Halloween), ANDREWS said she was scared that she was going to be sent to jail that day. ANDREWS knew she had failed several drug tests prior to the hearing. Despite the failed drug tests, ANDREWS was hoping the judge would see she needed help and extend her drug diversion program.

Just prior to the Court calling her name, ANDREWS remembers ECKMAN giving her a pep talk: you're tuff, stay strong, and everything is going to be okay. ANDREWS does not recall ECKMAN promising ANDREWS would not go to jail that day. ANDREWS recalls ECKMAN telling her, if she did go to jail, it would not be for more than 45 days. ANDREWS said ECKMAN was saying it as if he knew it would not be a long sentence. ANDREWS was surprised she did not go to jail on October 31, 2011.

In jail:

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Continuation of FD-302 of 302 - Andrews, Lisa 08-07-2012, On 08/07/2012, Page 4 of 7

At a court appearance on December 28, 2011, ANDREWS knew she was going to jail.

While in jail, ANDREWS said ECKMAN made a lot of promises to her to include ECKMAN saying: whatever I have got to do, I'm going to get you out of there.

ECKMAN told ANDREWS, he (ECKMAN) was going to talk to AUSNEHMER, D'APOLITO, or anyone he has to get her out of jail. ANDREWS said D'APOLITO was the judge on her case.

While in jail, ANDREWS said there might be a recorded telephone conversation with her and ECKMAN in which she might have said something like: what the hell it has been 45 days already. ANDREWS said he was reflecting back on what ECKMAN said on October 31, 2011, when he claimed she would not have to serve more than 45 days. She assumed the same whether she went to jail then or at sometime in the future. ECKMAN made a lot of promises to ANDREWS that he was going to get her out of jail.

ANDREWS claimed some things ECKMAN would say to her did not make sense to her. For example, ECKMAN would make a reference to her probation officer. ANDREWS said she was not aware that a probation officer was assigned to her case; she said she never had to meet with any probation officer.

ANDREWS was read the following transcript from a jail recording between herself and ECKMAN:

"Eckman: I know I showed him a package of money, you know what I mean,

Andrews: yeah

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Eckman: and I know, you know, if he wants it, he has to make it happen, that's all, you know what I mean. Cause, I'm not going to give that kind of money if they're gonna cut 30 days of the fucking sentence or something."

To ANDREWS, that quote meant that ECKMAN showed JACK AUSNEHMER a package of money and was going to try and get AUSNEHMER to talk to someone. ANDREWS said the quote means the same thing as it sounds; she can not make it mean anything else.

When asked what ANDREWS thought was meant by the phrase: "if he wants it, he has to make it happen", ANDREWS said AUSNEHMER has to get her out of jail.

ECKMAN said and promised a lot of things to her while she was in jail and she has no way to know for sure if ECKMAN actually did the things he said, like showing AUSNEHMER a package of money.

ANDREWS knew through ECKMAN that a motion was being filed asking for ANDREWS release from jail. ANDREWS knew that the motion would have to be signed by the judge. ANDREWS initially claimed to not know who prepared to motion for release. ANDREWS expected she would have to go back before the court for a hearing and was surprised she was released without a court appearance.

Interviewing agents showed ANDREWS a photograph of a hand written note which read: "Got up early. Went to office. Met Wade and discussed Lisa. I dictated motion for early release and terminate probation or make non-reporting. Will be typed this week and held until March date."

ANDREWS recognized the note in ECKMAN's handwriting. ECKMAN came to the jail and visited ANDREWS; they were separated by glass and had to talk through telephones. ECKMAN pulled out of his pocket a folded orange envelope with the above-described note written on it. ECKMAN held the note up to the window and asked ANDREWS to read it, he then asked if she understood it, and asked her to read it again. Upon reflecting on the

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note, ANDREWS does recall being told the note was a text message from AUSNEHMER to ECKMAN, ANDREWS assumes ECKMAN brought the note in as opposed to just telling her about it because ECKMAN wanted ANDREWS to believe it.

On the day ANDREWS got out of jail, she said she spoke with ECKMAN on the telephone that day and ECKMAN said she was getting out; all the judge needed to do is sign the order to release her. ANDREWS denies actually knowing she was being released the same day. ANDREWS understood ECKMAN to mean that she would get out soon, sometime after the judge signed the order.

ANDREWS claims to have not asked ECKMAN how much money it cost to get her out of jail. If ECKMAN spent thousands of dollars to get her out, ANDREWS said: she does not like to know those details. ANDREWS claims she is not the type of girl who wants someone to spend a lot of money on her and so she did not want to know how much was spent because she would feel horrible about it.

Initially after getting out of jail, ANDREWS said the conversation was more about ECKMAN saying he missed her than about what he did to get her out. ECKMAN may have at some later time said something like: you don't know what all I did to get you out.

ECKMAN did not want ANDREWS talking with the FBI:

ECKMAN told ANDREWS not to speak with the FBI. ECKMAN printed something off the internet and showed it to ANDREWS and he told her that if the FBI even thinks she is lying, they can put her in jail for five (5) years. ANDREWS was scared to talk to the FBI because of ECKMAN telling her she could go to jail for talking with the FBI. ANDREWS was scared that if she spoke to the FBI, ECKMAN would yell at her.

ECKMAN told ANDREWS if the FBI approaches her, she should hold up a business card of attorney JOHN SHULTZ and say she was represented. ANDREWS acknowledged that SHULTZ was never her attorney.

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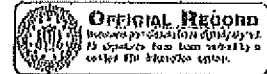
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Interview re-scheduled:

ANDREWS said she does not remember all of the conversations she had with ECKMAN and prior to answering more specific questions about what was said, ANDREWS wanted to review transcripts of jail recordings. ANDREWS agreed to voluntarily come to the FBI on Thursday August 9, 2012 to continue this interview.

Misc:

ANDREWS is currently unemployed. She is currently taking GED classes at the Choffin career center.



FEDERAL BUREAU OF INVESTIGATION

Date of entry 08/22/2012

LISA ANDREWS was interviewed at the Youngstown office of the Federal Bureau of Investigation. She was previously aware of the identities of the interviewing agents and that the nature of the interview was a continuation of the interview with her from August 7, 2012. She then provided the following information:

ECKMAN did not want ANDREWS talking to the FBI;

DOMINIC ECKMAN told ANDREWS not to speak with the FBI. ECKMAN told her if the FBI comes to her to just say that she has a lawyer and not answer any questions.

ANDREWS recalls hearing ECKMAN talking with his cousin, TOMMY, and referring to the investigation as: a grand jury investigation.

ECKMAN had printed off something from the Internet regarding 1001 and ECKMAN told ANDREWS she could get into trouble for just talking with the FBI. ECKMAN and ANDREWS talked about how MARTHA STEWART went the prison for five (5) years for talking to the FBI; ECKMAN told ANDREWS it was dangerous to talk to the FBI. ANDREWS said that reading what ECKMAN gave her scared her into not wanting to speak with the FBI.

ECKMAN tried to assure ANDREWS that the FBI was not really interested in them, that the FBI was more interested in the politicians. ECKMAN told ANDREWS the FBI was doing what the FBI did 20 years ago in Youngstown when a bunch of judges and politicians were convicted.

Investigation on 08/09/2012 at Youngstown, Ohio, United States (In Person)

File # 194B-CV-78111

Date dictated 08/13/2012

by Deane Robert Hassman, SANO ANTHONY J

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ECKMAN gave ANDREWS a business card of his attorney JOHN SHULTZ and said if the FBI ever comes to see her, she was to hold up the card and not even say hello to the FBI. ANDREWS denies having ever met with ECKMAN's attorney and she never hired attorney SHULTZ.

Looking back on this now, ANDREWS realizes that ECKMAN was not protecting her interest by saying not to talk to the FBI. ECKMAN was protecting his own interests.

ECKMAN had ANDREWS thank AUSNEHMER:

One time when ANDREWS was having a telephone conversation with ECKMAN, ECKMAN put JACK AUSNEHMER on the telephone with ANDREWS. ECKMAN directed her to thank AUSNEHMER for everything that he had done to help with her criminal case. ANDREWS said the conversation was pretty short: hello, thank you for everything. ANDREWS said it was possible this telephone conversation occurred while she was still in the County jail.

Jail telephone calls:

Interviewing agents played clips from several recorded jail telephone calls between ANDREWS and ECKMAN,

ANDREWS said ECKMAN repeatedly made promises to her that he was going to do everything he could do to get her out of jail without having to serve her full jail sentence.

ECKMAN told ANDREWS he was working a deal to get her out of jail "with no paper". ANDREWS said the term with no paper meant without any probation. ECKMAN felt if ANDREWS got out of jail and was placed on probation that would just lead down the wrong path for her. If she failed a drug test, she would be right back in jail.

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ANDREWS said her attorney of record with the Court was WADE SMITH. ANDREWS also knew that SMITH and JACK AUSNEHMER were in the same law office. ANDREWS does acknowledge that ECKMAN repeatedly invoked AUSNEHMER's name when ECKMAN was talking about doing things to get her out of jail. ANDREWS personally was not sure what AUSNEHMER was doing directly verses what AUSNEHMER was doing to assist WADE SMITH.

ANDREWS interprets the jail calls as sounding as they sound. ANDREWS agrees that ECKMAN is saying that he, AUSNEHMER or SMITH has an ability to influence the court to get ANDREWS out of jail early.

There were so many promises made that ANDREWS began to doubt if they were true. In October 2011, ECKMAN told ANDREWS she would never serve more than 45 days. In 2012, after ANDREWS was still in jail after 45 days, she said she began to wonder if ECKMAN's promises were just promises and started discounting them.

When ECKMAN is saying on the jail telephone recordings that: he has enough money to get ANDREWS out, ANDREWS does interrupt that to mean that ECKMAN was saying he has money to pay for influence.

ANDREWS did not understand how ECKMAN could say that she could get out of jail without going back to court.

When ECKMAN was recorded saying: "I don't care what I have to do Lisa, I'm getting you out", ANDREWS did interpret that to mean that ECKMAN was willing to do anything that was presented to him to get her out of jail.

When ECKMAN was recorded saying: "I'm not giving that kind of money for fuckin probation though either", ANDREWS agrees that it sounds like ECKMAN is paying AUSNEHMER for a specific result.

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A jail audio clip of ECKMAN saying that he was giving AUSNEHMER "a lot of fuckin money" ... "and I'm not gonna give it to him unless he does what he's supposed to do". ANDREWS interprets the "what he's supposed to do" is that AUSNEHMER had to get her out of jail early without probation.

When ECKMAN said on the telephone that he showed AUSNEHMER "a package of money" and when ECKMAN said: "I'm not going to give that kind of money", ANDREWS said she was not sure how much money ECKMAN meant. ANDREWS said she did not ask because she did not like to know when ECKMAN was spending a lot of money on her. Knowing ECKMAN was spending a lot of money on her makes her feel guilty and she did not like feeling like she owed ECKMAN.

ANDREWS acknowledged that when she listened to a recording of ECKMAN saying he had "5K" with JACK's name on it, that 5K to ANDREWS meant five (5) thousand dollars.

Several telephone audio clips were played of ECKMAN saying things like: when AUSNEHMER "runs into D'APOLITO" and "he's probably talking to somebody over the weekend" and AUSNEHMER is "gonna get a hold of probation and get a hold of the judge". ANDREWS claimed at the time all of that was going on, she did not know what AUSNEHMER was allowed to do and what he was not allowed to do. ANDREWS does acknowledge that it does not sound right that someone can just go talk to a judge. ANDREWS said ECKMAN used phrases like: whenever AUSNEHMER would run into to people as opposed to saying something like: next Tuesday when AUSNEHMER sees them in court. ANDREWS said the recordings to her sounds to her, as they seem to be.

On March 7, 2012 when ECKMAN told ANDREWS on the telephone that all the judge has to do is sign the order and she is out, ANDREWS had trouble getting excited because she was not sure it was real. ANDREWS said when you are in jail and get excited for something and then it does not happen, it is even harder, ANDREWS quit hoping that today is the day.

In general ANDREWS said she hears the same things in the jail recordings that the FBI does. ANDREWS said there is nothing to sugar coat in the interpretation of the audio. ANDREWS said she just did not want to

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know some of the answers and did not ask ECKMAN some of the questions the FBI was now asking her.

ANDREWS wanted out of jail:

ANDREWS acknowledges she was pushing ECKMAN to get her out of jail; she wanted out. ANDREWS said she did not care about being on paper or probation or having to attend meetings or not. It was all ECKMAN who seemed to be setting the conditions with AUSNEHMER that she had to come out with no probation.

ANDREWS acknowledged telling ECKMAN she did not want to still be in jail on March 9th, on her birthday. That may have been part of ECKMAN's urgency to get her out. ANDREWS also said ECKMAN kept repeatedly saying he missed her and could not function without her.

ANDREWS said without ECKMAN, there is no doubt in her mind that she would have remained in jail for her entire sentence. She felt she would have had a court appointed attorney and nothing would have gone her way. ANDREWS said she did not want to know the specifics; she just wanted to know the date she was coming home.

In the totality of conversations, ANDREWS said it was clear to her that AUSNEHMER had done something to get her out of jail. Specifically what, ANDREWS is not sure.

Text from JACK that he drafted a motion:

ANDREWS recalls ECKMAN coming to a jail visit with a hand written note on an envelope, which ECKMAN claimed was a text message from AUSNEHMER that

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ECKMAN had written down word for word. ECKMAN held the note up for ANDREWS to read and had her read it twice about AUSNEHMER claiming to have dictated a motion for ANDREWS' early release.

After Andrews was out of jail:

When ECKMAN picked her up from the county jail, he said: I told you were going to walk out with no court date.

ANDREWS does not recall ECKMAN actually confirming to her that he had paid money to get her out of jail. ECKMAN did make some general comments to ANDREWS that she owes him a lot of sex or you are going to be my sex slave for what ECKMAN had to do to get her out of jail.

ANDREWS did not over hear a lot of conversations between ECKMAN and AUSNEHMER; she said they texted back and forth a lot instead of conversations.

ANDREWS did not want to know everything:

ANDREWS had some general knowledge of ECKMAN's background and that ECKMAN had been in trouble with the law many years ago. There were even times when ANDREWS and ECKMAN joked about ECKMAN being a mafia king pin. The jokes were based in ECKMAN saying the cops had the wrong impression of him as being someone more powerful than he really was.

ECKMAN told ANDREWS a story that back in the day when he was arrested, ECKMAN had a safe in his house that was rigged with a firearm and if the cops had opened it, they would have been killed.

Based on some of the stories, ANDREWS said she really did not want to

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know everything that ECKMAN was into. She felt what she did not know, she could not get into trouble for, ANDREWS wanted ECKMAN to just keep her out of it.

ANDREWS said she has gone to jail twice and both times was because of other people and she does not want that to happen again.

SMITH represented another girlfriend of ECKMAN;

ECKMAN had an ex-girlfriend named COURTNEY FIDRAM. ECKMAN told ANDREWS that he had gotten SMITH to represent this ex-girlfriend in a criminal case in Mahoning County.

ANDREWS knew ECKMAN had been paying for SMITH to represent this ex-girlfriend because of a conversation ANDREWS had with ECKMAN. About the time the ex-girlfriend was getting out of jail, ECKMAN asked ANDREWS to remind him to call WADE SMITH and tell SMITH that if the ex-girlfriend gets into any more trouble, she is on her own, that ECKMAN was no longer going to pay any legal fees to SMITH on her behalf.

History of relationship with ECKMAN:

ANDREWS said her relationship with ECKMAN first started out as merely a customer of ECKMAN at his shop. ANDREWS went into the building a couple of times with a friend of hers by the name of RACHEL HAIRASICK (phonetic). The relationship developed into a dating relationship with ECKMAN in approximately December 2010.

RACHEL HAIRASICK has referred to ECKMAN before as her "sugar daddy".

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When ANDREWS first met ECKMAN, she said she never would have given him the time of the day and their relationship did start out being about the money. Only later did she start to fall in love with him. ANDREWS said she did not plan or want that to happen, he is 50 plus years old.

ANDREWS said during the time she was dating ECKMAN, even if there were 10 other woman, ANDREWS said she was number one with him at the time.

ECKMAN broke up with ANDREWS:

ECKMAN and ANDREWS broke up their relationship on July 20, 2012. ECKMAN made up some accusations that were not true. ECKMAN said he hired a private investigator and had proof that ANDREWS was having sex with another woman while letting guys pay to watch. ANDREWS thinks ECKMAN was just making something up to have an excuse to break up with her.

Financial relationship with ECKMAN:

In ANDREWS' original criminal case for shoplifting, there were court costs and fines of approximately \$1,500 dollars. ANDREWS said ECKMAN gave money to his cousin, TOMMY, and then ANDREWS and TOMMY ECKMAN went to the court and paid them.

ECKMAN used to give ANDREWS nice jewelry; some of which came from what he bought through his shop.

ECKMAN regularly paid or help pay ANDREWS' apartment rent of \$440 dollars a month for an apartment she got in March 2011. ANDREWS' mother paid her electric bill; sometimes ECKMAN gave money to ANDREWS to send back to her mom. ANDREWS said sometimes ECKMAN seemed to pick a fight with her about the same time the rent was due and not pay, but ANDREWS said she kept her apartment mainly because of ECKMAN paying.

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ECKMAN paid to have carpet installed in her apartment.

On nearly a daily basis, ECKMAN would leave spending cash for ANDREWS; sometimes \$50, \$60, to \$80 dollars a day. Sometimes ECKMAN would give her \$100 - \$120 for ANDREWS to go out with her friends.

ANDREWS has a straight talk cellular telephone and ECKMAN would give her money to buy more time for both her phone and for a second cell phone ECKMAN had to have contact with ANDREWS. The phone cards were about \$45 dollar each per month.

ECKMAN also paid for ANDREWS to get some dental work done to get six (6) teeth pulled.

TOMMY ECKMAN's friend DAVE painted ANDREWS' apartment.

ECKMAN gave ANDREWS money for drugs:

ANDREWS denies having ever received drugs directly from ECKMAN. ECKMAN gave her cash and fully knew that ANDREWS was using it to buy drugs. ANDREWS had direct conversations with ECKMAN needing more money to stop from being sick and needing more heroin. ECKMAN would stay the night at ANDREWS' apartment and in the morning she would find money there, it was like the tooth fairy.

ANDREWS said sometimes, ECKMAN was trying to cut back how much drugs ANDREWS could buy, by giving her less money. ANDREWS said ECKMAN would get upset if he thought he left her enough money to get her through a day and by the night time she was feeling sick, needing more. ANDREWS had trouble explaining to ECKMAN that there is a big difference cutting a drug addict back from \$80 dollars to \$60 dollars a day all at once.

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ANDREWS never observed ECKMAN take any drugs. ECKMAN's jumpy or quick changing personality is just ECKMAN.

ANDREWS present when stolen jewelry was sold to ECKMAN:

ANDREWS knew that ED WHEELER was stealing jewelry from his family and from some stores. ANDREWS knew it was stolen and was present when the stolen jewelry was sold to ECKMAN.

ANDREWS said WHEELER got introduced to ECKMAN through JAY WESTON who was stealing jewelry and selling it to ECKMAN.

ANDREWS said a lot of ECKMAN's customers were regular and repeated customers selling to ECKMAN. ECKMAN would not exactly ask people if the jewelry they were selling was stolen.

Most of the jewelry that ECKMAN would buy would be taken to a refinery in Pennsylvania and be melted down. ANDREWS has gone with ECKMAN before, but cannot remember the city name beyond saying it was like an hour drive into PA and he took the toll road to get there.

AUSNEHMER sold car to ECKMAN:

AUSNEHMER had sold a maroon colored car to DOMINIC ECKMAN. The car was supposed to become ECKMAN's wife, LESLIE's, everyday car. ANDREWS use to see AUSNEHMER drive this maroon car before he sold it to ECKMAN. The car was supposedly AUSNEHMER's mother's car, or something like that.

AUSNEHMER tried to buy earrings from ECKMAN:

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ANDREWS recalls AUSNEHMER wanting to buy a couple of pairs of earrings from ECKMAN for AUSNEHMER's two (2) daughters. ANDREWS seems to think that the transaction might have not actually been completed. ECKMAN would get jewelry stones mainly from rings and it is not easy to match up four (4) stones for two (2) pairs of earrings.

While not remembering exactly when this occurred, ANDREWS said it was for some special event like Christmas or something. ANDREWS is pretty sure it occurred before she went to jail.

ECKMAN finances:

ANDREWS knows ECKMAN to use pre-paid credit cards and also has a pay pal account. ANDREWS said ECKMAN pays for things at stores or gas stations with cash.

Probation officer:

ANDREWS at first did not recognize the name ANGELA TESTA. After being told TESTA was a probation officer, ANDREWS recognized her and said TESTA was her probation officer for an earlier case in Boardman Court. ANDREWS does not recall TESTA being involved in her case with the Austintown Court that she went to jail on.

Misc:

ANDREWS said ECKMAN and AUSNEHMER had a close enough relationship that AUSNEHMER could just show up unannounced at the store and hang out for a while.

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ANDREWS knew AUSNEHMER to be an employee of Mahoning County Prosecutor PAUL GAINS. ANDREWS remember ECKMAN put GAINS campaign signs out in front of the store and ECKMAN said something like: if GAINS loses the election, AUSNEHMER will loss his job.

ANDREWS does not recall having ever meet with AUSNEHMER's attorney, JOHN JUHASZ. ANDREWS is familiar with attorney JUHASZ's name because her friend MEGAN MCLAUGHLIN has used him before as an attorney.



FEDERAL BUREAU OF INVESTIGATION

Date of entry 09/03/2013

DOMINIC ECKMAN, Social Security Account Number [REDACTED] date of birth of 03/18/1961, was interviewed at the Youngstown office of the Federal Bureau of Investigation (FBI). ECKMAN was previously aware of the identity of Special Agent (SA) HASSMAN and was advised the identity of SA HARTMANN. ECKMAN was advised the purpose of this interview was to provide a proffer opportunity to discuss JOHN "Jack" AUSNEHMER.

Prior to any questions being asked, ECKMAN signed the following statement:

"I, Dominic Eckman, freely and voluntarily make the following statement to Special Agents of the Federal Bureau of Investigation: I have personal concerns about attorney John Shultz and no longer consider him to be my attorney. I have been advised of my rights to have a lawyer present during any questioning and that I have the right to stop answering at any time. I understand my rights and I am willing, at this time, to answer questions without a lawyer present. /s/ Dominic Eckman 8/26/13"

Also prior to any questions, ECKMAN signed a proffer letter from the U.S. Attorney's office dated August 26, 2013. ECKMAN then provided the following information:

Relationship with Andrews:

LISA ANDREWS repeatedly came to the drive up window at ECKMAN's precious metal exchange store, many times with a young toddler in the back seat. ECKMAN was sympathetic to this apparent damsel in distress and began giving her money to help her out. This evolved into ECKMAN and ANDREWS seeing each other and they began a relationship. While not knowing it when the relationship started, ECKMAN came to learn that ANDREWS had a real bad addiction to heroin. ANDREWS' addiction caused her to get into trouble a couple of times.

Andrews arrest / jail:

LISA ANDREWS got arrested and charged with some sort of child endangering as a result of her having her son with her while she was accused of stealing something from K-Mart. The court ordered ANDREWS to take a drug test and ANDREWS repeatedly could not pass it.

Investigation on 08/26/2013 at Youngstown, Ohio, United States (In Person)

File # 194B-CV-78111

Date dictated 08/29/2013

by Deane Robert Hassman, HARTMANN M M

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ECKMAN had conversations about ANDREWS with assistant Mahoning County Prosecutor JOHN "Jack" AUSNEHMER, who ECKMAN considered a really good friend. ECKMAN felt he tried everything he could to help her break this powerful addiction to heroin, but ECKMAN could not. Both AUSNEHMER and ECKMAN thought that ANDREWS might need to go to jail in order for her to get clean from the heroin. ECKMAN told ANDREWS, she needed to go to jail for as long as it takes for her to get clean. ECKMAN told ANDREWS if she did not go to jail to get clean, then there; "is no me and you" and ECKMAN would not help her anymore. ECKMAN recalls these conversations occurring around Christmas 2011.

On 12/28/2011, ANDREWS had a court hearing on a probation violation for failing to pass repeated drug tests. Judge DAVID D'APOLITO sentenced ANDREWS to 150 days in the Mahoning County jail.

Andrews wanted out of jail:

After being in jail for maybe two (2) months or so, ANDREWS was climbing the walls, wanting to get out and asking ECKMAN to do whatever he could to get her out. Even after just a couple months, ECKMAN had seen changes in ANDREWS, she gained weight, she improved, and it was like talking to a different person. ECKMAN felt she was off of the heroin and wanted to her get out.

ECKMAN asked AUSNEHMER for help in getting her out. AUSNEHMER initially said he thought it was a bad idea and that she should remain in jail longer. AUSNEHMER said he has seen people do a lot longer sentences and still immediately use heroin the first chance they get after getting out of jail. AUSNEHMER told ECKMAN the heroin addiction is that strong. ECKMAN insisted to AUSNEHMER that he wanted ANDREWS home from jail and AUSNEHMER agreed to help.

AUSNEHMER said he could "put a motion in" to get ANDREWS out after half of her sentenced was served. AUSNEHMER was speaking in first person language: "I could file a motion for early release". When the motion was actually filed, AUSNEHMER had attorney WADE SMITH sign the motion. AUSNEHMER might have said something about having a conflict, but "WADE" could do it. About 2 or 3 days before the motion was filed, AUSNEHMER stopped by ECKMAN's store and said he (AUSNEHMER) was going to personally hand deliver the motion to Judge D'APOLITO. AUSNEHMER said he was good friends with the Judge. ECKMAN does not recall any conversations with attorney SMITH other than during court appearances. ECKMAN said it was AUSNEHMER's orchestration to have SMITH sign the motion for release.

Text from Jack:

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In February ECKMAN said he received a text message from AUSNEHMER, which read: "Got up early. Went to office. Met Wade and discussed Lisa. I dictated motion for early release and terminate probation or make non-reporting. Will be typed this week and held until March date." ECKMAN was shown photographs of cell phone screen images of this exact text message sent from (330) 540-3176 to (330) 314-6957 dated Sunday 02/19/2012 at 10:48 am - ECKMAN said this is text he is referring to.

ECKMAN hand wrote out an exact copy of the text message on a envelope and took it into the Mahoning County jail to show it to ANDREWS to show her that AUSNEHMER was getting her out.

Jail recordings:

ECKMAN acknowledged there are jail recordings between himself and ANDREWS saying things like: he showed money to AUSNEHMER, and AUSNEHMER needs to get this done.

ECKMAN said the jail recordings of himself bragging and talking tough to ANDREWS, the girl he had feelings for, and were not necessarily quotes of what he said to AUSNEHMER or what AUSNEHMER said to him. While ECKMAN was trying to get ANDREWS out of jail, ECKMAN did make repeated comments to AUSNEHMER like: "I've got plenty of money", stop by, or there's plenty of money here stop down. ECKMAN said he was offering money to AUSNEHMER throughout the time ECKMAN wanted ANDREWS out of jail.

Payment to AUSNEHMER:

While ECKMAN was asking AUSNEHMER for help getting ANDREWS out of jail, ECKMAN acknowledges repeatedly offering money to AUSNEHMER. ECKMAN does not recall AUSNEHMER ever stating how much money AUSNEHMER wanted for his help to get ANDREWS out of jail.

Around Christmas time 2011, ECKMAN said he gave AUSNEHMER \$5,000 in cash. The cash was rolled up in rubber bands and ECKMAN threw the money across the room to AUSNEHMER, who accepted and kept the money. The exchange took place at ECKMAN's store and it is possible his cousin TOMMY was there when it happened. ECKMAN recalls telling AUSNEHMER the money was a bonus for all of the legal work AUSNEHMER had been doing for him. ECKMAN acknowledges he never received a legal invoice from AUSNEHMER for the \$5,000 in cash. ECKMAN described the \$5,000 payment to AUSNEHMER as a Holiday bonus. ECKMAN acknowledges this is the one and only time that he had ever given AUSNEHMER a bonus.

In March 2012, a couple days after ANDREWS was released from jail,

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ECKMAN either went to AUSNEHMER's law office or AUSNEHMER stopped by ECKMAN's store; ECKMAN then gave AUSNEHMER \$1,000 in cash and AUSNEHMER put it into his pocket. There was little to no conversation, both ECKMAN and AUSNEHMER knew exactly what the money was for and its purpose did not need to be spoken. The \$1,000 was in appreciation for AUSNEHMER getting ANDREWS out of jail. AUSNEHMER kept the money and to this day has not returned any it.

When asked why ECKMAN gave \$1,000 in appreciation to AUSNEHMER and not SMITH, ECKMAN said: because he perceived AUSNEHMER as the one who got ANDREWS out of jail.

Paid Wade Smith:

Each time ANDREWS had a court appearance, attorney WADE SMITH appeared with ANDREWS. ECKMAN paid \$500 cash to SMITH at each court appearance. This happened on at least two (2) occasions.

Meeting after FBI interviews:

ECKMAN was interviewed by the FBI in April 2012. ECKMAN heard AUSNEHMER was also interviewed the same day. AUSNEHMER avoided ECKMAN for a couple of days. ECKMAN set up an appointment with AUSNEHMER's law office 2-3 days after the FBI interviews. In AUSNEHMER's law office, AUSNEHMER said he could no longer represent ECKMAN in his case with the Ohio Department of Commerce and returned ECKMAN's paperwork. AUSNEHMER briefly discussed the fact he got \$5,000 from ECKMAN for the purchase of his business and \$2,500 for the case with the state. AUSNEHMER then wrote on a piece of paper: there was no money related to LISA ANDREWS and showed the paper to ECKMAN. It was clear to ECKMAN that AUSNEHMER did not want to say out loud what he had just written on the paper. ECKMAN thinks that maybe AUSNEHMER thought his office was bugged. ECKMAN thought AUSNEHMER looked petrified during this conversation.

Ausnehmer was a prosecutor:

ECKMAN knew AUSNEHMER was an assistant county prosecutor. ECKMAN said he was a little bit "fuzzy" about what AUSNEHMER could or could not do as a criminal defense lawyer while at the same time he was an assistant county prosecutor. All ECKMAN knew was he (ECKMAN) perceived AUSNEHMER as being his and ANDREWS' attorney when they got in trouble. In support of his belief that AUSNEHMER was his attorney, ECKMAN cited the fact he called AUSNEHMER for legal help the day [02/28/2012] the Mahoning Valley Law Enforcement Task Force executed a search warrant on ECKMAN's store. ECKMAN considered AUSNEHMER to be on his "payroll" as an attorney.

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Continuation of FD-302 of Interview of Dominic Eckman, On 08/26/2013, Page 5 of 7Search warrant on Eckman store:

In February 2012 when the Mahoning Valley Law Enforcement Task Force executed a search warrant on ECKMAN's business, ECKMAN gave approximately \$1,000 - \$2,500 total in cash over a period of time to AUSNEHMER to defend ECKMAN in this law enforcement action.

AUSNEHMER did have some direct contact on behalf of ECKMAN with the Ohio Department of Commerce regarding ECKMAN's license to operate his store. In ECKMAN's presence on one occasion, ECKMAN heard AUSNEHMER have a telephone conversation with KEN HENEY (phonetic) with the Ohio Department of Commerce.

Ausnehmer helped Eckman buy his business property:

ECKMAN has been at his current business location at 890 E. Midlothian Blvd, Youngstown, Ohio since the Fall of 2008. He started out renting his store. In the Fall of 2011 ECKMAN wanted to purchase the property and ECKMAN used the legal services of AUSNEHMER to protect ECKMAN's interest in the sale. The property had to be re-platted and some language had to be addressed about an easement covenant agreement that allowed the grocery store behind his property to put a gas station on the corner where ECKMAN's store was located. ECKMAN had a purchase agreement with VICKEN BAKLAYAN, the owner of the property and had made some down payments towards its purchase. AUSNEHMER looked at ECKMAN's purchase agreement and said it was not worth the paper it was written on and VICKEN BAKLAYAN could screw him out of the property later.

The ultimate transfer of the property occurred with the assistance of AUSNEHMER. The final transfer of money went through AUSNEHMER's law firm trust account. ECKMAN said he bought the property for \$120,000, but can not remember the exact payoff amount he owed at closing; he thinks he had made maybe \$20,000 in down payments before closing. At the time of closing, ECKMAN gave AUSNEHMER more than \$100,000 which included any closing costs and attorney fees. AUSNEHMER told ECKMAN he might have some money coming back to him after closing and ECKMAN directed AUSNEHMER to keep it because AUSNEHMER did a good job. ECKMAN is not certain how much he actually paid AUSNEHMER for legal fees; ECKMAN does not recall ever getting an invoice for the legal fees. ECKMAN thinks the title closing went through Chicago Title. AUSNEHMER picked Chicago Title because they were the title company used by the grocery store behind ECKMAN's store and already did the work on the property in question.

During a period of a few months, probably five (5) months or less, ECKMAN gave AUSNEHMER cash, around \$500 each time, on several occasions, once or twice a month while AUSNEHMER's assisted with ECKMAN's purchase his

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Continuation of FD-302 of Interview of Dominic Eckman, On 08/26/2013, Page 6 of 7

business property.

Ausnehmer hung out at Eckman's store:

ECKMAN has known AUSNEHMER since probably 1994-1995, when ECKMAN was at Ace Diamonds.

In the Fall 2011 - Winter 2012, AUSNEHMER used to come by ECKMAN's store and hang out 2-3 nights a week. While AUSNEHMER was there, he would help out if ECKMAN got busy. Sometimes AUSNEHMER would write up receipts or photocopy driver's licenses. AUSNEHMER was not an employee and ECKMAN did not compensate AUSNEHMER for his help.

AUSNEHMER liked to sift through the items that came into ECKMAN's store. AUSNEHMER had a personal interest in pocket watches and old pocketknives. ECKMAN sometimes would give AUSNEHMER an item he was interested in as a gift and did not charge him anything.

ECKMAN had over 40 - half carat - round loose diamonds. AUSNEHMER had expressed interest in getting diamond stud earrings for both of his two (2) daughters for Christmas. AUSNEHMER wanted both pairs to match flawlessly. ECKMAN put together two (2) pairs that ECKMAN thought were pretty good matches. ECKMAN said if they had sold in a jewelry store, they would have sold for \$2,000 a pair. AUSNEHMER had offered to pay for the earrings, but ECKMAN had every intention of giving them to AUSNEHMER. Ultimately, AUSNEHMER did not think they matched close enough and gave them back to ECKMAN. ECKMAN said the earrings probably happened in December 2011.

Eckman bought car:

In 2011 ECKMAN bought a Suzuki car from AUSNEHMER. ECKMAN understood the car had belonged to AUSNEHMER's mother-in-law. The car was 6-7 years old and had very low mileage. ECKMAN paid about \$5,000, probably in cash. ECKMAN's wife currently drives that car.

Shultz:

After the search warrant by the Mahoning Valley Law Enforcement Task Force, ECKMAN looked to AUSNEHMER for legal help. AUSNEHMER referred ECKMAN to attorney JOHN SHULTZ to use as his criminal counsel.

Even though SHULTZ was his attorney in the State criminal case against him, ECKMAN does not trust SHULTZ.

SHULTZ has expressly asked ECKMAN if ECKMAN gave any cash to AUSNEHMER to get LISA ANDREWS out of jail. ECKMAN said he lied to SHULTZ and said:

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Continuation of FD-302 of Interview of Dominic Eckman, On 08/26/2013, Page 7 of 7

no. ECKMAN never told SHULTZ about the \$1,000 he gave to AUSNEHMER. ECKMAN did not trust that SHULTZ truly had his best interest at heart and ECKMAN was concerned if he told SHULTZ that SHULTZ would spread it all over town. ECKMAN said he could have never answered the question about the \$1,000 to the FBI if attorney SHULTZ was in the room with him.

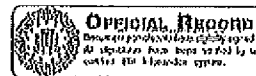
ECKMAN said he might have, but is not sure, if he told SHULTZ about the \$5,000 in cash he gave AUSNEHMER.

ECKMAN has paid \$10,000 or less in total to SHULTZ in legal fees. ECKMAN paid \$2,500 in retainer up front and paid an additional \$500 every time he went to SHULTZ's office.

Other:

ECKMAN once bought a bazooka because AUSNEHMER talked him into it. AUSNEHMER was at a gun show and found a bazooka and was excited about it. AUSNEHMER tried to talk ECKMAN into buying it; AUSNEHMER said: you need to see it, you have got to have it. ECKMAN thinks he paid \$300, maybe \$350. ECKMAN gave AUSNEHMER an additional \$30-\$50 above what AUSNEHMER paid as a finders fee. ECKMAN paid AUSNEHMER cash.

ECKMAN said he made campaign contributions to Prosecutor PAUL GAINS at the request of AUSNEHMER.



FEDERAL BUREAU OF INVESTIGATION

Date of entry 09/11/2013

.....DOMINIC ECKMAN came to the Youngstown FBI office and dropped off records related to the purchase of his business property. ECKMAN also provided the following information:

ECKMAN has made several cash campaign contributions for Mahoning County Prosecutor PAUL GAINS. ECKMAN never gave cash directly to GAINS, ECKMAN gave cash on several occasions to JOHN "Jack" AUSNEHMER. ECKMAN said the total amount of campaign contributions for GAINS was in the thousands of dollars.

Investigation on 09/03/2013 at Youngstown, Ohio, United States (In Person)
File # 194B-CV-78111 Date dictated 09/03/2013
by Deane Robert Haseman, SANO ANTHONY J

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FEDERAL BUREAU OF INVESTIGATION

Date of entry 11/20/2013

DOMINIC ECKMAN was interviewed under terms of a proffer at his attorney's office located at 137 S. Main St., Akron, Ohio. ECKMAN was previously aware of the identity of the interview agent. Also present was his attorney, JAMES BURDON and Assistant United States Attorney JAMES MORONEY. ECKMAN provided the following information:

Cash campaign contributions to Paul Gains:

JOHN "Jack" AUSNEHMER talked to ECKMAN about campaign contributions and fund raiser for Mahoning County Prosecutor PAUL GAINS. AUSNEHMER solicited money from ECKMAN on more than one occasion on behalf of Prosecutor PAUL GAINS. ECKMAN has never met GAINS, but did know that he was AUSNEHMER's boss. ECKMAN gave cash on more than one occasion. On one occasion, ECKMAN recalls giving AUSNEHMER \$2,000 in cash for GAINS and at the same time giving an additional \$500 to AUSNEHMER for everything he was doing for ECKMAN.

ECKMAN was advised of a jail recorded telephone conversation in which ECKMAN said AUSNEHMER just left and that AUSNEHMER had to go downtown to a fund raiser to spend his \$2,000. ECKMAN said it is possible that was the same time he gave AUSNEHMER the \$2,000 in cash.

ECKMAN gave cash to AUSNEHMER, on the other occasions, with the understanding it was a contribution for GAINS, it may have been a \$1,000 or more, because ECKMAN said \$500 seemed small in the context that AUSNEHMER perceived ECKMAN as having a lot of money.

AUSNEHMER seemed to be working so hard to get PAUL GAINS elected that ECKMAN giving cash to AUSNEHMER felt like he was helping AUSNEHMER's goal.

While ECKMAN said he does not know campaign finance rules, he would not be surprised to learn that ECKMAN's name did not appear on the campaign finance reports of GAINS as a contributor.

Following the local task force search of his business, ECKMAN does not recall AUSNEHMER soliciting any money for GAINS with any language about needing to be in the good graces of GAINS now that ECKMAN was being investigated.

Investigation on 11/18/2013 at Akron, Ohio, United States (In Person)
 File # 194B-CV-78111 Date dictated 11/19/2013
 by Deane Robert Hassman

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Continuation of FD-302 of Interview - Dominic Eckman, On 11/18/2013, Page 2 of 7Task force search warrant:

During the days after the local task force search warrant on his business on February 28, 2012, ECKMAN does not recall specifics of giving money to AUSNEHMER, but said he "probably did" give cash to AUSNEHMER to help ECKMAN. ECKMAN was in a panic about the fact his business was searched and ECKMAN said he may have given AUSNEHMER cash in that panic.

ECKMAN recalls calling AUSNEHMER during the search warrant a couple of times and AUSNEHMER advised ECKMAN if there was a warrant signed by a judge, then let them do what they have got to do. ECKMAN recalls putting AUSNEHMER on the telephone with officer JEFF SOLIC during the search warrant.

In the evening hours after the search, ECKMAN said it was likely that he spoke to AUSNEHMER again using his cousin, TOM ECKMAN's phone, probably because ECKMAN's phone was seized by the task force.

March 4, 2012:

ECKMAN was advised that a jail telephone recording on March 4, 2012 captured him telling LISA ANDREWS: "You're coming home this month too, I got that done." ECKMAN said his confidence in being able to say that to ANDREWS was based on an assurance from AUSNEHMER that ANDREWS was going to get out of jail.

AUSNEHMER repeatedly said to ECKMAN: "when the appropriate time comes" I or maybe we are going to file a motion to get ANDREWS released.

ANDREWS' birthday was March 9th and ANDREWS repeatedly expressed wanting to be home by her birthday. ECKMAN does recall telling AUSNEHMER, ANDREWS wanted to be out of jail by her birthday.

March 7, 2012 - Lisa gets out:

AUSNEHMER told ECKMAN he was going to be in Austintown and he would personally hand deliver the motion for ANDREWS release to the Judge.

On the day ANDREWS got released from jail, ECKMAN had a telephone conversation with AUSNEHMER and was told the Judge was going to let her out. AUSNEHMER expressly told ECKMAN that he was not to tell a soul what he was just told; although ECKMAN admits he immediately told ANDREWS she was getting out and he told ANDREWS not to tell anyone.

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Continuation of FD-302 of Interview - Dominic Eckman, On 11/18/2013, Page 3 of 7Paid Jack money after Lisa was out:

A few days after ANDREWS was released from jail, ECKMAN went to AUSNEHMER's law office and gave AUSNEHMER \$1,000 in cash to reward him for what AUSNEHMER had done to get ANDREWS out of jail. ECKMAN said he likely would have given AUSNEHMER even more, but his business was not doing that well after the local task force executed a search warrant on his place.

Text messages:

ECKMAN no longer has any of the text messages between himself and AUSNEHMER from 2012 when they were texting about getting ANDREWS out of jail. ECKMAN said he routinely deletes messages from his phone.

In the past month or so, AUSNEHMER's wife has sent ECKMAN some cryptic text messages along the lines of "God whispers".

Purchase of business building:

ECKMAN nearly emptied out his safes of all of the precious metals he had in there from over the years and scrapped it out to Ted Young Jewelers in Rochester, PA and to Jack Hunt Coin (in New York) to raise the \$100,000 he needed to buy his business property. ECKMAN said, even he was surprised; he had that much value in the safes. When ECKMAN took the metals to Ted Young Jewelers, ECKMAN was paid in cash.

ECKMAN actually wanted to give AUSNEHMER cash for the building purchase, but AUSNEHMER said he could not take cash for a real estate transfer and told ECKMAN to put the money into the bank and write AUSNEHMER a check. ECKMAN said it was like a speed bump that AUSNEHMER could not take the cash because when ECKMAN went to the bank, he was told he could not deposit more than \$10,000 into the bank at one time or the bank would have to fill out some sort of form. ECKMAN said deposited the money over several days in order to write checks to AUSNEHMER.

Fall 2011:

On a number of occasions in the Fall of 2011, ECKMAN recalls giving AUSNEHMER \$500 in cash multiple times. ECKMAN does not attribute this money to any one specific event as much as to the total relationship he had with AUSNEHMER. He was helping ECKMAN with the paperwork to buy his business; he was helping fill out paper work at ECKMAN's business, etc.

ANDREWS' court appearance in Oct 2011:

In October 2011, ANDREWS had a court appearance because she had failed

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so many drug tests, ECKMAN said he expected ANDREWS to get shipped to jail at that hearing. He said ANDREWS was so convinced she was going jail, she wore white underwear to court (so she could keep her own underwear in jail). ECKMAN was surprised when ANDREWS was not sent to jail that day. ECKMAN recalls thinking: it must have been "Jack" who helped keep her out. ECKMAN recalls AUSNEHMER saying something like: we are going to try this one more time; meaning give ANDREWS another chance to pass a drug screen.

While ECKMAN said he does not have a specific recollection of giving AUSNEHMER money related to ANDREWS' October court appearance, ECKMAN said: "I probably did".

ECKMAN attended the October court appearance and handed attorney WADE SMITH \$500 in cash.

Jack had detailed inside information:

One occasion, AUSNEHMER became aware before ECKMAN or ANDREWS that ANDREWS had miserably failed a drug test with a really high score and AUSNEHMER seemed to know that first. AUSNEHMER texted that information to ECKMAN.

\$5,000 to Jack:

One time, ECKMAN gave AUSNEHMER \$5,000 in cash. ECKMAN said the money was wrapped up in a rubber band and ECKMAN threw it across the room to AUSNEHMER. ECKMAN is pretty sure that his cousin TOMMY ECKMAN was present when he gave this cash to AUSNEHMER. ECKMAN is pretty sure the reason he gave this money to AUSNEHMER was because AUSNEHMER helped him buy his business. ECKMAN said his cousin, TOMMY, reminded him of that. At the time AUSNEHMER accepted the \$5,000 dollars, AUSNEHMER said something like: his family was going to have a nice vacation that year.

Ring given to AUSNEHMER:

ECKMAN was advised of a jail telephone recording in which ECKMAN talked about giving a \$1,200 ring to AUSNEHMER. ECKMAN said the reason for giving it to AUSNEHMER was because of his relationship with AUSNEHMER. In context, ECKMAN said his business was doing very well at that time.

Showed money to Jack:

ECKMAN was advised of a jail telephone recording in which ECKMAN talked about taking stacks of money bound in purple money wrappers and putting the money on the counter very visible to AUSNEHMER and then talking with AUSNEHMER about getting ANDREWS out of jail. ECKMAN could not recall

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Continuation of FD-302 of Interview - Dominic Eckman, On 11/18/2013, Page 5 of 7

the specific event, but said that sounds like something he would do.
ECKMAN said it would not have been unlike him to do something like that.
ECKMAN said the purple money wrappers are \$2,000 each.

Payments to AUSNEHMER:

ECKMAN has no recollection of ever receiving any legal invoices for services from AUSNEHMER and is pretty sure he never received any receipts for the various cash payments he gave to AUSNEHMER.

Other than the three (3) checks ECKMAN wrote to AUSNEHMER for the purchase of his business, ECKMAN does not recall writing any other checks to him. All other payments were made in cash.

None of the cash ever given to AUSNEHMER was given to him with the understanding that: this money is for WADE SMITH. ECKMAN separately paid SMITH at each court appearance.

When ECKMAN needed cash to give to AUSNEHMER, he would just get it out of his safe. ECKMAN would not need to go to the bank to withdrawal cash in order to pay money to AUSNEHMER.

Meeting with Jack after FBI interview:

Within a few days of being first interviewed by the FBI, ECKMAN tried to call AUSNEHMER, but could not reach him, so he scheduled an appointment with AUSNEHMER's secretary.

ECKMAN went to AUSNEHMER's office and the conversation seemed very formal; not anything like the way their relationship was in the way they would talk with each other. ECKMAN sensed that AUSNEHMER was acting as if his office was bugged. ECKMAN said AUSNEHMER looked scared.

AUSNEHMER acknowledged that he received \$5,000 bonus, \$2,500 for defense with the Ohio Department of Commerce, and nothing related to LISA ANDREWS. AUSNEHMER had actually written down on a piece of paper that there was nothing related to ANDREWS and showed the paper to ECKMAN.

Help with Ohio Department of Commerce:

ECKMAN had AUSNEHMER help him as a lawyer in his dispute with the Ohio Department of Commerce over ECKMAN's precious metal license. On one occasion, in ECKMAN's presence, AUSNEHMER telephoned KEN HAYNIE with the Department of Commerce - Division of Financial Institutions. ECKMAN

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recalls hearing AUSNEHMER tell the Commerce employee that all of the paperwork documentation issues they had with ECKMAN's business had been corrected and resolved.

Shortly after April 24, 2012, when the FBI interviewed ECKMAN, ECKMAN went to AUSNEHMER office. At that time, AUSNEHMER returned to ECKMAN his file related to the Department of Commerce and AUSNEHMER said he had made a error by handling this matter and could no longer represent ECKMAN on this.

ECKMAN thinks he paid AUSNEHMER \$2,500 (couple of separate payments totaling \$2,500) for representation with the Department of Commerce. When AUSNEHMER returned his file related to the Department of Commerce, AUSNEHMER did not return any legal fees.

Courtney Fidram:

In 2010, ECKMAN tried to get COURTNY FIDRAM out of the Mahoning County Jail. ECKMAN asked AUSNEHMER to represent her and he said he could not because he had a conflict and can't, but he could get someone else to represent her. AUSNEHMER got attorney WADE SMITH to represent FIDRAM.

ECKMAN had very few conversations with AUSNEHMER about the FIDRAM case. ECKMAN's conversations were direct with WADE SMITH. ECKMAN paid SMITH direct with cash and not through AUSNEHMER. ECKMAN is not aware of AUSNEHMER having any direct involvement in the FIDRAM case in the way AUSNEHMER did in the LISA ANDREWS case.

ECKMAN thinks the difference between the FIDRAM case in 2010 and the ANDREWS case in 2012 was that ECKMAN and AUSNEHMER's relationship had grown closer.

Judge Vettori:

On two (2) or three (3) occasions, AUSNEHMER ask ECKMAN to make a cash campaign contribution to Mahoning County Court Judge DIANE VETTORI who was working in Sebring, Ohio. ECKMAN was not 100% certain of her name, but was certain she was the judge in Sebring, Ohio. ECKMAN does not know her and does not think he ever gave AUSNEHMER any cash on her behalf.

AUSNEHMER kept saying he should meet Judge VETTORI and said he would bring her by ECKMAN's shop some day, but never did. AUSNEHMER told ECKMAN: it never hurts to have a judge on your side.

AUSNEHMER said he had Judge VETTORI review the easement and covenant agreement related to the purchase of ECKMAN's business.

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Continuation of FD-302 of Interview - Dominic Eckman, On 11/18/2013, Page 7 of 7

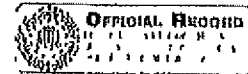
Other - Poland Township:

ECKMAN used to have a friendship with MARK NAPLES, a former Poland Township Trustee.

NAPLES had a problem with former Poland Township Police Chief CARL MASSULO and wanted him gone as chief. ECKMAN thinks the dispute revolved around MASSULO and NAPLES having an interest in the same woman, MARGET CONFORD (phonetic).

NAPLES ran for election, got elected township trustee, and then fired Chief MASSULO. The trustees then formed a citizen committee to recommend a new chief. NAPLES asked ECKMAN if he would be on the committee. ECKMAN told NAPLES he had a felony conviction from 30 years ago and should not be on the committee. NAPLES then asked ECKMAN's wife, LESLIE, to be on the committee; which she agreed to. Trustee NAPLES desperately wanted BRIAN GOODEN to be the new Police Chief and bullied the committee into selecting BRIAN GOODEN even though the committee wanted to recommend someone else. ECKMAN speculates the citizen's committee was used to create the appearance that NAPLES did not hand pick the new chief.

NAPLES has since lost his re-election as township trustee.



FEDERAL BUREAU OF INVESTIGATION

Date of entry 11/21/2013

NICHOLAS CERIMELE, CPA accountant for JOHN AUSNEHMER, was interviewed at his office located at 727 E. Western Reserve Road - Unit D, Poland, Ohio 44514. He was advised the identity of the interviewing agent and the nature of the interview concerned AUSNEHMER's tax returns. He then provided the following information:

CERIMELE prepares tax returns and quarterly payroll tax forms for attorney JOHN AUSNEHMER. AUSNEHMER reports the income from his law practice on a schedule C form as part of his individual 1040 tax return. CERIMELE does not retain any detailed records from AUSNEHMER as the his total receipts or expenditures. Each year, AUSNEHMER comes to CERIMELE's office and brings with him a single, one page, piece of paper that is typed and has a list of his total receipts, how much he disbursed to clients, paid other lawyers in fee splits, and a list of expenses (advertising, insurance, wages, etc.) CERIMELE plugs those numbers into the tax return and AUSNEHMER takes his list with him; CERIMELE does not keep it. The list AUSNEHMER brings in does not break down the revenue number by client and does not indicate if any of the money was received in the form of cash.

CERIMELE does not provide any other accounting services for AUSNEHMER.

A detailed summary of AUSNEHMER's Federal tax return is attached to this FD-302.

Investigation on 11/20/2013 at Youngstown, Ohio, United States (In Person)

File # 194B-CV-78111

Date dictated 11/21/2013

by Deane Robert Hassman

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