

FILED UNDER SEAL

CLERK OF COURTS
MAHONING COUNTY, OHIO
JAN - 3 2011
FILED
ANTHONY VIVO, CLERK

IN THE COURT OF COMMON PLEAS
GENERAL DIVISION
MAHONING COUNTY, OHIO

THE STATE OF OHIO

JUDGE William H. Wolff, Jr.

vs.

ANTHONY M. CAFARO, SR.
and
THE CAFARO COMPANY
and
OHIO VALLEY MALL COMPANY
and
THE MARION PLAZA, INC
and
JOHN A. McNALLY, IV

CASE NOS. 2010 CR 00800
2010 CR 00800 A
2010 CR 00800 B
2010 CR 00800 C
2010 CR 00800 D

BILL OF PARTICULARS

for
**ANTHONY M. CAFARO, SR; THE CAFARO COMPANY; OHIO VALLEY MALL
COMPANY; THE MARION PLAZA, INC.**
and
JOHN A. McNALLY, IV

The State of Ohio, through its undersigned attorneys, hereby submits its Bills of Particulars with respect to Anthony M. Cafaro, Sr., The Cafaro Company, Ohio Valley Mall Company, The Marion Plaza, Inc. & John A. McNally, IV.

**PURPOSES AND REQUIREMENTS
OF AN INDICTMENT AND A BILL OF PARTICULARS**

Ohio law is clear relative to the purpose and requirements of both an Indictment and of a Bill of Particulars:

"Crim.R. 7(B) explains the structure and sufficiency requirements of an indictment: "The statement may be made in ordinary and concise language without technical averments or allegations not essential to be proved. The statement may be in the words of the applicable section of the statute, provided the words of that statute charge an offense, or

in words sufficient to give the defendant notice of all the elements of the offense with which the defendant is charged. (Emphasis Added) State v. Horner, Ohio Supreme Court Slip Opinion No. 2010-Ohio-3830, decided August 27, 2010.

Additionally, an indictment is sufficient if it uses the exact language of the statute, quotes the statutory section, and specifies when defendant committed the acts. That was done here. See, *Rule 7 of the Ohio Rules of Criminal Procedure*. See also, *R.C. §2941.05*.

An indictment is not--in the State of Ohio--required to state the particular facts upon which the indictment was based¹. Insofar as the statutory elements of a crime are presented in an indictment, it is sufficient under Ohio law. Defendants can obtain the factual bases upon which the elements of the crimes are charged in the indictment from a bill of particulars and the State's prosecutorial file pursuant to open file discovery mandates and the recently revised Ohio Criminal Rule 16. See, Ohio v. Sessler, 2007 Ohio 4931, 2007 Ohio App. LEXIS 4631 (2007).

Moreover, a criminal rule Bill of Particulars is not the equivalent of a response to a civil rule request for interrogatories:

"A motion for a bill of particulars seeking to obtain a detailed statement of the particular means by which the state claims the defendant committed an alleged offense and a motion for discovery and inspection of the state's evidence were properly overruled. The disclosure by the state of evidence is not a proper function of a bill of particulars, and no problem of constitutional dimensions is raised by limiting the scope of discovery within the discretion of the trial court." State v. Wilson, 29 Ohio St. 2d 203, 208 N.E.2d 915 (1972).

¹ Ohio Case law and Crim. Rule 7 generally track the original Ohio Revised Code statute (prior to the implementation of the Ohio Rules of Criminal Procedure), at §2941.05 therein, "Statement charging an offense" which provides that:

"In an indictment or information charging an offense, each count shall contain, and is sufficient if it contains in substance, a statement that the accused has committed some public offense therein specified. Such statement may be made in ordinary and concise language without any technical averments or any allegations not essential to be proved. It may be in the words of the section of the Revised Code describing the offense or declaring the matter charged to be a public offense, or in any words sufficient to give the accused notice of the offense of which he is charged." (emphasis added).

The Ohio Supreme Court has stated the Ohio rule relative to Bills of Particular and said that the purpose of giving a Bill of Particulars is "to elucidate or particularize the conduct of the accused"....."but not to provide the accused with specifications of evidence or to serve as a substitute for discovery." (emphasis added) See, State v. Lawrinson, 49 Ohio St. 3d 238 at 239 (1990), citing State v. Sellards 17 Ohio St. 3d 169, 17 OBR 410, 478 N.E. 2d 781 (1985). See, also State v. Wilson, supra. State v. Robinson, 2005 Ohio 6286, 2005 Ohio App. LEXIS 5631 (Ohio Ct. App., Lake County Nov. 25, 2005)

Even federal authorities, in interpreting the Federal Rules of Criminal Procedure, are in accord with Ohio's interpretation of its own criminal rules. Under federal law, the general purpose of a bill of particulars is to inform a defendant of the charges against him with sufficient precision to: (1) enable him to prepare his defense, (2) obviate surprise at trial, and (3) enable him to plead his acquittal or conviction in the case as a bar to subsequent prosecution for the same offense. United States v. Davis, 582 F.2d 947, 951 (5th Cir. 1978), cert. denied, 441 U.S. 962 (1979).

Federal case law interpreting Rule 7 of the Federal Rules of Criminal Procedure states that a bill of particulars should not be expanded into a device to circumvent the restrictions on pretrial discovery of specific evidence contained in Fed. R. Crim. P. 16. Cooper v. United States, 282 F.2d 527, 532 (9th Cir. 1960). See also Davis, 582 F.2d at 951 ("generalized discovery is not a permissible goal of a bill of particulars"). Where the indictment itself and the bill of particulars supplied by the government provide the defendant with adequate information with which to conduct his defense, requests for

additional particulars should be denied. Harlow v. United States, 301 F.2d 361, 367-68 (5th Cir.), cert. denied, 371 U.S. 814 (1962).

Federal courts have taken into account other sources of information provided by the government, including discovery materials. United States v. Long, 706 F.2d 1044, 1054 (9th Cir. 1983) (broad discovery can serve as a substitute for the "trial preparation" function of a bill of particulars). See, e.g., United States v. Feola, 651 F. Supp. 1068, 1133 (S.D.N.Y. 1987) (court considered whether the information requested had been provided elsewhere, including through discovery).

Under the federal interpretation of its rules, an indictment is sufficient if it "contains the elements of the offense charged and fairly informs a defendant of the charges against which he must defend, and second, whether it enables him to plead an acquittal or conviction in bar of future prosecutions for the same offense." United States v. Middleton, 246 F.3d 825, 841-42, quoting United States v. Monus, 128 F.3d 376, 388 (6th Cir. 1997).

The government is under no obligation to "preview its case or expose its legal theory", nor does the government have to disclose the "precise manner in which the crime charged in the indictment is alleged to have been committed." United States v. Shoher, 555 F. Supp 346, 349 (1983), quoting United States v. Andrews, 381 F.2d 377, 377-78 (1967).

Pursuant to Rule 16 of the Ohio Rules of Criminal Procedure, the defendants in Mahoning County Common Pleas case numbers 2010 CR 00800, *et al*, have received, to date, in excess of 56,000 thousand pages of documents (a significant number of which came from the defendants themselves pursuant to grand jury subpoenas issued during the course and scope of an extensive grand jury investigation which was curtailed by the

finite ending date specified by the Mahoning County general division judges, all of whom have recused themselves in these companion cases).

COUNT 1

Engaging In A Pattern of Corrupt Activity. R.C. 2923.32(A)(1)

OHIO VALLEY MALL COMPANY, AN OHIO LIMITED PARTNERSHIP &
THE MARION PLAZA, INC.

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing period for a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that the Defendants, Ohio Valley Mall Company, An Ohio Limited Partnership & The Marion Plaza, Inc. have been charged in the indictment with certain other of the Defendants for a violation of R.C. §2923.32(A)(1), Engaging in a Pattern of Corrupt Activity. The Enterprise, as that term is defined in §2923.31(C) of the Revised Code, is as specified in the indictment and the Pattern of Corrupt Activity, as that term is defined in §2923.31 of the Revised Code, is also as specified in the indictment. Ohio Revised Code §2901.23 provides that an organization may be convicted of a criminal offense in any one of four (4) circumstances:

****(1) The offense is a minor misdemeanor committed by an officer, agent, or employee of the organization acting in its behalf and within the scope of his office or employment, except that if the section defining the offense designates the officers, agents, or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, such provisions shall apply.

(2) A purpose to impose organizational liability plainly appears in the section defining the offense, and the offense is committed by an officer, agent, or

employee of the organization acting in its behalf and within the scope of his office or employment, except that if the section defining the offense designates the officers, agents, or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, such provisions shall apply.

(3) The offense consists of an omission to discharge a specific duty imposed by law on the organization.

(4) If, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated, or performed by the board of directors, trustees, partners, or by a high managerial officer, agent, or employee acting in behalf of the organization and within the scope of his office or employment.

(B) When strict liability is imposed for the commission of an offense, a purpose to impose organizational liability shall be presumed, unless the contrary plainly appears.

(C) In a prosecution of an organization for an offense other than one for which strict liability is imposed, it is a defense that the high managerial officer, agent, or employee having supervisory responsibility over the subject matter of the offense exercised due diligence to prevent its commission. This defense is not available if it plainly appears inconsistent with the purpose of the section defining the offense.

(D) As used in this section, "organization" means a corporation for profit or not for profit, partnership, limited partnership, joint venture, unincorporated association, estate, trust, or other commercial or legal entity. "Organization" does not include an entity organized as or by a governmental agency for the execution of a governmental program." R.C. §2901.23

Anthony M. Cafaro, Sr. is a high managerial officer, agent or employee of said Defendants inasmuch as he controlled funds of those entities and directed the affairs of said Defendants and other members of the Anthony M. Cafaro, Sr.-controlled enterprise.

During the period set forth in the indictment, Defendants role in the Enterprise are predicated upon the meetings and conversations of Anthony M. Cafaro, Sr. with one or more members of the Enterprise during the time period specified in the indictment with a goal to block the move from said Cafaro-controlled Garland site to the Oakhill

site. Those efforts included acts of Conspiracy, Perjury, Bribery, Money Laundering and violations of Ohio ethics laws.

The interests and goals of the Enterprise were all focused upon the unsuccessful attempt of Anthony Cafaro and the Cafaro-related entities, including Ohio Valley Mall Company, An Ohio Limited Partnership, its general partner, The Marion Plaza, Inc. and The Cafaro Company in efforts to keep the Mahoning County Department of Job and Family Services physically located at the Garland site owned by a Cafaro-controlled entity, Ohio Valley Mall Company, an Ohio limited partnership operating by and through its general partner, The Marion Plaza, Inc. and to keep that failed attempt from becoming public. The attempt included a lawsuit captioned *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.* (Mahoning County Case No. 06CV3032). The mission was to allow the Cafaro-controlled entity to continue to collect rent as it had for more than a decade under a month-to-month lease arrangement following the expiration of the term of a written lease dated March 19, 1987, reaping hundreds of thousands of dollars a year in rent from Mahoning County.

Those efforts went beyond that of permissible political speech or social discourse or legitimate taxpayer interests when members of the Enterprise began to commit acts ultimately constituting criminal offenses including those offenses defined as Corrupt Activity under the Ohio Revised Code. The Defendants', Ohio Valley Mall Company, An Ohio Limited Partnership & its general partner The Marion Plaza, Inc roles in its association with members of the Enterprise included acts of Conspiracy and Bribery.

COUNT 2
Engaging In A Pattern of Corrupt Activity. R.C. 2923.32(A)(1)

THE CAFARO COMPANY

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing period of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that the Defendant, The Cafaro Company together with certain other of the Defendants in the common indictment have been charged in the indictment with a violation of R.C. §2923.32(A)(1), Engaging in a Pattern of Corrupt Activity. The Enterprise, as that term is defined in §2923.31(C) of the Revised Code, is as specified in the indictment and the Pattern of Corrupt Activity, as that term is defined in §2923.31 of the Revised Code, is also as specified in the indictment. Ohio Revised Code §2901.23 provides, as stated above, that an organization may be convicted of a criminal offense; moreover, Anthony M. Cafaro, Sr. is a high managerial officer, agent or employee of said Defendant, The Cafaro Company inasmuch as he controlled funds of the Defendant The Cafaro Company and directed the affairs of said corporate and partnership Defendant, the other members of the Anthony M. Cafaro, Sr.-controlled enterprise.

During the period set forth in the indictment, Defendant Anthony M. Cafaro's role in the Enterprise is predicated upon his meetings and conversations with one or more members of the Enterprise on behalf of himself and as an agent and high managerial the Cafaro-controlled entities during the time period specified in the

indictment with a goal to block the move from said Cafaro-controlled Garland site to the Oakhill site. Those efforts included acts of Conspiracy, Perjury, Bribery, Money Laundering and violations of Ohio ethics laws.

The interests and goals of the Enterprise were all focused upon the unsuccessful attempt of Anthony Cafaro and the Cafaro-related entities, including Ohio Valley Mall Company, An Ohio Limited Partnership, The Marion Plaza, Inc. and The Cafaro Company in efforts to keep the Mahoning County Department of Job and Family Services physically located at the Garland site owned by a Cafaro-controlled entity, Ohio Valley Mall Company, an Ohio limited partnership operating by and through its general partner, The Marion Plaza, Inc. and to keep that failed attempt from becoming public. The attempt included a lawsuit captioned *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.* (Mahoning County Case No. 06CV3032). The mission was to allow the Cafaro-controlled entity to continue to collect rent as it had for more than a decade under a month-to-month lease arrangement following the expiration of the term of a written lease dated March 19, 1987, reaping hundreds of thousands of dollars a year in rent from Mahoning County.

Those efforts went beyond that of permissible political speech or social discourse or legitimate taxpayer interests when members of the Enterprise began to commit acts ultimately constituting criminal offenses including those offenses defined as Corrupt Activity under the Ohio Revised Code. The Defendant's role in its association with members of the Enterprise included acts of Conspiracy, Bribery and Money Laundering.

COUNT 3
Engaging In A Pattern of Corrupt Activity. R.C. 2923.32(A)(1)

ANTHONY M. CAFARO, Sr.

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing period of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that the Defendant, Anthony M. Cafaro, Sr., together with other of the Defendants in the common indictment have been charged in the indictment with a violation of R.C. §2923.32(A)(1), Engaging in a Pattern of Corrupt Activity. The Enterprise, as that term is defined in §2923.31(C) of the Revised Code, is as specified in the indictment and the Pattern of Corrupt Activity, as that term is defined in §2923.31 of the Revised Code, is also as specified in the indictment. Ohio Revised Code §2901.23 provides, as stated above, that an organization may be convicted of a criminal offense; moreover, Anthony M. Cafaro, Sr. is a high managerial officer, agent or employee of said Defendant, The Cafaro Company inasmuch as he controlled funds of the Defendant and directed the affairs of said corporate and partnership defendant, the other members of the Anthony M. Cafaro, Sr.-controlled enterprise.

During the period set forth in the indictment, Defendant Anthony M. Cafaro's role in the Enterprise is predicated upon his meetings and conversations on behalf of himself and as a high managerial officer, agent or employee of Ohio Valley Mall Company, an Ohio Limited Partnership, The Marion Plaza, Inc. and The Cafaro

Company with one or more members of the Enterprise during the time period specified in the indictment. Those contacts were made with a goal to block the move from said Cafaro-controlled Garland site to the Oakhill site. Those efforts included acts of Conspiracy, Perjury, Bribery, Money Laundering and violations of Ohio ethics laws.

The interests and goals of the Enterprise were all focused upon the unsuccessful attempt of Anthony M. Cafaro, Sr. and the Cafaro-related entities, including Ohio Valley Mall Company, An Ohio Limited Partnership, The Marion Plaza, Inc. and The Cafaro Company in efforts to keep the Mahoning County Department of Job and Family Services physically located at the Garland site owned by a Cafaro-controlled entity, Ohio Valley Mall Company, an Ohio limited partnership operating by and through its general partner, The Marion Plaza, Inc. and to keep that failed attempt from becoming public. The attempt included a lawsuit captioned *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.* (Mahoning County Case No. 06CV3032). The mission was to allow the Cafaro-controlled entity to continue to collect rent as it had for more than a decade under a month-to-month lease arrangement following the expiration of the term of a written lease dated March 19, 1987, reaping hundreds of thousands of dollars a year in rent from Mahoning County.

Those efforts went beyond that of permissible political speech or social discourse or legitimate taxpayer interests when members of the Enterprise began to commit acts ultimately constituting criminal offenses including those offenses defined as Corrupt Activity under the Ohio Revised Code. The Defendant's role in his association with members of the Enterprise included acts of Conspiracy, Perjury, Bribery and Money Laundering.

COUNT 4
Engaging In A Pattern of Corrupt Activity. R.C. 2923.32(A)(1)

JOHN A. MCNALLY, IV

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing period of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that the Defendant, John A. McNally, IV together with certain other of the Defendants in the common indictment have been charged in the indictment with a violation of R.C. §2923.32(A)(1), Engaging in a Pattern of Corrupt Activity. The Enterprise, as that term is defined in §2923.31(C) of the Revised Code, is as specified in the indictment and the Pattern of Corrupt Activity, as that term is defined in §2923.31 of the Revised Code, is also as specified in the indictment.

During the period set forth in the indictment, Defendant John A. McNally, IV's role in the Enterprise is predicated upon his meetings and conversations with one or more members of the Enterprise during the time period specified in the indictment. Those contacts were made with a goal to block the move from said Cafaro-controlled Garland site to the Oakhill site. Those efforts included acts of Conspiracy, Perjury, Bribery, Money Laundering and violations of Ohio ethics laws.

The interests and goals of the Enterprise were all focused upon the unsuccessful attempt of Anthony M. Cafaro, Sr. and the Cafaro-related entities, including Ohio Valley

Mall Company, An Ohio Limited Partnership, The Marion Plaza, Inc. and The Cafaro Company in efforts to keep the Mahoning County Department of Job and Family Services physically located at the Garland site owned by a Cafaro-controlled entity, Ohio Valley Mall Company, an Ohio limited partnership operating by and through its general partner, The Marion Plaza, Inc. and to keep that failed attempt from becoming public. The attempt included a lawsuit captioned *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.* (Mahoning County Case No. 06CV3032). The mission was to allow the Cafaro-controlled entity to continue to collect rent as it had for more than a decade under a month-to-month lease arrangement following the expiration of the term of a written lease dated March 19, 1987, reaping hundreds of thousands of dollars a year in rent from Mahoning County.

Those efforts went beyond that of permissible political speech or social discourse or legitimate taxpayer interests when members of the Enterprise began to commit acts ultimately constituting criminal offenses including those offenses defined as Corrupt Activity under the Ohio Revised Code. The Defendant's role in his association with members of the Enterprise included acts of Conspiracy, Perjury, Bribery and violations of Ohio Ethics Laws.

COUNT 8
Engaging In A Pattern of Corrupt Activity, R.C. 2923.32(A)(2)

OHIO VALLEY MALL COMPANY, AN OHIO LIMITED PARTNERSHIP &
THE MARION PLAZA, INC.

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing period of a campaign finance report of Defendant

Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that the Defendants, Ohio Valley Mall Company, An Ohio Limited Partnership & The Marion Plaza, Inc. have been charged in the indictment with certain other of the Defendants for a violation of R.C. §2923.32(A)(2), Engaging in a Pattern of Corrupt Activity. The Enterprise, as that term is defined in §2923.31(C) of the Revised Code, is as specified in the indictment and the Pattern of Corrupt Activity, as that term is defined in §2923.31 of the Revised Code, is also as specified in the indictment. Ohio Revised Code §2901.23 provides that an organization may be convicted of a criminal offense when, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated, or performed by the board of directors, trustees, partners, or by a high managerial officer, agent, or employee acting in behalf of the organization and within the scope of his office or employment.

Anthony M. Cafaro, Sr. is a high managerial officer, agent or employee of said Defendants inasmuch as he controlled funds of those entities and directed the affairs of said Defendants and other members of the Anthony M. Cafaro, Sr.-controlled enterprise. Defendant Anthony M. Cafaro, Sr. did, on behalf of the Cafaro-controlled entities, acquire or maintain, directly or indirectly, any interest in, or control of an enterprise including the real property known as the Garland Avenue site that had housed the Mahoning County Department of Job and Family Services.

During the period set forth in the indictment, Defendants roles in the Enterprise are predicated upon the meetings and conversations of Anthony M. Cafaro, Sr. with one or more members of the Enterprise during the time period specified in the indictment

with a goal to block the move from said Cafaro-controlled Garland site to the Oakhill site. Those efforts included acts of Conspiracy, Perjury, Bribery and Money Laundering.

The interests and goals of the Enterprise were all focused upon the unsuccessful attempt of Anthony Cafaro and the Cafaro-related entities, including Ohio Valley Mall Company, An Ohio Limited Partnership, The Marion Plaza, Inc. and The Cafaro Company in efforts to keep the Mahoning County Department of Job and Family Services physically located at the Garland site owned by a Cafaro-controlled entity, Ohio Valley Mall Company, an Ohio limited partnership operating by and through its general partner, The Marion Plaza, Inc. and to keep that failed attempt from becoming public. The attempt included a lawsuit captioned *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.* (Mahoning County Case No. 06CV3032). The mission was to allow the Cafaro-controlled entity to continue to collect rent as it had for more than a decade under a month-to-month lease arrangement following the expiration of the term of a written lease dated March 19, 1987, reaping hundreds of thousands of dollars a year in rent from Mahoning County.

Those efforts went beyond that of permissible political speech or social discourse or legitimate taxpayer interests when members of the Enterprise began to commit acts ultimately constituting criminal offenses including those offenses defined as Corrupt Activity under the Ohio Revised Code. The Defendant's role in its association with members of the Enterprise included acts of Conspiracy and Bribery.

COUNT 9
Engaging In A Pattern of Corrupt Activity, R.C. 2923.32(A)(2)

THE CAFARO COMPANY

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that the Defendant, The Cafaro Company, has been charged in the indictment with certain other of the Defendants for a violation of R.C. §2923.32(A)(2), Engaging in a Pattern of Corrupt Activity. The Enterprise, as that term is defined in §2923.31(C) of the Revised Code, is as specified in the indictment and the Pattern of Corrupt Activity, as that term is defined in §2923.31 of the Revised Code, is also as specified in the indictment. Ohio Revised Code §2901.23 provides that an organization may be convicted of a criminal offense when, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated, or performed by the board of directors, trustees, partners, or by a high managerial officer, agent, or employee acting in behalf of the organization and within the scope of his office or employment.

Anthony M. Cafaro, Sr. is a high managerial officer, agent or employee of said Defendant inasmuch as he controlled funds of the entities charged in the common indictment and directed the affairs of said Defendants and other members of the Anthony M. Cafaro, Sr.-controlled enterprise. Defendant Anthony M. Cafaro, Sr. did, on behalf of the Cafaro-controlled entities, acquire or maintain, directly or indirectly,

any interest in, or control of an enterprise including the real property known as the Garland Avenue site that had housed the Mahoning County Department of Job and Family Services.

During the period set forth in the indictment, Defendants roles in the Enterprise are predicated upon the meetings and conversations of Anthony M. Cafaro, Sr. with one or more members of the Enterprise during the time period specified in the indictment with a goal to block the move from said Cafaro-controlled Garland site to the Oakhill site. Those efforts included acts of Conspiracy, Perjury, Bribery, Money Laundering and violations of Ohio ethics laws.

The interests and goals of the Enterprise were all focused upon the unsuccessful attempt of Anthony Cafaro and the Cafaro-related entities, including Ohio Valley Mall Company, An Ohio Limited Partnership, The Marion Plaza, Inc. and The Cafaro Company in efforts to keep the Mahoning County Department of Job and Family Services physically located at the Garland site owned by a Cafaro-controlled entity, Ohio Valley Mall Company, an Ohio limited partnership operating by and through its general partner, The Marion Plaza, Inc. and to keep that failed attempt from becoming public. The attempt included a lawsuit captioned *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.* (Mahoning County Case No. 06CV3032). The mission was to allow the Cafaro-controlled entity to continue to collect rent as it had for more than a decade under a month-to-month lease arrangement following the expiration of the term of a written lease dated March 19, 1987, reaping hundreds of thousands of dollars a year in rent from Mahoning County.

Those efforts went beyond that of permissible political speech or social discourse or legitimate taxpayer interests when members of the Enterprise began to commit acts

ultimately constituting criminal offenses including those offenses defined as Corrupt Activity under the Ohio Revised Code. The Defendant's role in its association with members of the Enterprise included acts of Conspiracy and Bribery.

COUNT 10
Engaging In A Pattern of Corrupt Activity. R.C. 2923.32(A)(2)

ANTHONY M. CAFARO, Sr.

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing period of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that Anthony M. Cafaro, Sr. has been charged with certain other of the Defendants in the common indictment with a violation of R.C. §2923.32(A)(2), Engaging in a Pattern of Corrupt Activity. The Enterprise, as that term is defined in §2923.31(C) of the Revised Code, is as specified in the indictment and the Pattern of Corrupt Activity, as that term is defined in §2923.31 of the Revised Code, is also as specified in the indictment. Ohio Revised Code §2901.23 provides that an organization may be convicted of a criminal offense when, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated, or performed by the board of directors, trustees, partners, or by a high managerial officer, agent, or employee acting in behalf of the organization and within the scope of his office or employment.

Anthony M. Cafaro, Sr. is a high managerial officer, agent or employee of said Defendants, the Cafaro-related entities, including Ohio Valley Mall Company, An Ohio

Limited Partnership, The Marion Plaza, Inc. and The Cafaro Company, inasmuch as he controlled funds of those entities and directed the affairs of said Defendants. Defendant Anthony M. Cafaro, Sr. did, on behalf of the Cafaro-controlled entities, acquire or maintain, directly or indirectly, any interest in, or control of an enterprise including the real property known as the Garland Avenue site that had housed the Mahoning County Department of Job and Family Services.

During the period set forth in the indictment, Defendant's role in the Enterprise is predicated upon the meetings and conversations of Anthony M. Cafaro, Sr. with one or more members of the Enterprise during the time period specified in the indictment with a goal to block the move from said Cafaro-controlled Garland site to the Oakhill site. Those efforts included acts of Conspiracy, Perjury, Bribery, Money Laundering and violations of Ohio ethics laws.

The interests and goals of the Enterprise were all focused upon the unsuccessful attempt of Anthony Cafaro and the Cafaro-related entities, including Ohio Valley Mall Company, An Ohio Limited Partnership, The Marion Plaza, Inc. and The Cafaro Company to keep the Mahoning County Department of Job and Family Services physically located at the Garland site owned by a Cafaro-controlled entity, Ohio Valley Mall Company, an Ohio limited partnership operating by and through its general partner, The Marion Plaza, Inc. and to keep that failed attempt from becoming public. The attempt included a lawsuit captioned *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.* (Mahoning County Case No. 06CV3032). The mission was to allow the Cafaro-controlled entity to continue to collect rent as it had for more than a decade under a month-to-month lease arrangement

following the expiration of the term of a written lease dated March 19, 1987, reaping hundreds of thousands of dollars a year in rent from Mahoning County.

Those efforts went beyond that of permissible political speech or social discourse or legitimate taxpayer interests when members of the Enterprise began to commit acts ultimately constituting criminal offenses including those offenses defined as Corrupt Activity under the Ohio Revised Code. The Defendant's role in his association with members of the Enterprise included acts of Conspiracy, Perjury, Bribery and Money Laundering.

COUNT 11
Conspiracy R.C. 2923.01(A)(1)

OHIO VALLEY MALL COMPANY, AN OHIO LIMITED PARTNERSHIP &
THE MARION PLAZA, INC.

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing period of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and submits that during the period set forth in the indictment and with the purpose to commit or to promote or facilitate the commission of the crime of engaging in a pattern of corrupt activity, the Defendants, Ohio Valley Mall Company, an Ohio Limited Partnership and The Marion Plaza, Inc. did, through and with Anthony M. Cafaro, Sr. and person or persons associated with the Enterprise, plan or aid in planning the commission of the offense of Engaging In A Pattern Of Corrupt Activity. A substantial overt act or acts in furtherance of the conspiracy include clandestine meetings with one or more of the persons with whom said Defendant has

conspired; commission and/or complicity in the commission of one or more offense(s) of Perjury and Bribery, the furnishing of or complicity in the furnishing and/or receipt of monies with respect to any one or more of the crimes set forth in the body of this Indictment including the receipt of or complicity in the receipt of free legal services, all in connection with an effort to block the proposed relocation of Mahoning County offices to a premises commonly referred to as "Oak Hill", in violation of Section 2923.01(A)(1) of the Revised Code, a Felony of the Third Degree.

COUNT 12
Conspiracy

THE CAFARO COMPANY

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and submits that during the period set forth in the indictment and with the purpose to commit or to promote or facilitate the commission of the crime of engaging in a pattern of corrupt activity, the Defendant, The Cafaro Company, together with Ohio Valley Mall Company, an Ohio Limited Partnership and The Marion Plaza, Inc., through and with Anthony M. Cafaro, Sr. , a high managerial officer, agent or employee, and person or persons associated with the Enterprise, plan or aid in planning the commission of the offense of Engaging In A Pattern Of Corrupt Activity. A substantial overt act or acts in furtherance of the conspiracy include clandestine meetings by Anthony M. Cafaro on behalf of himself and The Cafaro Company and the

Ohio Valley Mall Company, an Ohio Limited Partnership and The Marion Plaza, Inc., and with one or more of the persons with whom said Defendant has conspired; commission and/or complicity in the commission of one or more offense(s) of Perjury and Bribery, the furnishing of or complicity in the furnishing and/or receipt of monies with respect to any one or more of the crimes set forth in the body of this Indictment including the receipt of or complicity in the receipt of free legal services, all in connection with an effort to block the proposed relocation of Mahoning County offices to a premises commonly referred to as "Oak Hill", in violation of Section 2923.01(A)(1) of the Revised Code, a Felony of the Third Degree.

COUNT 13
Conspiracy R.C. 2923.01(A)(1)

ANTHONY M. CAFARO, Sr.

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing period of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and submits that during the period set forth in the indictment and with the purpose to commit or to promote or facilitate the commission of the crime of engaging in a pattern of corrupt activity, the Defendant, Anthony M. Cafaro, Sr., on behalf of himself and as a high managerial officer, agent or employee of The Cafaro Company, Ohio Valley Mall Company and The Marion Plaza, Inc., through and with persons associated with the Enterprise, plan or aid in planning the commission of the offense of Engaging In A Pattern Of Corrupt Activity. A substantial overt act or

acts in furtherance of the conspiracy include, as set forth in the common indictment, clandestine meetings with one or more of the persons with whom said Defendant has conspired; commission and/or complicity in the commission of one or more offense(s) of Perjury and Bribery, the furnishing of or complicity in the furnishing and/or receipt of monies with respect to any one or more of the crimes set forth in the body of this Indictment including the receipt of or complicity in the receipt of free legal services, all in connection with an effort to block the proposed relocation of Mahoning County offices to a premises commonly referred to as "Oak Hill", in violation of Section 2923.01(A)(1) of the Revised Code, a Felony of the Third Degree.

COUNT 14
Conspiracy R.C. 2923.01(A)(1)

JOHN A. MCNALLY, IV

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and submits that during the period set forth in the indictment and with the purpose to commit or to promote or facilitate the commission of the crime of Engaging In A Pattern Of Corrupt Activity, the Defendant, John A. McNally, through and with persons associated with the Enterprise, plan or aid in planning the commission of the offense of Engaging In A Pattern Of Corrupt Activity. A substantial overt act or acts in furtherance of the conspiracy include, as set forth in the common indictment, clandestine meetings with one or more of the persons with whom said Defendant has

conspired; commission and/or complicity in the commission of one or more offense(s) of Perjury and Bribery, the furnishing of or complicity in the furnishing and/or receipt of monies with respect to any one or more of the crimes set forth in the body of this Indictment including the receipt of or complicity in the receipt of free legal services, all in connection with an effort to block the proposed relocation of Mahoning County offices to a premises commonly referred to as "Oak Hill", in violation of Section 2923.01(A)(1) of the Revised Code, a Felony of the Third Degree.

COUNT 18
Conspiracy R.C. 2923.01(A)(2)

OHIO VALLEY MALL COMPANY, AN OHIO LIMITED PARTNERSHIP &
THE MARION PLAZA, INC.

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing period of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and submits that during the period set forth in the indictment and with the purpose to commit or to promote or facilitate the commission of the crime of engaging in a pattern of corrupt activity, the Defendants, Ohio Valley Mall Company, an Ohio Limited Partnership and The Marion Plaza, Inc. did, through and with Anthony M. Cafaro, Sr., a high managerial officer, agent or employee, and person or persons associated with the Enterprise, did agree with other persons, including those Defendants named in the common indictment and charged with Conspiracy pursuant to R.C. § 2923.01(A)(2), that one or more of them would engage in conduct that facilitates the commission of the offense of Engaging In A Pattern Of

Corrupt Activity. A substantial overt act or acts in furtherance of the conspiracy include, as set forth in the common indictment, clandestine meetings with one or more of the persons with whom said Defendants have conspired; commission and/or complicity in the commission of one or more offense(s) of Perjury and Bribery, the furnishing of or complicity in the furnishing and/or receipt of monies with respect to any one or more of the crimes set forth in the body of this Indictment including the receipt of or complicity in the receipt of free legal services, all in connection with an effort to block the proposed relocation of Mahoning County offices to a premises commonly referred to as "Oak Hill", in violation of Section 2923.01(A)(2) of the Revised Code, a Felony of the Third Degree.

COUNT 19
Conspiracy R.C. 2923.01(A)(2)

THE CAFARO COMPANY

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and submits that during the period set forth in the indictment and with the purpose to commit or to promote or facilitate the commission of the crime of engaging in a pattern of corrupt activity, the Defendant, The Cafaro Company, together with Defendants, Ohio Valley Mall Company, an Ohio Limited Partnership and The Marion Plaza, Inc. and through and with Anthony M. Cafaro, Sr., a high managerial officer, agent or employee, and person or persons associated with the Enterprise, did agree with other persons, including those Defendants named in the common indictment

and charged with Conspiracy pursuant to R.C. § 2923.01(A)(2), that one or more of them would engage in conduct that facilitates the commission of the offense of Engaging In A Pattern Of Corrupt Activity. A substantial overt act or acts in furtherance of the conspiracy include, as set forth in the common indictment, clandestine meetings with one or more of the persons with whom said Defendants have conspired; commission and/or complicity in the commission of one or more offense(s) of Perjury and Bribery, the furnishing of or complicity in the furnishing and/or receipt of monies with respect to any one or more of the crimes set forth in the body of this Indictment including the receipt of or complicity in the receipt of free legal services, all in connection with an effort to block the proposed relocation of Mahoning County offices to a premises commonly referred to as "Oak Hill", in violation of Section 2923.01(A)(2) of the Revised Code, a Felony of the Third Degree.

COUNT 20
Conspiracy R.C. 2923.01(A)(2)

ANTHONY M. CAFARO, Sr.

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing period of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and submits that during the period set forth in the indictment and with the purpose to commit or to promote or facilitate the commission of the crime of engaging in a pattern of corrupt activity, the Defendant, Anthony M. Cafaro, Sr. on behalf of himself and as a high managerial officer, agent or employee of

The Cafaro Company, Ohio Valley Mall Company and The Marion Plaza, did agree with other persons, including those Defendants named in the common indictment and charged with Conspiracy pursuant to R.C. § 2923.01(A)(2), that one or more of them would engage in conduct that facilitates the commission of the offense of Engaging In A Pattern Of Corrupt Activity. A substantial overt act or acts in furtherance of the conspiracy include, as set forth in the common indictment, clandestine meetings with one or more of the persons with whom said Defendants have conspired; commission and/or complicity in the commission of one or more offense(s) of Perjury and Bribery, the furnishing of or complicity in the furnishing and/or receipt of monies with respect to any one or more of the crimes set forth in the body of this Indictment including the receipt of or complicity in the receipt of free legal services, all in connection with an effort to block the proposed relocation of Mahoning County offices to a premises commonly referred to as "Oak Hill", in violation of Section 2923.01(A)(2) of the Revised Code, a Felony of the Third Degree.

COUNT 21
Conspiracy R.C. 2923.01(A)(2)

JOHN A. MCNALLY, IV

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing period of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and submits that during the period set forth in the indictment and with the purpose to commit or to promote or facilitate the commission

of the crime of engaging in a pattern of corrupt activity, the Defendant, John A. McNally, IV, did agree with other persons, including those Defendants named in the common indictment and charged with Conspiracy pursuant to R.C. § 2923.01(A)(2), that one or more of them would engage in conduct that facilitates the commission of the offense of Engaging In A Pattern Of Corrupt Activity. A substantial overt act or acts in furtherance of the conspiracy include, as set forth in the common indictment, clandestine meetings with one or more of the persons with whom said Defendants have conspired; commission and/or complicity in the commission of one or more offense(s) of Perjury and Bribery, the receipt of or complicity in the receipt of free legal services, all in connection with an effort to block the proposed relocation of Mahoning County offices to a premises commonly referred to as "Oak Hill", in violation of Section 2923.01(A)(2) of the Revised Code, a Felony of the Third Degree.

COUNT 25
Perjury R.C. 2921.11(A)

ANTHONY M. CAFARO, Sr.

The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that on Wednesday, June 6, 2007, Defendant Anthony M. Cafaro, Sr. testified as a witness in a deposition (See STATE 015723-015904) with respect to the taxpayer suit captioned *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*, 2006CV3032, which was filed by an entity controlled by or at the direction of Anthony M. Cafaro Sr. The legal action was engineered to stop the purchase of Oakhill by Mahoning County and to prevent the move of the Department of Job Services from the Garland site owned by Ohio Valley Mall Company. Defendant, at the time of his deposition, was a high

managerial officer, agent or employee of a party in *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*, 2006CV3032. During that deposition testimony, the Defendant knowingly made false statements under oath about items material to the lawsuit. At pages 22 through 24 relative to questioning concerning the Chase Bank credit facility with respect to Oakhill, the following exchange occurred at page 22 therein:

Q: "Okay. Did you offer to guarantee that line of credit?"

A: Absolutely not. Why are we going to guarantee that line of credit?"

Q: So you absolutely did not do that?"

A: Did not". (See STATE 015744).

The following exchange occurred at page 24 therein:

Q: "and just to be very clear, you never offered to guarantee the line of credit?"

A: that is correct". (See STATE 015746).

The false statement was made to conceal the existence of the defendant's contact and coordination of efforts to block the Mahoning County effort in acquiring the Oakhill property and the move of the Mahoning County Department of Job & Family Services from the Cafaro-controlled Garland Avenue property to Oakhill.

A representative of JPMorgan Chase Bank has acknowledged that Anthony Cafaro Sr. did offer to guarantee a line of credit of \$100,000 to the bankruptcy trustee (See STATE 036252-036253).

A representative of JPMorgan Chase Bank has acknowledged that the underwriting department of the bank recommended against lending \$100,000 to the bankruptcy trustee of the Oak Hill property and that the line of credit would not have been made on its own merits, if not for the relationship between The Cafaro Company

and the bank. (See STATE 036253-036254). The "Oak Hill Bldg file" of the Ohio Valley Mall contained an e-mail from the bankruptcy trustee to Senior Vice President James Pitzer on May 23, 2006 at 2:28 pm which read: "*Jim, Unless I receive 100K commitment from your bank by 3pm, I will proceed with seeking abandonment of the property ...*" (See STATE 011804). The abandonment of the Oak Hill property by the bankruptcy trustee would have cleared the way for Mahoning County to obtain the Oak Hill building on a fast track. In a hand written note, in hand writing consistent with that known to be from Anthony Cafaro Sr., dated May 23, 2006 read: "*w/ Jim Pitzer - I need loan comm. NOW!*" (See STATE 011803). One hour and 32 minutes after the Bankruptcy Trustee wrote of his intentions to abandon the property, an attorney on behalf of the Trustee wrote an e-mail on May 23, 2006 at 4:00 pm to James Dobran, an attorney with The Cafaro Company, that read: "*Mr. Dobran, We met with Jim Pitzer and received a commitment from Chase about 30 minutes ago.*" (See STATE 011800).

On the exact same day, May 23, 2006, that JPMorgan Chase Bank committed to a line of credit to the bankruptcy Trustee, Anthony Cafaro withdrew \$100,000 payable to himself out of an account whose check bears the captioned letterhead of "*The Cafaro Company*" (See STATE 037284). That \$100,000 check cleared through a personal account of Anthony Cafaro at National City Bank. Three (3) days later, on May 26, 2006, Anthony Cafaro Sr. wrote a check payable to himself from the National City Bank account for \$100,000 (See STATE 037186) and deposited that \$100,000 with JPMorgan Chase Bank to open a new savings account on May 26, 2006 (See STATE 037288); just one day after the bank formally signed the line of credit agreement with the Bankruptcy Trustee (See STATE 024387-024391).

On the very same day, May 23, 2006, Anthony Cafaro Sr. told the JPMorgan Chase Bank Senior Vice President that Cafaro needed a loan commitment now, Anthony Cafaro made an additional effort to guarantee the JPMorgan Chase loan. Anthony Cafaro Sr. sent a memorandum via fax to the State of Ohio Lieutenant Governor explaining that the bankruptcy trustee intends to give JPMorgan Chase Bank a "priming lien" position, which would place the bank ahead of all creditors, including the first mortgage lien then held by the State of Ohio Department of Development. Cafaro Sr. wrote: "*I respectfully request that the AG's office be asked not to oppose the priming lien because if they do so: ... 2) The Trustee/Bankruptcy Court will be forced to abandon the building, and it will be taken over by the Mahoning County Commissioners ...*" (See STATE 011801-011802).

The denial by Defendant Anthony M. Cafaro, Sr. of his efforts to guaranty the credit facility was done to conceal the degree to which the plaintiff and defendants in *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*, 2006CV3032, the taxpayer lawsuit, and other members of the Enterprise sought to block the move from Garland to Oakhill, allowing a Cafaro-controlled entity to continue to collect hundreds of thousands of dollars a year from Mahoning County for rent of the Garland Avenue property. The false statements aided the Enterprise in its ultimately unsuccessful efforts to block Mahoning County's move to Oakhill from the Garland site.

COUNT 26
Perjury R.C. 2921.11(A)

ANTHONY M. CAFARO, Sr.

The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that on Wednesday, June 6, 2007, Defendant

Anthony M. Cafaro, Sr. further testified as a witness in that same deposition with respect to the taxpayer suit captioned *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*, 2006CV3032, which was filed by an entity controlled by or at the direction of Anthony M. Cafaro Sr. The legal action was engineered to stop the purchase of Oakhill by Mahoning County and to prevent the move of the Department of Job Services from the Garland site owned by Ohio Valley Mall Company. Defendant, at the time of his deposition, was a high managerial officer, agent or employee of a party in *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*, 2006CV3032. During that deposition testimony, the Defendant knowingly made false statements under oath about items material to the lawsuit. There was an exchange wherein Defendant Cafaro testified that he knew little of the efforts concerning the taxpayer suit and, at one point represents at pages 160 to 161 of the transcript:

A: *"Once—the bottom line to all of this was once we made a philosophical decision, a policy decision to file the taxpayer lawsuit based upon the fact that the county had already decided they're leaving, they had announced they're leaving, and that they had—they had even announced certain dates and that they had bought this building, at that point my involvement in this was over. I was the—in effect the salesman for the Garland building. That—that phase of it's over.*

Q: *I understand.*

A: *And I also was a due diligence person, so now we're into we've made a philosophical decision, and that—at which point Jay started to follow this lawsuit, and I started to follow the structural, the roof, the lease issue.*

Q: *Fair enough.*

A: We divided it for ease so that one person wasn't handling both lawsuits.

Q: Treasury Notes, no such meeting?

A: No, I don't know anything about treasury notes." See (STATE 015882-015883).

But, Defendant Cafaro did know about treasury notes and used that knowledge in his efforts to block the move of Mahoning County to Oakhill and Defendant Cafaro did take an active role in the lawsuit. The false statements were made to conceal the existence of the defendant's contact and co-ordination of efforts to block the Mahoning County effort in acquiring the Oakhill property and the move of the Mahoning County Department of Job & Family Services from the Cafaro-controlled Garland Avenue property to Oakhill.

Detailed billing records of the law firm of Squire, Sanders & Dempsey to The Cafaro Company in 2006 indicate the law firm was engaged to answer: "*Tony's three questions*" (See STATE 000977). Internal Accounts Payable invoice explanation and contracted service reports from The Cafaro Company provided details that the three questions were:

- 1) County Treasurer's right to refuse to invest in internal debt (See STATE 000997).
- 2) County Treasurer's right to refuse to sign checks (See STATE 000997).
- 3) County Auditor's right to refuse to sign bonds issued by County (See STATE 001005).

Mahoning County's investment in internal debt is one in the same with the treasury notes which Cafaro denied knowing anything about in his deposition despite having paid a law firm to provide Cafaro with research and memoranda on the topic.

In an e-mail dated August 16, 2006 from one Squire, Sanders & Dempsey attorney to two (2) other Squires, Sanders & Dempsey attorneys, the author wrote that he had a telephone call the previous afternoon with Mahoning County Treasurer John Reardon and Reardon's Chief Deputy Lisa Antonini. Reardon had: "*a number of questions related to his investment in the County's own debt obligations and our observation of practices in this area by other counties ... Mr. Reardon confirmed with us that he was calling at the urging of Anthony Cafaro Sr.*" (See STATE 006553-006554) . On the exact same day, August 16, 2006, a Squire, Sanders & Dempsey attorney e-mailed Anthony Cafaro, James Dobran (attorney at The Cafaro Company), and Mark Beck (attorney at The Cafaro Company) with a subject line of: "Attorney communication with Reardon and Antonini" (See STATE 009489).

Anthony Cafaro Sr. sent a memorandum on August 8, 2006 to Defendants Reardon, Sciortino, and McNally attaching the County "Moody ratings" Cafaro received from Squire, Sanders & Dempsey. Cafaro wrote to his co-defendants: "*Hopefully this information will be helpful to you in your discussions with the media regarding the financial condition of Mahoning County*" (See STATE 11137-11139).

The denial by Defendant Cafaro of his knowledge of the treasury notes and his efforts in engineering the taxpayer lawsuit were done to conceal the degree to which the plaintiff and defendants in *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*, 2006CV3032 and other members of the Enterprise sought to block the move from Garland to Oakhill, allowing a Cafaro-controlled entity to continue to collect hundreds of thousands of dollars a year from Mahoning County for rent of the Garland Avenue property. The false statements aided the Enterprise in its

ultimately unsuccessful efforts to block Mahoning County's move to Oakhill from the Garland site.

COUNT 27
Perjury R.C. 2921.11(A)

ANTHONY M. CAFARO, Sr.

The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that on Wednesday, June 6, 2007, Defendant Anthony M. Cafaro, Sr. further testified as a witness in that same deposition with respect to the taxpayer suit captioned *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*, 2006CV3032, which was filed by an entity controlled by or at the direction of Anthony M. Cafaro Sr. The legal action was engineered to stop the purchase of Oakhill by Mahoning County and to prevent the move of the Department of Job Services from the Garland site owned by Ohio Valley Mall Company. Again, Defendant, at the time of his deposition, was a high managerial officer, agent or employee of a party in *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*, 2006CV3032. During that deposition testimony, the Defendant knowingly made false statements under oath about items material to the lawsuit. At page 162 relative to questioning concerning initiating litigation relative to Oakhill, there was an exchange wherein Defendant Cafaro testified as follows:

Q: "Sir, have you ever suggested to any third party that they should initiate litigation against Mahoning party [sic] relative to the Oakhill acquisition?"

A: Against Mahoning County?

Q: Yeah, or the Board of Commissioners or any county representative?

A: No, other than our own lawsuits.

Q: Other than what you did.

A: Oh, no.

Q: That's why I said any third party.

A: Okay. No I have not. (See STATE 015884)

But, Defendant Cafaro did seek to have third parties intervene to block a move by Mahoning County from the Cafaro-controlled Garland site to Oakhill. For example, through letter dated October 17, 2006, Anthony Cafaro, Sr. wrote a letter on letterhead of The Cafaro Company identifying Anthony Cafaro, Sr. as the President of The Cafaro Company to the Ohio Attorney General Jim Petro attaching two (2) memorandums that Cafaro directed his attorneys to deliver to the Charitable Law Section of the Ohio Attorney General's office. The Cafaro letter also represents that Cafaro personally delivered a copy of the second memorandum to the Ohio Lieutenant Governor on the previous Friday (See STATE 000440-000441). Both of the attached memorandums, dated October 8, 2006, were from an attorney at the law firm of Ulmer & Berne to the in-house Cafaro Company Counsel James Dobran. Both memorandums suggested litigation be initiated by third parties. The first memorandum regarded: "Attorney General's Authority to Challenge the Sale to Mahoning County as Violating the Public Trust" identified the two primary options for the Attorney General for challenging the sale to Mahoning County as: 1) file a state court action and 2) intervene in one or both of the pending state court proceedings (See STATE 000442-000446). The second memorandum regarded: "Recommended Attorney General Challenge to County's New Position Re the Nonrecourse Nature of the Debts on the Southside Property" and

suggested the Ohio Department of Development: *"may therefore wish to protect its rights by asking the Attorney General's Office to:"*

- 1) file a motion with the Bankruptcy Court ...
- 2) intervene in the appeal presently pending in Federal Court filed by McNally, Reardon, and Sciortino (U.S. District Court for the Northern District of Ohio Civil Case No. 4:06CV2092)
- 3) intervene in the taxpayer's suit filed by Ohio Valley Mall
- 4) foreclose on the property

The memorandum concluded with: *"Due to the fact that all of the pending cases are so intertwined and a ruling in any of them could very well affect each of the others, the Attorney General should pursue each of these options simultaneously"* (See STATE 000447-000451).

On August 1, 2006, just days before the taxpayer lawsuit was filed by Defendant, Ohio Valley Mall, Defendant Anthony Cafaro Sr. went to the personal residence of Sam Moffie (See STATE 036242). Cafaro asked Moffie to file a taxpayer lawsuit against Mahoning County on Cafaro's behalf. Cafaro offered to pay the costs of the attorneys for the lawsuit if Moffie was willing to put Moffie's name on the lawsuit. Cafaro named attorney Stephen Garea as an attorney he would pay for along with attorneys from Cleveland that Cafaro did not name. Moffie expressed some interest, but ultimately did not file a taxpayer lawsuit (See STATE 036238-036240). In a consensual recording by Moffie with Anthony Cafaro on April 14, 2008, Cafaro affirms that he had suggested to a third party to initiate litigation against Mahoning County:

Moffie: ... we talked about Oak Hill, about a law, a potential lawsuit.

Cafaro: Yeah, but we ended up filing that ourselves.

Moffie: Right.

Cafaro: You know, at one point we were concerned as to whether we had standing or not. But we obviously

Moffie: You ended up doing it yourself. (See STATE multi-media disk for audio).

On November 2, 2006, another taxpayer lawsuit against Mahoning County was filed, *State ex rel, Ora L. Thornton v. Mahoning County Board of Commissioners, et al.*, 2006CV4273 (See STATE 21561-21579) which mirrored the Ohio Valley Mall complaint. The attorney representing Thornton was Stephen Garea; the same attorney Cafaro suggested Moffie use. Garea has acknowledged the Ora Thornton taxpayer lawsuit is really his and that Thornton was only used as a Plaintiff's name because he asked her. While Garea cannot confirm or deny possibly having conversations with Anthony Cafaro directly about filing a taxpayer lawsuit, Garea does acknowledge having received a copy of the Ohio Valley Mall complaint from an attorney working for The Cafaro Company and using it as the basis of the Thornton taxpayer lawsuit (See STATE 36183-36185).

On August 3, 2006, Anthony Cafaro Sr. wrote a letter on letterhead of The Cafaro Company identifying Anthony Cafaro Sr. as the President of The Cafaro Company to the Treasurer of the Youngstown Board of Education enclosing information relating to the Mahoning County Commissioner's proposal for the State of Ohio to waive the delinquent taxes on the Oak Hill Renaissance building. Cafaro wrote that he believes: "it clearly is incumbent upon the Board to do its best by fighting this proposal." (See STATE 011170-011186)

In summary, the false statements were made to conceal the existence of the defendant's contact and co-ordination of efforts to seek outside influence to block the

Mahoning County effort in acquiring the Oakhill property and the move of the Mahoning County Department of Job & Family Services from the Cafaro-controlled Garland Avenue property to Oakhill. The denial by Defendant Cafaro of his efforts in connection with third party intervention were done to block the move from Garland to Oakhill, allowing a Cafaro-controlled entity to continue to collect hundreds of thousands of dollars a year from Mahoning County for rent of the Garland Avenue property. The false statements aided the Enterprise in its ultimately unsuccessful efforts to block Mahoning County's move to Oakhill from the Garland site.

COUNT 28
Perjury R.C. 2921.11(A)

JOHN A. MCNALLY, IV

The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that on Wednesday, May 16, 2007, Defendant John A. McNally testified as a witness in a deposition with respect to the taxpayer suit captioned *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*, 2006CV3032, which was filed by an entity controlled by or at the direction of Anthony M. Cafaro Sr. The legal action was engineered to stop the purchase of Oakhill by Mahoning County and to prevent the move of the Department of Job Services from the Garland site owned by Ohio Valley Mall Company. Defendant knowingly made false statements under oath about items material to the lawsuit. At page 25 relative to questioning concerning his contact with an attorney and law firm used in said taxpayer suit by the defendants in said taxpayer suit and paid by a Cafaro controlled defendant in the effort to block the move from the Cafaro-controlled Garland property to Oakhill, Defendant McNally testified as follows:

Q: *"Are you familiar with any attorneys from Ulmer & Berne? Let me be specific.*

A: *Sure.*

Q: *Do you know Tom Anastos?*

A: *I just met Mr. Anastos the day we were talking about settlement issues, I think the day Commissioner Traficanti was deposed.*

Q: *Is that the only time you've met him?*

A: *Yes.*

Q: *Okay. How about Isaac Eddington?*

A: *I think the first time I met him was the same day." (See STATE 016182).*

But, Defendant McNally did become acquainted with both attorneys before the deposition of Anthony Traficanti on February 26, 2007. The statement made by Defendant McNally in his deposition concealed his involvement and acquaintance with both of the above-referenced attorneys. Defendant McNally's statements appear designed to conceal the coordination he had with the Ohio Valley Mall in the filing of the taxpayer lawsuit. Ulmer & Berne attorney Isaac Eddington documented in an e-mail on August 5, 2006 to another Ulmer & Berne attorney that Eddington had a conversation with Defendant McNally and "McNally would also like to take a look at a draft of the complaint some time tomorrow night" (See STATE 002304). On the next day, August 6, 2006, attorney Eddington e-mails a revised draft copy of the Ohio Valley Mall taxpayer lawsuit complaint to McNally (See STATE 002305-002320), which occurred prior to the actual filing of the taxpayer lawsuit on August 7, 2006 with the Court.

McNally also tried to conceal the coordination--with attorney Eddington's assistance--with Enterprise Defendants McNally, Reardon, and Sciortino in their Pro Se

opposition of the sale of Oak Hill in the Bankruptcy Court. There are a number of e-mails during a period from August 11 to 14, 2006, with attorney Eddington documenting conversations with McNally and the sending of documents to McNally related of bankruptcy appeal (See STATE 002322-002330).

Regular communication continues to occur between McNally and attorney Eddington; for example: a fax from McNally to Eddington on September 15, 2006 (See STATE 002396-002397), a letter from Eddington to McNally on October 11, 2006 (See STATE 002416), e-mail from Eddington to McNally on October 12, 2006 (See STATE 002419), e-mail from Eddington to McNally on November 8, 2006 (See STATE 002430-002432).

Moreover, Defendant McNally also denies knowing that Ulmer & Berne attorneys assisted in preparing objections (See STATE 32232-32253) at page 123 of his deposition (See STATE 16280) and professed no knowledge of any involvement of the Ulmer & Berne attorneys or Mr. Cafaro in preparing objections. An e-mail from one Ulmer & Berne attorney to another Ulmer & Berne attorney documents that they meet with attorneys from Taft, Stettinius & Hollister on July 20, 2006; the Ulmer & Berne attorneys wrote that they believed their visit was helpful to the Taft, Stettinius & Hollister attorneys (See STATE 002264). Records from Taft, Stettinius & Hollister reveal the topic of the July 20, 2006 meeting with Ulmer & Berne to have been: "background facts and legal theories for Objection to Trustee sale" and that a subsequent telephone conversation occurred with Defendant McNally on the same day. (See STATE 003168). The sharing of Objections to the Trustee's Motion between the law firms of Taft, Stettinius & Hollister and Ulmer & Berne was also documented in an e-mail on July 24, 2006 (See STATE003401-003415). Defendant's false statements

were made to conceal the existence of the defendant's contact and co-ordination of efforts to seek outside influence to block the Mahoning County effort in acquiring the Oakhill property and the move of the Mahoning County Department of Job & Family Services from the Cafaro-controlled Garland Avenue property to Oakhill. The false statements aided the Enterprise in its ultimately unsuccessful efforts to block Mahoning County's move to Oakhill from the Garland site.

COUNT 29
Perjury R.C. 2921.11(A)

JOHN A. MCNALLY, IV

The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that on Wednesday, May 16, 2007, Defendant John A. McNally testified as a witness in a deposition with respect to the taxpayer suit captioned *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*, 2006CV3032, which was filed by an entity controlled by or at the direction of Anthony M. Cafaro Sr. The legal action was engineered to stop the purchase of Oakhill by Mahoning County and to prevent the move of the Department of Job Services from the Garland site owned by Ohio Valley Mall Company. Defendant knowingly made false statements under oath about items material to the lawsuit. At page 52 relative to questioning concerning his knowledge of the Northwoods system at the Mahoning County Jobs and Family Service location at Garland, Defendant McNally testified as follows:

Q: "And do—you know if Mr. Zachariah then ever met with Mr. Cafaro and discussed the Northwoods...system?"

A: No

Q: And did Mr. Cafaro ever mention Northwood system to you?

A: No." (See STATE016209).

But, Defendant McNally did have knowledge of the Northwoods system and the attempt of the Enterprise participants to use it in an effort to thwart the move to Oakhill from the Cafaro-controlled Garland site. Both Defendant Zachariah and Defendant McNally were at a meeting with Defendant Anthony M. Cafaro, Sr. on May 17, 2006 when the Northwoods system was expressly discussed. (See STATE000132). On May 23, 2006, Defendant Zachariah e-mailed Anthony Cafaro Sr. and wrote: "I am working on the questions. After we get our questions together we probably should meet with Commissioner McNally to further strategize the next step" (See STATE 000133-000134). Within the e-mail Defendant Zachariah sent to Cafaro Sr. on May 23, 2006, Zachariah attached text of an e-mail he sent to Defendant McNally which wrote about: "Northwoods project transfer and additional re-work will probably run into \$500,000 or so for reconfiguration, installation and set up" (See STATE 000133-000134). A five (5) page list of questions obtained from The Cafaro Company titled: "Questions to be asked of John Zachariah" contained a hand written note which read: "Questions given to McN @ 6-15-06 mtg - he'll decide which to use & prob. submit to Zach & cc to Comm next wk - & cc to media one day later" (See STATE 000161-000165). The five (5) pages of questions included several questions about the costs of moving the Northwoods project. In a letter dated July 6, 2006, on letterhead of the Board of Mahoning County Commissioners, Defendant John McNally, IV in his capacity as a County Commissioner wrote a four (4) page letter to Defendant Zachariah and copied fellow County Commissioner Board Members submitting a list of questions (See STATE 000180-000183). Many of the questions in the letter from McNally, IV track the same questions

that were given to McNally on June 16, 2006 to include questions about the relocation costs of the Northwoods project. In a letter dated July 18, 2006, Defendant Zachariah wrote a seven (7) page letter to the Mahoning County Administrator and copied the County Commissioners stating he was writing in response to McNally's letter from July 6, 2006. Zachariah mentions the costs of moving the Northwoods project several times in his letter and even suggests that if the move of Job & Family Services is postponed beyond a year, all active client files should be digitized in the Northwoods application making the move less cumbersome. (See STATE 000189-000192). The statements made by Defendant McNally in his deposition concealed his involvement with efforts to block the move of Mahoning County to Oakhill. The false statements were further evidence of Defendant's participation in efforts to block the Mahoning County effort in acquiring the Oakhill property and the move of the Mahoning County Department of Job & Family Services from the Cafaro-controlled Garland Avenue property to Oakhill. The false statements aided the Enterprise in its ultimately unsuccessful efforts to block Mahoning County's move to Oakhill from the Garland site.

COUNT 30
Perjury R.C. 2921.11(A)

JOHN A. MCNALLY, IV

The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that on Wednesday, May 16, 2007, Defendant John A. McNally testified as a witness in a deposition with respect to the taxpayer suit captioned *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*, 2006CV3032, which was filed by an entity controlled by or at the direction of Anthony M. Cafaro Sr. The legal action appeared to be engineered to stop

the purchase of Oakhill by Mahoning County and to prevent the move of the Department of Job Services from the Garland site owned by Ohio Valley Mall Company. Defendant knowingly made false statements under oath about items material to the lawsuit. At pages 68-69 relative to questioning concerning his discussion with Defendant Anthony M. Cafaro, Sr. at meetings with him, Defendant McNally testified as follows:

Q: "...did you ever, you know, talk to Mr. Cafaro about helping him to keep the lease at Garland in those meetings?"

A: No." (See STATE 016225-016226).

But, Defendant McNally did talk to Mr. Cafaro relative to keeping Mahoning County at the Cafaro-controlled Garland site. In meetings of August 8, 2005, November 16, 2005 and February 13, 2006, helping Cafaro keep Mahoning County at Garland was discussed. (See STATE 000034, 000046, 000049-000050). Additionally, there is information that suggests a "strategize" discussion with then Director Zachariah of the Mahoning County Department of Jobs and Family Services purporting to set up a meeting for February 13, 2006 with Defendant McNally and Defendant Cafaro. (See STATE 013033). The statements made by Defendant McNally in his deposition concealed his involvement with efforts to block the move of Mahoning County to Oakhill and is further evidence of Defendant's participation in efforts to block the Mahoning County effort in acquiring the Oakhill property and the move of the Mahoning County Department of Job & Family Services from the Cafaro-controlled Garland Avenue property to Oakhill. The false statements aided the Enterprise in its ultimately unsuccessful efforts to block Mahoning County's move to Oakhill from the Garland site.

COUNT 38
Bribery of McNally R.C. 2921.02(A)

OHIO VALLEY MALL COMPANY, AN OHIO LIMITED PARTNERSHIP &
THE MARION PLAZA, INC.

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing period of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that the Defendants, Ohio Valley Mall Company, An Ohio Limited Partnership & The Marion Plaza, Inc. have been charged in the indictment with unlawfully during said time period set forth in this count of the common indictment did, with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, promise, offer, or give any valuable thing or valuable benefit, in violation of §2921.02(A) of the Ohio Revised Code, a Felony of the Third Degree.

Specifically, in connection with his participation in an official proceeding, litigation in the taxpayer suit, and in being subpoenaed and sworn as a witness in an official proceeding, the Defendants Ohio Valley Mall Company, An Ohio Limited Partnership & The Marion Plaza, Inc. by and through Defendant Anthony M. Cafaro, Sr., on behalf of himself and as a high managerial officer, agent or employee of The Cafaro Company, Ohio Valley Mall Company and The Marion Plaza, Inc., did knowingly with purpose to corrupt a public servant or party official, or improperly to influence him with

respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, promise, offer, or give any valuable thing or valuable benefit to Defendant McNally by or through James Dobran, an attorney representing Cafaro interests. The valuable thing or benefit: legal services resulting in a billing for said legal services by outside counsel and the payment of legal fees incurred in connection with *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.* During the dates set forth in the indictment, there were 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Squire, Sanders & Dempsey in the amount of \$482,499.81 with the underlying general ledger accounting entry charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00945-00951, 00956-01013, 01032-01073, and 0190-01151). There were also 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Ulmer & Berne in the amount of \$876,139.29 with the underlying general ledger accounting entry charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00381-00391, 00417-00439, 00481-00511, 00521-00535, 00538-00554, 00557-00567, 00594-00613, 00616-00635, and 01329-01370). An e-mail dated July 19, 2006 from one Ulmer & Berne attorney to three (3) other Ulmer & Berne attorneys reads: "*John McNally called me this morning to say that he, the Auditor, and Waterhouse are struggling with the issue of whether - - as an ethical matter - - John's and the Auditor's legal fees can be paid by a third party. I may run this by Isaac.*" (See STATE 002262). As stated above, the receipt of free legal services improperly influenced the Defendant McNally manifesting in false testimony under oath in an official proceeding, the deposition.

COUNT 39
Bribery of Reardon R.C. 2921.02(A)

OHIO VALLEY MALL COMPANY, AN OHIO LIMITED PARTNERSHIP &
THE MARION PLAZA, INC.

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with political campaign contributions from Defendant Anthony Cafaro Sr. through the filing period of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that the Defendants, Ohio Valley Mall Company, An Ohio Limited Partnership & The Marion Plaza, Inc. have been charged in the indictment with unlawfully during said time period set forth in this count of the common indictment did, with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, promise, offer, or give any valuable thing or valuable benefit, in violation of §2921.02(A) of the Ohio Revised Code, a Felony of the Third Degree.

Specifically, in connection with his participation in an official proceeding, litigation in the taxpayer suit, and in being subpoenaed and sworn as a witness in an official proceeding, the Defendants, Ohio Valley Mall Company, An Ohio Limited Partnership & The Marion Plaza, Inc., by and through Defendant Anthony M. Cafaro, Sr., on behalf of himself and as a high managerial officer, agent or employee of The Cafaro Company, Ohio Valley Mall Company and The Marion Plaza, Inc., did knowingly with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, whether before or after he is elected,

appointed, qualified, employed, summoned, or sworn, promise, offer, or give any valuable thing or valuable benefit to Defendant Reardon by or through James Dobran, an attorney representing Cafaro interests. The valuable thing or benefit: legal services resulting in a billing for said legal services by outside counsel and the payment of legal fees incurred in connection with *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.* During the dates set forth in the indictment, there were 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Squire, Sanders & Dempsey in the amount of \$482,499.81 with the underlying general ledger accounting entry charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00945-00951, 00956-01013, 01032-01073, and 0190-01151). There were also 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Ulmer & Berne in the amount of \$876,139.29 with the underlying general ledger accounting entry charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00381-00391, 00417-00439, 00481-00511, 00521-00535, 00538-00554, 00557-00567, 00594-00613, 00616-00635, and 01329-01370). As stated above, the receipt of free legal services improperly influenced the Defendant Reardon manifesting in false testimony under oath in an official proceeding, the deposition.

COUNT 40
Bribery of Sciortino R.C. 2921.02(A)

OHIO VALLEY MALL COMPANY, AN OHIO LIMITED PARTNERSHIP &
THE MARION PLAZA, INC.

The time period, as specified in the indictment relative to this offense begins on or about-September 14, 2005 and continues through December 12, 2008 and coincides with the appointment of Defendant Sciortino as Mahoning County Auditor through the

filing of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that the Defendants, Ohio Valley Mall Company, An Ohio Limited Partnership & The Marion Plaza, Inc. have been charged in the indictment with unlawfully during said time period set forth in this count of the common indictment did, with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, promise, offer, or give any valuable thing or valuable benefit, in violation of §2921.02(A) of the Ohio Revised Code, a Felony of the Third Degree.

Specifically, in connection with participation in an official proceeding, litigation in the taxpayer suit, and in being subpoenaed and sworn as a witness in an official proceeding, the Defendants, Ohio Valley Mall Company, An Ohio Limited Partnership & The Marion Plaza, Inc., by and through Defendant Anthony M. Cafaro, Sr., on behalf of himself and as a high managerial officer, agent or employee of The Cafaro Company, Ohio Valley Mall Company and The Marion Plaza, Inc., did knowingly with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, promise, offer, or give any valuable thing or valuable benefit to Defendant Sciortino by or through James Dobran, an attorney representing Cafaro interests. The valuable thing or benefit: legal services resulting in a billing for said legal services by outside counsel and the payment of legal fees incurred in connection with *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.* During the dates set forth in the indictment, there were 15 checks

bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Squire, Sanders & Dempsey in the amount of \$482,499.81 with the underlying general ledger accounting entry charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00945-00951, 00956-01013, 01032-01073, and 0190-01151). There were also 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Ulmer & Berne in the amount of \$876,139.29 with the underlying general ledger accounting entry charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00381-00391, 00417-00439, 00481-00511, 00521-00535, 00538-00554, 00557-00567, 00594-00613, 00616-00635, and 01329-01370). An e-mail dated July 19, 2006 from one Ulmer & Berne attorney to three (3) other Ulmer & Berne attorneys reads: *"John McNally called me this morning to say that he, the Auditor, and Waterhouse are struggling with the issue of whether - - as an ethical matter - - John's and the Auditor's legal fees can be paid by a third party. I may run this by Isaac."* (See STATE 002262). As stated above, the receipt of free legal services improperly influenced the Defendant Sciortino manifesting in false testimony under oath in an official proceeding, the deposition.

COUNT 41
Bribery of McNally R.C. 2921.02(A)

THE CAFARO COMPANY

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other

counts contained herein and further submits that the Defendant, The Cafaro Company has been charged in the indictment with unlawfully during said time period set forth in this count of the common indictment did, with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, promise, offer, or give any valuable thing or valuable benefit, in violation of §2921.02(A) of the Ohio Revised Code, a Felony of the Third Degree.

Specifically, in connection with participation in an official proceeding, litigation in the taxpayer suit, and in being subpoenaed and sworn as a witness in an official proceeding, the Defendant, The Cafaro Company, by and through Defendant Anthony M. Cafaro, Sr., on behalf of himself and as a high managerial officer, agent or employee of The Cafaro Company, Ohio Valley Mall Company and The Marion Plaza, Inc., did knowingly with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, promise, offer, or give any valuable thing or valuable benefit to Defendant McNally by or through James Dobran, an attorney representing Cafaro interests. The valuable thing or benefit: legal services resulting in a billing for said legal services by outside counsel and the payment of legal fees incurred in connection with *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.* During the dates set forth in the indictment, there were 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Squire, Sanders & Dempsey in the amount of \$482,499.81 with the underlying general ledger accounting entry charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00945-00951, 00956-01013,

01032-01073, and 0190-01151). There were also 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Ulmer & Berne in the amount of \$876,139.29 with the underlying general ledger accounting entry charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00381-00391, 00417-00439, 00481-00511, 00521-00535, 00538-00554, 00557-00567, 00594-00613, 00616-00635, and 01329-01370). An e-mail dated July 19, 2006 from one Ulmer & Berne attorney to three (3) other Ulmer & Berne attorneys reads: "*John McNally called me this morning to say that he, the Auditor, and Waterhouse are struggling with the issue of whether - - as an ethical matter - - John's and the Auditor's legal fees can be paid by a third party. I may run this by Isaac.*" (See STATE 002262). As stated above, the receipt of free legal services improperly influenced the Defendant McNally manifesting in false testimony under oath in an official proceeding, the deposition.

COUNT 42
Bribery of Reardon R.C. 2921.02(A)

THE CAFARO COMPANY

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with political campaign contributions from Defendant Anthony Cafaro Sr. through the filing period of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that the Defendant, The Cafaro Company has been charged in the indictment with unlawfully during said time period set forth in this count of the common indictment did, with purpose to corrupt a public servant or party official, or

improperly to influence him with respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, promise, offer, or give any valuable thing or valuable benefit, in violation of §2921.02(A) of the Ohio Revised Code, a Felony of the Third Degree.

Specifically, in connection with participation in an official proceeding, litigation in the taxpayer suit, and in being subpoenaed and sworn as a witness in an official proceeding, the Defendant, The Cafaro Company, by and through Defendant Anthony M. Cafaro, Sr., on behalf of himself and as a high managerial officer, agent or employee of The Cafaro Company, Ohio Valley Mall Company and The Marion Plaza, Inc., did knowingly with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, promise, offer, or give any valuable thing or valuable benefit to Defendant Reardon by or through James Dobran, an attorney representing Cafaro interests. The valuable thing or benefit: legal services resulting in a billing for said legal services by outside counsel and the payment of legal fees incurred in connection with *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.* During the dates set forth in the indictment, there were 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Squire, Sanders & Dempsey in the amount of \$482,499.81 with the underlying general ledger accounting entry charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00945-00951, 00956-01013, 01032-01073, and 0190-01151). There were also 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Ulmer & Berne in the amount of \$876,139.29 with the underlying general ledger accounting entry charging

the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00381-00391, 00417-00439, 00481-00511, 00521-00535, 00538-00554, 00557-00567, 00594-00613, 00616-00635, and 01329-01370). An e-mail dated July 19, 2006 from one Ulmer & Berne attorney to three (3) other Ulmer & Berne attorneys reads: "John McNally called me this morning to say that he, the Auditor, and Waterhouse are struggling with the issue of whether - - as an ethical matter - - John's and the Auditor's legal fees can be paid by a third party. I may run this by Isaac." (See STATE 002262). As stated above, the receipt of free legal services improperly influenced the Defendant Reardon manifesting in false testimony under oath in an official proceeding, the deposition.

COUNT 43
Bribery of Sciortino R.C. 2921.02(A)

THE CAFARO COMPANY

The time period, as specified in the indictment relative to this offense begins on or about September 14, 2005 and continues through December 12, 2008 and coincides with the appointment of Defendant Sciortino as Mahoning County Auditor through the filing period of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that the Defendant, The Cafaro Company has been charged in the indictment with unlawfully during said time period set forth in this count of the common indictment did, with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, promise, offer,

or give any valuable thing or valuable benefit, in violation of §2921.02(A) of the Ohio Revised Code, a Felony of the Third Degree.

Specifically, in connection with participation in an official proceeding, litigation in the taxpayer suit, and in being subpoenaed and sworn as a witness in an official proceeding, the Defendant, The Cafaro Company, by and through Defendant Anthony M. Cafaro, Sr., on behalf of himself and as a high managerial officer, agent or employee of The Cafaro Company, Ohio Valley Mall Company and The Marion Plaza, Inc., did knowingly with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, promise, offer, or give any valuable thing or valuable benefit to Defendant Sciortino by or through James Dobran, an attorney representing Cafaro interests. The valuable thing or benefit: legal services resulting in a billing for said legal services by outside counsel and the payment of legal fees incurred in connection with *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.* During the dates set forth in the indictment, there were 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Squire, Sanders & Dempsey in the amount of \$482,499.81 with the underlying general ledger accounting entry charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00945-00951, 00956-01013, 01032-01073, and 0190-01151). There were also 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Ulmer & Berne in the amount of \$876,139.29 with the underlying general ledger accounting entry charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00381-00391, 00417-00439, 00481-00511, 00521-00535, 00538-00554, 00557-

00567, 00594-00613, 00616-00635, and 01329-01370). An e-mail dated July 19, 2006 from one Ulmer & Berne attorney to three (3) other Ulmer & Berne attorneys reads: *"John McNally called me this morning to say that he, the Auditor, and Waterhouse are struggling with the issue of whether - - as an ethical matter - - John's and the Auditor's legal fees can be paid by a third party. I may run this by Isaac."* (See STATE 002262). As stated above, the receipt of free legal services improperly influenced the Defendant Sciortino manifesting in false testimony under oath in an official proceeding, the deposition.

COUNT 44
Bribery of McNally R.C. 2921.02(A)

ANTHONY M. CAFARO, Sr.

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing period of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that the Defendant, Anthony M. Cafaro, Sr. has been charged in the indictment with unlawfully during said time period set forth in this count of the common indictment did, with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, promise, offer, or give any valuable thing or valuable benefit, in violation of §2921.02(A) of the Ohio Revised Code, a Felony of the Third Degree.

Specifically, in connection with participation in an official proceeding, litigation in the taxpayer suit, and in being subpoenaed and sworn as a witness in an official proceeding, the Defendant Anthony M. Cafaro, Sr., on behalf of himself and as a high managerial officer, agent or employee of The Cafaro Company, Ohio Valley Mall Company and The Marion Plaza, Inc., did knowingly with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, promise, offer, or give any valuable thing or valuable benefit to Defendant McNally by or through James Dobran, an attorney representing Cafaro interests. The valuable thing or benefit: legal services resulting in a billing for said legal services by outside counsel and the payment of legal fees incurred in-connection with *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.* During the dates set forth in the indictment, there were 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Squire, Sanders & Dempsey in the amount of \$482,499.81 with the underlying general ledger accounting entry charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00945-00951, 00956-01013, 01032-01073, and 0190-01151). There were also 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Ulmer & Berne in the amount of \$876,139.29 with the underlying general ledger accounting entry charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00381-00391, 00417-00439, 00481-00511, 00521-00535, 00538-00554, 00557-00567, 00594-00613, 00616-00635, and 01329-01370). An e-mail dated July 19, 2006 from one Ulmer & Berne attorney to three (3) other Ulmer & Berne attorneys reads: "John McNally called me this morning to say

that he, the Auditor, and Waterhouse are struggling with the issue of whether - - as an ethical matter - - John's and the Auditor's legal fees can be paid by a third party. I may run this by Isaac." (See STATE 002262). As stated above, the receipt of free legal services improperly influenced the Defendant McNally manifesting in false testimony under oath in an official proceeding, the deposition.

COUNT 45
Bribery of Reardon R.C. 2921.02(A)

ANTHONY M. CAFARO, Sr.

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with political campaign contributions from Defendant Anthony Cafaro Sr. through the filing period of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that the Defendant, Anthony M. Cafaro, Sr. has been charged in the indictment with unlawfully during said time period set forth in this count of the common indictment did, with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, promise, offer, or give any valuable thing or valuable benefit, in violation of §2921.02(A) of the Ohio Revised Code, a Felony of the Third Degree.

Specifically, in connection with participation in an official proceeding, litigation in the taxpayer suit, and in being subpoenaed and sworn as a witness in an official proceeding, the Defendant Anthony M. Cafaro, Sr., on behalf of himself and as a high managerial officer, agent or employee of The Cafaro Company, Ohio Valley Mall

Company and The Marion Plaza, Inc., did knowingly with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, promise, offer, or give any valuable thing or valuable benefit to Defendant Reardon by or through James Dobran, an attorney representing Cafaro interests. The valuable thing or benefit: legal services resulting in a billing for said legal services by outside counsel and the payment of legal fees incurred in connection with *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.* During the dates set forth in the indictment, there were 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Squire, Sanders & Dempsey in the amount of \$482,499.81 with the underlying general ledger accounting entry charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00945-00951, 00956-01013, 01032-01073, and 0190-01151). There were also 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Ulmer & Berne in the amount of \$876,139.29 with the underlying general ledger accounting entry charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00381-00391, 00417-00439, 00481-00511, 00521-00535, 00538-00554, 00557-00567, 00594-00613, 00616-00635, and 01329-01370). As stated above, the receipt of free legal services improperly influenced the Defendant Reardon manifesting in false testimony under oath in an official proceeding, the deposition.

COUNT 46
Bribery of Sciortino R.C. 2921.02(A)

ANTHONY M. CAFARO, Sr.

The time period, as specified in the indictment relative to this offense begins on or about September 14, 2005 and continues through December 12, 2008 and coincides with the appointment of Defendant Sciortino as Mahoning County Auditor through the filing of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that the Defendant, Anthony M. Cafaro, Sr. has been charged in the indictment with unlawfully during said time period set forth in this count of the common indictment did, with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, promise, offer, or give any valuable thing or valuable benefit, in violation of §2921.02(A) of the Ohio Revised Code, a Felony of the Third Degree.

Specifically, in connection with participation in an official proceeding, litigation in the taxpayer suit, and in being subpoenaed and sworn as a witness in an official proceeding, the Defendant Anthony M. Cafaro, Sr., on behalf of himself and as a high managerial officer, agent or employee of The Cafaro Company, Ohio Valley Mall Company and The Marion Plaza, Inc., did knowingly with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, promise, offer, or give any valuable thing or valuable benefit to Defendant Sciortino by or through James Dobran, an attorney representing Cafaro interests. The valuable thing or benefit: legal services resulting in a billing for said legal services by outside counsel and the payment of legal fees incurred in connection with *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et*

al. During the dates set forth in the indictment, there were 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Squire, Sanders & Dempsey in the amount of \$482,499.81 with the underlying general ledger accounting entry charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00945-00951, 00956-01013, 01032-01073, and 0190-01151). There were also 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Ulmer & Berne in the amount of \$876,139.29 with the underlying general ledger accounting entry charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00381-00391, 00417-00439, 00481-00511, 00521-00535, 00538-00554, 00557-00567, 00594-00613, 00616-00635, and 01329-01370). An e-mail dated July 19, 2006 from one Ulmer & Berne attorney to three (3) other Ulmer & Berne attorneys reads: "*John McNally called me this morning to say that he, the Auditor, and Waterhouse are struggling with the issue of whether - - as an ethical matter - - John's and the Auditor's legal fees can be paid by a third party. I may run this by Isaac.*" (See STATE 002262). As stated above, the receipt of free legal services improperly influenced the Defendant Sciortino manifesting in false testimony under oath in an official proceeding, the deposition.

COUNT 47
Bribery of Zachariah R.C. 2921.02(C)

OHIO VALLEY MALL COMPANY, AN OHIO LIMITED PARTNERSHIP &
THE MARION PLAZA, INC.

The time period, as specified in the indictment relative to this offense begins on or about July 5, 2005 and continues through December 12, 2008 and coincides with the start of Zachariah's employment as the Director of Mahoning County's Department of Job & Family Services through the filing period of a campaign finance report of

Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that the Defendants Ohio Valley Mall Company, an Ohio Limited Partnership & The Marion Plaza, Inc, by and through Anthony M. Cafaro, Sr., on behalf of himself and as a high managerial officer, agent or employee of The Cafaro Company, Ohio Valley Mall Company and The Marion Plaza, Inc., have been charged in the indictment with violation of §2921.02(C) of the Ohio Revised Code, a Felony of the Third Degree.

Specifically, on or about the dates enumerated in the indictment, and in conjunction with his testimony in his April 5, 2007 deposition, Defendant Zachariah, in connection with his being subpoenaed and sworn as a witness in an official proceeding, promised, offered or gave Defendant Zachariah or another person, by or through James Dobran, an attorney representing Cafaro interests, a valuable thing or benefit with a purpose to corrupt a witness or improperly influence him: i.e., legal services resulting in a billing for said legal services by outside counsel and the payment of legal fees incurred in connection with *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*

On four (4) separate occasions from May 5, 2007 through August 17, 2007, payments were made from a checking account with the checks bearing the captioned letterhead of "The Cafaro Company" payable to the outside law firm representing Zachariah. The general ledger accounting records support that the legal fees were charged to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 01245-01262, 23718, 23741, 23761, and 23847). On at least one occasion, James Dobran, an attorney representing Cafaro interests, copied Anthony Cafaro Sr. in an e-mail, dated June 4, 2007, directing the preparation of a check to Zachariah's counsel.

(See STATE 01258). The legal fees of approximately \$7,500 were incurred prior to his deposition testimony and exceeded \$20,000 prior to the civil trial in July 2007.

The legal fees were incurred and paid in connection with Defendant Zachariah's deposition testimony and potential trial testimony in *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*, Case No. 06cv3032. (See STATE000272; STATE000515-000516; STATE000536-000537; STATE000555-000556; STATE000614-000615; STATE002672; STATE002682-002686; STATE002702-002711).

As stated above, the receipt of free legal services and/or the fees to which said services relate improperly influenced the Defendant Zachariah manifesting in false testimony under oath in an official proceeding, the deposition.

COUNT 48
Bribery of Zachariah R.C. 2921.02(C)

THE CAFARO COMPANY

The time period, as specified in the indictment relative to this offense begins on or about July 5, 2005 and continues through December 12, 2008 and coincides with the start of Zachariah's employment as the Director of Mahoning County's Department of Job & Family Services through the filing period of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that the Defendant The Cafaro Company, by and through Anthony M. Cafaro, Sr., on behalf of himself and as a high managerial officer, agent or employee of The Cafaro Company, Ohio Valley Mall Company and The Marion Plaza, Inc., have been charged in the indictment with violation of §2921.02(C) of the Ohio Revised Code, a Felony of the Third Degree.

Specifically, on or about the dates enumerated in the indictment, and in conjunction with his testimony in his April 5, 2007 deposition, Defendant Zachariah, in connection with his being subpoenaed and sworn as a witness in an official proceeding, Defendant The Cafaro Company promised, offered or gave Defendant Zachariah or another person, by or through James Dobran, an attorney representing Cafaro interests, a valuable thing or benefit with a purpose to corrupt a witness or improperly influence him: i.e., legal services resulting in a billing for said legal services by outside counsel and the payment of legal fees incurred in connection with *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*

On four (4) separate occasions from May 5, 2007 through August 17, 2007, payments were made from a checking account with the checks bearing the captioned letterhead of "The Cafaro Company" payable to the outside law firm representing Zachariah. The general ledger accounting records support that the legal fees were charged to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 01245-01262, 23718, 23741, 23761, and 23847). On at least one occasion, James Dobran, an attorney representing Cafaro interests, copied Anthony Cafaro Sr. in an e-mail, dated June 4, 2007, directing the preparation of a check to Zachariah's counsel. (See STATE 01258). The legal fees of approximately \$7,500 were incurred prior to his deposition testimony and exceeded \$20,000 prior to the civil trial in July 2007.

The legal fees were incurred and paid in connection with Defendant Zachariah's deposition testimony and potential trial testimony in *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*, Case No. 06cv3032. (See STATE000272; STATE000515-000516; STATE000536-000537; STATE000555-

000556; STATE000614-000615; STATE002672; STATE002682-002686;
STATE002702-002711).

As stated above, the receipt of free legal services and/or the fees to which said services relate improperly influenced the Defendant Zachariah manifesting in false testimony under oath in an official proceeding, the deposition.

COUNT 49
Bribery of Zachariah R.C. 2921.02(C)

ANTHONY M. CAFARO, Sr.

The time period, as specified in the indictment relative to this offense begins on or about July 5, 2005 and continues through December 12, 2008 and coincides with the start of Zachariah's employment as the Director of Mahoning County's Department of Job & Family Services through the filing of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that the Defendant Anthony M. Cafaro, Sr., on behalf of himself and as a high managerial officer, agent or employee of The Cafaro Company, Ohio Valley Mall Company and The Marion Plaza, Inc., have been charged in the indictment with violation of §2921.02(C) of the Ohio Revised Code, a Felony of the Third Degree.

Specifically, on or about the dates enumerated in the indictment, and in conjunction with his testimony in his April 5, 2007 deposition, Defendant Zachariah, in connection with his being subpoenaed and sworn as a witness in an official proceeding, Defendant Anthony M. Cafaro, Sr. promised, offered or gave Defendant Zachariah or another person, by or through James Dobran, an attorney representing Cafaro interests, a valuable thing or benefit with a purpose to corrupt a witness or improperly influence

him: i.e., legal services resulting in a billing for said legal services by outside counsel and the payment of legal fees incurred in connection with *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*

On four (4) separate occasions from May 5, 2007 through August 17, 2007, payments were made from a checking account with the checks bearing the captioned letterhead of "The Cafaro Company" payable to the outside law firm representing Zachariah. The general ledger accounting records support that the legal fees were charged to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 01245-01262, 23718, 23741, 23761, and 23847). On at least one occasion, James Dobran, an attorney representing Cafaro interests, copied Anthony Cafaro Sr. in an e-mail, dated June 4, 2007, directing the preparation of a check to Zachariah's counsel. (See STATE 01258). The legal fees of approximately \$7,500 were incurred prior to his deposition testimony and exceeded \$20,000 prior to the civil trial in July 2007.

The legal fees were incurred and paid in connection with Defendant Zachariah's deposition testimony and potential trial testimony in *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*, Case No. 06cv3032. (See STATE000272; STATE000515-000516; STATE000536-000537; STATE000555-000556; STATE000614-000615; STATE002672; STATE002682-002686; STATE002702-002711)

As stated above, the receipt of free legal services and/or the fees to which said services relate improperly influenced the Defendant Zachariah manifesting in false testimony under oath in an official proceeding, the deposition.

COUNT 50
Bribery 2921.02(B)

JOHN A. McNALLY, IV

The time period, as specified in the indictment relative to this offense begins on or about February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing period of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that on or about the dates set forth in the indictment, and in conjunction with his testimony for his May 16, 2007 deposition testimony, the Defendant John A. McNally, IV, before or after he was elected, appointed, qualified, employed, summoned, or sworn as a public servant or party official, knowingly solicited or accepted for himself or another person any valuable thing or valuable benefit to corrupt or improperly him or another public servant or party official with respect to the discharge of his or the other public servant's or party official's duty. Specifically, in connection with his being subpoenaed and sworn as a witness in an official proceeding, the Defendant knowingly solicited and/or accepted for himself or another person, by or through James Dobran, an attorney representing Cafaro interests, a valuable thing or benefit: legal services resulting in a billing for said legal services by outside counsel and the payment of legal fees incurred in connection with *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.* During the dates set forth in the indictment, there were 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Squire, Sanders & Dempsey in the amount of \$482,499.81 with the underlying general ledger accounting entry

charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00945-00951, 00956-01013, 01032-01073, and 0190-01151). There were also 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to law firm of Ulmer & Berne in the amount of \$876,139.29 with the underlying general ledger accounting entry charging the legal fees to the Garland Plaza, an affiliated entity of the Cafaro Company. (See STATE 00381-00391, 00417-00439, 00481-00511, 00521-00535, 00538-00554, 00557-00567, 00594-00613, 00616-00635, and 01329-01370). An e-mail dated July 19, 2006 from one Ulmer & Berne attorney to three (3) other Ulmer & Berne attorneys reads: *"John McNally called me this morning to say that he, the Auditor, and Waterhouse are struggling with the issue of whether - - as an ethical matter - - John's and the Auditor's legal fees can be paid by a third party. I may run this by Isaac."* (See STATE 002262). As stated above, the receipt of free legal services improperly influenced the Defendant manifesting in false testimony under oath in an official proceeding, the deposition.

COUNT 54
Money Laundering R.C. 1315.55(A)(1)

THE CAFARO COMPANY

The time period, as specified in the indictment relative to this offense begins on or about January 1, 2008 and continues through December 31, 2008 and coincides with the 2008 campaign of Martin Yavorcik for Mahoning County Prosecutor. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that during the time frame set forth in the indictment, Defendant, The Cafaro Company, by and through Defendant Anthony M. Cafaro, conducted transactions on behalf of the Enterprise identified in the common indictment and as

that term is defined in §2923.31(c) of the Ohio Revised Code (hereafter sometimes referred to as "Enterprise"), knowing the property involved was the proceeds of some form of unlawful activity with the purpose of committing or furthering the commission of some form of unlawful activity with a purpose of committing or furthering the commission of corrupt activity, in violation of R.C. § 1315.55(A)(1).

COUNT 55
Money Laundering R.C. 1315.55(A)(1)

ANTHONY M. CAFARO, Sr.

The time period, as specified in the indictment relative to this offense begins on or about January 1, 2008 and continues through December 31, 2008 and coincides with the 2008 campaign of Martin Yavorcik for Mahoning County Prosecutor. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that during the time frame set forth in the indictment, Defendant, Anthony M. Cafaro, Sr. conducted transactions on behalf of the Enterprise identified in the common indictment and as that term is defined in §2923.31(c) of the Ohio Revised Code (hereafter sometimes referred to as "Enterprise"), knowing the property involved was the proceeds of some form of unlawful activity with the purpose of committing or furthering the commission of some form of unlawful activity with a purpose of committing or furthering the commission of corrupt activity, in violation of R.C. § 1315.55(A)(1). On or about January 16, 2008 Lisa Antonini asked Anthony M. Cafaro Sr. for a \$3,000 campaign contribution for her race for Mahoning County Treasurer. Cafaro gave Antonini \$200 by check (See STATE 028714), at the same time, Cafaro gave \$3,000 in cash to Antonini and told her that he did not want to appear as a large donor on her campaign finance report with the on-going Oak Hill matter (See STATE 036092-

036093). Antonini gave \$2,500 cash to a mutual friend of hers and Cafaro; that individual in turn wrote Antonini a check for \$2,500 that was deposited into Antonini's campaign (See STATE 028714). Cafaro asked Antonini in her capacity as Mahoning County Party Chairwoman for her to support Martin Yavorcik for Mahoning County Prosecutor even though Yavorcik was running as an independent candidate. Antonini said Anthony Cafaro's intentions of backing Yavorcik was to pay back current County Prosecutor Paul Gains and get even with him over the Oak Hill case. (See STATE 036137-036138).

COUNT 56
Money Laundering R.C. 1315.55(A)(2)

THE CAFARO COMPANY

The time period, as specified in the indictment relative to this offense begins on or about January 1, 2008 and continues through December 31, 2008 and coincides with the 2008 campaign of Martin Yavorcik for Mahoning County Prosecutor. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that during the time frame set forth in the indictment, Defendant, The Cafaro Company, by and through Defendant Anthony M. Cafaro, conducted transactions on behalf of the Enterprise identified in the common indictment and as that term is defined in §2923.31(c) of the Ohio Revised Code (hereafter sometimes referred to as "Enterprise"), knowing the property involved was the proceeds of some form of unlawful activity with the intent to conceal or disguise the nature, location, source, ownership, or control of the property or the intent to avoid a transaction reporting requirement under §1315.53 of the Revised Code or federal law, in violation of R.C. §1315.55(A)(2).

COUNT 57
Money Laundering R.C. 1315.55(A)(2)

ANTHONY M. CAFARO, Sr.

The time period, as specified in the indictment relative to this offense begins on or about January 1, 2008 and continues through December 31, 2008 and coincides with the 2008 campaign of Martin Yavorcik for Mahoning County Prosecutor. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that during the time frame set forth in the indictment, Defendant, The Cafaro Company conducted transactions on behalf of the Enterprise identified in the common indictment and as that term is defined in §2923.31(c) of the Ohio Revised Code (hereafter sometimes referred to as "Enterprise"), knowing the property involved was the proceeds of some form of unlawful activity with the intent to conceal or disguise the nature, location, source, ownership, or control of the property or the intent to avoid a transaction reporting requirement under §1315.53 of the Revised Code or federal law, in violation of R.C. §1315.55(A)(2). On or about January 16, 2008 Lisa Antonini asked Anthony M. Cafaro Sr. for a \$3,000 campaign contribution for her race for Mahoning County Treasurer. Cafaro gave Antonini \$200 by check (See STATE 028714), at the same time, Cafaro gave \$3,000 in cash to Antonini and told her that he did not want to appear as a large donor on her campaign finance report with the on-going Oak Hill matter (See STATE 036092-036093). Antonini gave \$2,500 cash to a mutual friend of hers and Cafaro; that individual in turn wrote Antonini a check for \$2,500 that was deposited into Antonini's campaign (See STATE 028714). Cafaro asked Antonini in her capacity as Mahoning County Party Chairwoman for her to support Martin Yavorcik for Mahoning County Prosecutor even though Yavorcik was running as an independent

candidate. Antonini said Anthony Cafaro's intentions of backing Yavorcik was to pay back current County Prosecutor Paul Gains and get even with him over the Oak Hill case. (See STATE 036137-036138).

COUNT 58
Money Laundering R.C. 1315.55(A)(3)

THE CAFARO COMPANY

The time period, as specified in the indictment relative to this offense begins on or about January 1, 2008 and continues through December 31, 2008 and coincides with the 2008 campaign of Martin Yavorcik for Mahoning County Prosecutor. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that during the time frame set forth in the indictment, Defendant The Cafaro Company by and through Defendant Anthony M. Cafaro, conducted transactions on behalf of the Enterprise identified in the common indictment and as that term is defined in §2923.31(c) of the Ohio Revised Code (hereafter sometimes referred to as "Enterprise"), with the purpose to promote, manage, establish or carry on corrupt activity, in violation of R.C. §1315.55(A)(3).

COUNT 59
Money Laundering R.C. 1315.55(A)(3)

ANTHONY M. CAFARO, Sr.

The time period, as specified in the indictment relative to this offense begins on or about January 1, 2008 and continues through December 31, 2008 and coincides with the 2008 campaign of Martin Yavorcik for Mahoning County Prosecutor. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that during the time frame set forth in the indictment, Defendant Anthony M. Cafaro, conducted transactions on behalf of the Enterprise identified in the

common indictment and as that term is defined in §2923.31(c) of the Ohio Revised Code (hereafter sometimes referred to as "Enterprise"), with the purpose to promote, manage, establish or carry on corrupt activity, in violation of R.C. §1315.55(A)(3). On or about January 16, 2008 Lisa Antonini asked Anthony M. Cafaro Sr. for a \$3,000 campaign contribution for her race for Mahoning County Treasurer. Cafaro gave Antonini \$200 by check (See STATE 028714), at the same time, Cafaro gave \$3,000 in cash to Antonini and told her that he did not want to appear as a large donor on her campaign finance report with the on-going Oak Hill matter (See STATE 036092-036093). Antonini gave \$2,500 cash to a mutual friend of hers and Cafaro; that individual in turn wrote Antonini a check for \$2,500 that was deposited into Antonini's campaign (See STATE 028714). Cafaro asked Antonini in her capacity as Mahoning County Party Chairwoman for her to support Martin Yavorcik for Mahoning County Prosecutor even though Yavorcik was running as an independent candidate. Antonini said Anthony Cafaro's intentions of backing Yavorcik was to pay back current County Prosecutor Paul Gains and get even with him over the Oak Hill case. (See STATE 036137-036138).

COUNT 61

Disclosure of Confidential Information, R.C. 102.03(B) & 102.99

JOHN A. McNALLY, IV

The time period, as specified in the indictment relative to this offense begins on May 25, 2006 and continues through July 18, 2006 and coincides with the date the Mahoning County Commissioners gave the County Administrator the authority to make an offer to purchase Oak Hill through the date that Defendant McNally faxed Mahoning County's offer letter to Ulmer & Berne. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that during the

time frame set forth in the indictment, Defendant John A McNally, IV, unlawfully on or about May 25, 2006 to July 18, 2006, did, being a present or former public official or employee, disclose or use, without appropriate authorization, any information acquired by the public official or employee in the course of the public official's or employee's official duties that is confidential because of statutory provisions, or that has been clearly designated to the public official or employee as confidential when that confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary to the proper conduct of government business, a misdemeanor of the first degree pursuant to §102.99 of the Ohio Revised Code, in violation of §102.03(B) of the Ohio Revised Code, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio. On May 25, 2006, McNally attended a Board of Commissioners Meeting where the Commissioners voted to pass Resolution No. 06-05-052 which authorized the County Administrator to make an offer to the Bankruptcy Court to purchase the Oakhill Renaissance Center. (See *STATE032724*). Also on this date, prior to the passage of the Resolution in open session, the Mahoning County Board of Commissioners including Defendant McNally were advised by an assistant prosecutor in executive session that any information related to the county's offer is confidential. On May 31, 2006 the Mahoning County Prosecutor issued Opinion No. 06 BMCC-04 to all of the County Commissioners, including McNally formalizing the opinion issued orally to the Board at the May 25, 2006 meeting. In this opinion, the Mahoning County Prosecutor explained the basis for the confidentiality of this information, with specific reference to the prohibitions against disclosure of this information pursuant to R.C. 102.03(B). (See

~~STATE032600-032604~~). On or about May 25, 2006, Defendant McNally meets with Defendant Anthony M. Cafaro, Sr., and according to notes of this meeting prepared by Anthony Cafaro, Defendant McNally will obtain for Cafaro information concerning the County's offer to the Bankruptcy Trustee; the notes state "he'll find out re offer is to trustee -- he thinks it only to assume loan". (See *STATE000148*). On July 7, 2006, the Mahoning County Administrator sends a letter to the Bankruptcy Trustee detailing the terms of the County's offer to purchase the Oakhill Renaissance Center. (See *STATE000148*). On or about July 12, 2006 Defendant McNally meets with Anthony Cafaro according to the notes of Anthony Cafaro and provides him a copy of Resolution RES 06-05-052 wherein the County Administrator was given authority to make an offer to purchase the Oakhill Renaissance Place Property. According to the handwriting of Anthony Cafaro contained on the Resolution Defendant McNally discussed the particular matters that were discussed at the May 25, 2006 executive session of the Board of Commissioners relative to the County's purchase of Oakhill. (See *STATE 002227*). Also, on or about July 13, 2006, Defendant McNally meets with Anthony Cafaro and Cafaro's lawyers, Craig Miller and Joseph Castrodale of the law firm Ulmer & Berne, and according to the notes of Anthony Cafaro, part of the discussion was "how to get copy of bids". (See *STATE000184-STATE000185*). On or about July 18, 2006, Defendant McNally faxes a copy of the confidential offer prepared by the County Administrator on July 7, 2006 to attorney Craig Miller of Ulmer & Berne. (See *STATE 0032769-032773*). This was done contrary to the written opinion by the Mahoning County Prosecutor previously referenced as well as oral communications by Assistant County Prosecutor Linette Stratford on or about July 17, 2006 when Defendant McNally was provided with a copy of this confidential offer letter. (See *STATE 032748-032749*).

COUNT 62
Conflict of Interest R.C. 102.03(D) & 102.99

JOHN A. McNALLY, IV

The time period, as specified in the indictment relative to this offense begins on January 3, 2005 and continues through December 12, 2008 and coincides with when Defendant McNally, IV takes office as a Mahoning County Commissioner through the filing of a campaign finance report of Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that during the time frame set forth in the indictment, Defendant JOHN J. McNally, IV then being a public official or employee, use or authorize the use of the authority or influence of office or employment to secure anything of value or the promise or offer of anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties, a misdemeanor of the first degree pursuant to §102.99 of the Ohio Revised Code, in violation of §102.03(D) of the Ohio Revised Code. Defendant McNally, while Mahoning County Commissioner, accepted a substantial thing of value, being free legal services and/or fees from another person as outlined above in this Bill of Particulars. At the time he received these payments, the source of these payments was doing or seeking to do business with, regulated by, or otherwise interested in matters before Mahoning County. Specifically, the source of these payments was seeking to maintain and renegotiate a lease with Mahoning County at property located in Garland Plaza where the County was paying to the source in excess of \$400,000 per year as rent. Defendant McNally accepted free legal services and/or fees from another person as outlined above in this Bill of Particulars.

COUNT 65
Conflict of Interest R.C. 102.03(E) & 102.99

JOHN A. McNALLY, IV


The time period, as specified in the indictment relative to this offense begins on January 1-3-2005 and continues through 12-12-2008 and coincides with when Defendant McNally, IV takes office as a Mahoning County Commissioner through the filing of a campaign finance report of Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that during the time frame set forth in the indictment, Defendant JOHN J. McNally, IV, then being a public official or employee, solicit or accept anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties, a misdemeanor of the first degree pursuant to §102.99 of the Ohio Revised Code, in violation of §102.03(E) of the Ohio Revised Code. Defendant McNally, while Mahoning County Commissioner, accepted a substantial thing of value, being free legal services and/or fees from another person as outlined above in this Bill of Particulars. At the time he received these payments, the source of these payments was doing or seeking to do business with, regulated by, or otherwise interested in matters before Mahoning County. Specifically, the source of these payments was seeking to maintain and renegotiate a lease with Mahoning County at property located in Garland Plaza where the County was paying to the source in excess of \$400,000 per year as rent. Defendant McNally accepted free legal services and/or fees from another person as outlined above in this Bill of Particulars.

COUNT 70
Soliciting or Accepting Improper Compensation R.C. 2921.43(A)(1)

JOHN A. McNALLY, IV

The time period, as specified in the indictment relative to this offense begins on February 1, 2004 and continues through December 12, 2008 and coincides with a political campaign contribution from Defendant Anthony Cafaro Sr. to Defendant John McNally, IV through the filing of a campaign finance report of Defendant Martin Yavorcik. The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that during the time frame set forth in the indictment, Defendant McNally unlawfully did, being a public servant, knowingly solicit or accept any compensation, other than as allowed by divisions (G), (H), and (I) of §102.03 of the Revised Code or other provisions of law, to perform the public servant's official duties, to perform any other act or service in the public servant's public capacity, for the general performance of the duties of the public servant's public office or public employment, or as a supplement to the public servant's public compensation, a misdemeanor of the first degree, in violation of §2921.43(A)(1) of the Ohio Revised Code. Defendant McNally, while Mahoning County Commissioner, accepted free legal services and/or fees from another person as outlined above in this Bill of Particulars. These legal services were provided to McNally to perform his official duties as County Commissioner, to perform any other act or service in his public capacity as County Commissioner, for the general performance of his duties as County Commissioner, or as a supplement to his public compensation as County Commissioner.

Respectfully submitted,



Dennis P. Will 0038129

Anthony Cillo 0062497

Paul Nick 0046516

David P. Muhek 0024395

Special Prosecuting Attorneys

CERTIFICATE OF SERVICE

A true copy of the forgoing Bill of Particulars has been served via electronic mail this 27th day of December, 2010 upon the common Defendants in care of their respective attorneys identified on the attached distribution list and shall also be filed with the court, all via electronic mail to their respective email addresses appearing on said distribution list.



Special Prosecutor

State of Ohio vs Anthony Cafaro, Sr., et al.
Case No. 10 CR 0800, et seq.

DEFENSE COUNSEL DISTRIBUTION LIST

1. George A. Stamboulidis, Esq.
Baker & Hostetler
45 Rockefeller Plaza
New York, NY 10111
212.589.4211
Fax: 212.589.4201
gstamboulidis@bakerlaw.com
Counsel for Anthony M. Cafaro, Sr.
 2. J. Alan Johnson, Esq.
Cynthia Reed Eddy, Esq.
Johnson & Eddy
1720 Gulf Tower
707 Grant Street
Pittsburg, PA 15219
Office: 412.338.4790
Fax: 412.227.3851
jjohnson@johnsoneddy.com
ceddy@johnsoneddy.com
Counsel for Flora Cafaro
 3. John F. McCaffrey, Esq.
McLaughlin & McCaffrey LLP
Eaton Center, Suite 1350
1111 Superior Avenue
Cleveland, OH 44114
Office: 216.623.0900
Fax: 216.623.0935
jfm@paladin-law.com
Counsel for Ohio Valley Mall LP
& The Marion Plaza, Inc.
 4. Ralph E. Cascarilla, Esq.
Darrdl Clay, Esq.
Walter & Haverfield, LLP
The Tower at Erieview
1301 East Ninth Street, Suite 3500
Cleveland, OH 44114
Office: 216.928.2908
Fax: 216.575.0911
rcascarilla@walterhav.com
dclay@walterhav.com
Counsel for The Cafaro Company
 5. John B. Juhasz, Esq.
7081 West Blvd., Suite 4
Youngstown, Ohio 44512-4362
Tel: 330.758.7700
Fax: 30.758.7757
jbjjurisdoc@yahoo.com
Counsel for Michael V. Sciortino
 6. Lynn Maro, Esq.
7081 West Blvd., Suite 4
Youngstown, Ohio 44512-4362
Tel: 330.758.7700
Fax: 30.758.7757
schoejka@aol.com
Counsel for John McNally IV
 7. J. Gerald Ingram, Jr., Esq.
Robert Duffrin, Esq.
7330 Market Street
Youngstown, Ohio 44512
330.758.2308
jgerald_ingram@yahoo.com
rduffrin@yahoo.com
Counsel for Martin Yavorcik
 8. Lou DeFabio, Esq.
4822 Market St # 220
Youngstown, Ohio 44512
loudefabio@aol.com
Counsel for John Reardon
 9. Roger Synenberg, Esq.
Dominic Coletta, Esq.
Synenberg & Associates, LLC
55 Public Square
Suite 1200
Cleveland, OH 44113-1901
Phone: 216.586.5528 / 888.690.6807
Fax: (216) 622.2707
rsynenberg@aol.com
dcoletta@synenberg.com
Counsel for John Zachariah
 10. Martin G. Weinberg, Esq.
Martin G. Weinberg, P.C.
20 Park Plaza, Suite 1000
Boston, MA 02116
617-227-3700
Fax: 617.338.9538
owlmgw@att.net
Counsel for Anthony M. Cafaro, Sr.
- Court:**
Hon. William H. Wolff, Jr.
c/o Stephanie Frank, Bailiff
Mahoning County Court of Common Pleas
120 Market Street
Youngstown, Ohio 44503
judgewolff@woh.rr.com
sfrank@mahoningcountyoh.gov