



**FILED UNDER SEAL**

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

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**THE STATE OF OHIO**

**JUDGE** William H. Wolff, Jr.

**VS.**

**MICHAEL V. SCIORTINO**

**CASE NO.** 2010 CR 00800 F

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**BILL OF PARTICULARS FOR MICHAEL V. SCIORTINO**

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The State of Ohio, through its undersigned attorneys, hereby submits its Bill of Particulars with respect to Defendant Sciortino and counts 7, 17, 24, 33, 34, 52, 64, 67, 69, and 71 in the indictment relating to him.

**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 the 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 based<sup>1</sup>. 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 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).*

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

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<sup>1</sup> 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).*

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 7 ENGAGING IN A PATTERN OF CORRUPT ACTIVITY**

The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that the Defendant Sciortino has 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 as specified in the indictment

During the period set forth in the indictment, Defendant Sciortino's role in the Enterprise included meetings and conversations with one or more members of the Enterprise during the time period specified in the indictment with a goal to block the move from the Cafaro-controlled Garland site to the Oakhill site. Those efforts included acts of Conspiracy, Perjury, Bribery 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 in their 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 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 17 CONSPIRACY**

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 did, with another 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, Bribery, violations of ethics laws, the receipt of or complicity in the receipt of monies with respect to any one or more of the crimes set forth in the body of the 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 24 CONSPIRACY**

The State of Ohio incorporates statements made with respect to the other counts contained herein and further 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

Sciortino did agree with another person or persons associated with the Enterprise that one or more of them will engage in conduct that facilitates the commission of the crime of engaging in a pattern of corrupt activity. A substantial overt act or acts in furtherance of the conspiracy done by the Defendant or a person with whom said Defendant conspired, subsequent to said Defendant's entrance into 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, Bribery, violations of ethics laws and the receipt of or complicity in the 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".

**COUNT 33 PERJURY**

The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that on Tuesday May 22, 2007, and on June 4, 2007, Defendant Sciortino testified as a witness in a deposition with respect to the taxpayer suit referenced above, 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. (See *STATE016612*). 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 Sciortino, at the time of his deposition, was the Auditor of Mahoning County. Defendant Sciortino

testified as both a party and a witness subpoenaed by the Mahoning County Board of Commissioners, a named Defendant in *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*, 2006CV3032. During that deposition testimony of Defendant Sciortino, beginning on page 131 and continuing to page 132, the Defendant knowingly made false statements under oath about items material to the lawsuit:

Q: "Okay. All right. Other than your—with the two folks you—you referenced, Mr. Banks and Mr. Trotter, is that right—

A: Yes

Q: --did you meet with anyone else regarding this subject?

A I might have had contact with my personal counsel, John Juhasz.

Q: Other than that?

A: No"

(See STATE016743).

However, the meeting agenda of Calfee, Halter & Griswold for August 30, 2006 shows two agenda items: 'who takes care of preparing the actual debt obligations?' and 'what is the county Auditor's role?' (See STATE033096). There is also follow-up email from Defendant Sciortino, the Auditor, to the then Treasurer, Defendant Reardon, Commissioner McNally and Carol McFall /aka Kaufman showing bullet points addressing the subject of the issuance of county debt through bonds and treasury notes. (See STATE012118).

On December 21, 2006, an email exchanged between an Ulmer & Berne attorney who represented Enterprise co-defendant, Ohio Valley Mall, and attorney John Juhasz, who was retained by Mahoning County to defend Auditor Sciortino in



the taxpayer lawsuit filed by Enterprise co-defendant Ohio Valley Mall against Sciortino. The context of the e-mail was the co-ordination of a meeting between Defendant Sciortino and attorneys with Ulmer & Berne, who were working on behalf of one or more members of the Enterprise. The email wrote that Sciortino "has proposed the afternoon of January 3" (See STATE 002442). The purpose of this meeting was made clear in an email the very next day, on December 22, 2006, when an Ulmer & Berne attorney wrote to attorney John Juhasz with a subject line: "Contemplated County Bond Issue" with the email importance designated as: "High". The Ulmer & Berne attorney wrote: *"Yesterday we talked regarding possible issues relating to your client Michael Sciortino's thoughts about signing the contemplated bonds. I wanted to inform you that facsimile signatures are allowed on the bonds. Therefore, if Mr. Sciortino is still reviewing whether or not he wishes to sign the bonds, he should immediately notify both the County officials (perhaps the Administrator) and Bond Counsel (Tom Trotter at Buckingham Doolittle) and let him know that they do not have his consent to apply his facsimile signature to bonds without his express permission ..."* (See STATE 002444). In a separate email, also on December 22, 2006, an Ulmer & Berne attorney attached a four (4) page letter addressed to attorney Juhasz with the request to share it with Defendant Sciortino. The four (4) page letter expressly stated that it was written on behalf of the Ohio Valley Mall and provided material which Ulmer & Berne wanted Defendant Sciortino to consider prior to signing bonds on behalf of Mahoning County. (See STATE 002446 - 002450).

On December 26, 2006, the law firm of Ulmer & Berne sent two (2) separate letters: one to the bond underwriters, Butler Wick, and one to Mahoning County's

bond counsel. Both letters started with: "I am writing on behalf of my client, Ohio Valley Mall Company, to express concern over the bond offering ..." The coordination between Enterprise defendants was concealed inasmuch as Ulmer & Berne counsel sent Defendant Sciortino copies of both letters through a blind copy (bcc) via Sciortino's counsel Juhasz. (See STATE 002458-002466). In a three (3) page letter from attorney Juhasz to Ulmer & Berne dated December 29, 2006, Juhasz acknowledged providing Defendant Sciortino with copies of the Ulmer & Berne letter dated December 22, 2006 as well as the two (2) letters to the bond counsel and underwriter on December 26, 2006 (See STATE 002475-002477).

Approximately two (2) months before Defendant Sciortino's deposition, one Ulmer & Berne attorney emailed another Ulmer & Berne attorney on March 16, 2007 detailing that Ulmer & Berne had a meeting with Defendant Sciortino, attorney Juhasz, and three (3) Mahoning County Auditor employees under the supervision and control of Defendant Sciortino. In the eighth bullet point note in the email, the Ulmer & Berne attorney wrote that Defendant Sciortino related what he did regarding the bond issuance. The Ulmer & Berne attorney wrote: "... *there are limits as to how far he is willing to stick his neck out.*" (See STATE 002680-002681)

On December 20, 2006 a payment was made from a checking account bearing the captioned letterhead of "The Cafaro Company" payable to Squire, Sanders & Dempsey in the amount of \$49,055.43 (See STATE 000964). The total amount paid included an invoice from Squire, Sanders & Dempsey in the amount of \$17,305.33 (See STATE 001006 - 001009). An internal Cafaro Company accounts payable invoice explanation and contracted service report provided an explanation for the \$17,305.33 from Squire, Sanders & Dempsey as: "Research and memorandum on the

authority of County Auditor's to refuse to sign bonds issued by County" (See STATE 001005). The general ledger accounting records support that the legal fees were charged to the Garland Plaza, an affiliated entity of the Cafaro Company.

The intentionally false statements were made to conceal the existence of the defendant's contact and co-ordination with law firms being paid by or working on behalf of one or more other members of the Enterprise. The denied knowledge of existence of the law firms was done to conceal Defendant Sciortino's contact as a defendant in the civil taxpayer's lawsuit with his co-ordination efforts with the plaintiff of such taxpayer lawsuit and other members of the Enterprise. The false statements aided the Plaintiff in its unsuccessful efforts to block Mahoning County's move to Oakhill from the Garland site, all in violation of R.C. §2921.11(A) as stated in the indictment.

#### **COUNT 34 PERJURY**

The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that on the second day of the continuing deposition, at page 11, Defendant Sciortino again testifies that he did not have any conversations with any representative of the Cafaro-controlled Ohio Valley Mall. The false statements again aided the Plaintiff in *State of Ohio ex rel Ohio Valley Mall Company v. Mahoning County Commissioners, et al.*, 2006CV3032 in its unsuccessful efforts to block Mahoning County's purchase and/or move to Oakhill from the Garland site:

*Q: "Did you—had you had any conversations with any representative of Ohio Valley Mall or anyone regarding the filing of that suit prior to its filing day?"*

*A: No." (See STATE016581).*

However, there is documentation revealing conversations concerning the subject matter did occur. On Saturday, August 5, 2006 Ulmer & Berne emails reveal a conversation with Commissioner McNally relative to the filing of the complaint in that civil suit. (See STATE002304). Additionally, there is evidence of an August 30, 2006 meeting with Calfee, Halter & Griswold lawyers and Defendant. (See STATE0033096). There is a memo of a telephone conversation with members of the Taft, Stettinius & Hollister firm regarding a call from Ulmer & Berne attorneys dated July 25, 2006 referencing the filing of a lawsuit and the Auditors involvement. (See STATE003419-003420).

On July 19, 2006, Defendant Michael Sciortino along with Enterprise co-Defendants John McNally and John Reardon had a telephone conference with attorney Bruce Waterhouse from Taft, Stettinius & Hollister to discuss facts for the defendant's objection in bankruptcy court to the sale of the Oak Hill building to Mahoning County. (See STATE 003163). 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. The Ulmer & Berne attorney documented in the email that Taft, Stettinius & Hollister attorney Bruce Waterhouse has given them "permission to speak with both the

Treasurer and Auditor” (See STATE 002264); which would be referring to Enterprise Defendants (Treasurer) Reardon and (Auditor) Sciortino.

On July 21, 2006, Defendant Sciortino conferred with Ulmer & Berne attorney Isaac Eddington regarding the Oakhill purchase. On the same day, attorney Eddington also conferred with attorney Bruce Waterhouse regarding the ability of Taft, Stettinius & Hollister to file a state court action. (See STATE 005633)

On July 26, 2006 Defendant Sciortino along with Enterprise co-defendants John McNally and John Reardon filed a Pro Se motion in bankruptcy court objecting to the sale of the Oak Hill property (See STATE 32232-32253). On July 24, 2006, per the request of Taft, Stettinius & Hollister lawyer Bruce Waterhouse, an e-mail copy of the bankruptcy objections of defendant Sciortino along with Enterprise co-defendants McNally and Reardon was sent to two (2) attorneys with the law firm of Ulmer & Berne (See STATE 003401-003415) who were representing Enterprise co-defendants Ohio Valley Mall and Anthony Cafaro Sr.

On December 20, 2006 a payment was made from a checking account bearing the captioned letterhead of “The Cafaro Company” payable to Squire, Sanders & Dempsey in the amount of \$49,055.43 (See STATE 000964). The total amount paid included an invoice from Squire, Sanders & Dempsey in the amount of \$23,001.23 (See STATE 000998-001001). An internal Cafaro Company accounts payable invoice explanation and contracted service report provided an explanation for the \$23,001.23 from Squire, Sanders & Dempsey as: *“Research and memorandum regarding County Treasurer’s right to refuse to sign cks or invest in internal County debt”* (See STATE 000997). The general ledger accounting records support that the legal fees were charged to the Garland Plaza, an affiliated entity of the Cafaro

Company. This count references a violation of R.C. §2921.11(A) as stated in the indictment.

**COUNT 52 BRIBERY**

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 deposition and trial testimony, the Defendant, 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.

Defendant Sciortino's actions with one or more members of the Enterprise resulted in his receiving the benefits of legal representation and research paid for by other members of the Enterprise. During the dates set forth in the indictment, there were 15 checks bearing the captioned letterhead of "The Cafaro Company" payable to the 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 the 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).

On some occasions Defendant Sciortino directly used the legal work product provided to him by legal counsel working on the behalf of one or more members of the Enterprise in letters by Defendant Sciortino in his official capacity as the Mahoning County Auditor. For example, during a period from August 2 to August 3, 2006, Connie Koza, an employee in the in-house legal department of the Cafaro Company, exchanged a series of emails with Defendant Sciortino with attachments of a draft letter to the Mahoning County Board of Commissioners and a draft letter to the Ohio Attorney General (See STATE 000335-000370). The final versions of the letters were sent via overnight delivery to the Ohio Attorney General (See STATE 000363) and hand delivered to the Board of County Commissioners on August 3, 2006 (See STATE 015161-015163)

**COUNT 64 CONFLICT OF INTEREST**

The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that Defendant Sciortino unlawfully, for the period set forth at this count of the indictment, while a public official or employee, did 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 Sciortino, while Mahoning County Auditor, 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 Sciortino accepted free legal services and/or fees from another person as outlined above in this Bill of Particulars.

**COUNT 67 CONFLICT OF INTEREST**

The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that Defendant Sciortino, unlawfully during the period set forth at this count of the indictment did, 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 Sciortino, while Mahoning County Auditor, 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 Sciortino accepted free legal services and/or fees from another person as outlined above in this Bill of Particulars.



### **COUNT 69 FILING FALSE STATEMENTS**

The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that Defendant Sciortino, unlawfully during the period set forth at this count of the indictment did knowingly file a false statement that is required to be filed under §102.02 of the Ohio Revised Code, a misdemeanor of the first degree pursuant to §102.99 of the Ohio Revised Code, in violation of §102.02(D) 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. Defendant Sciortino, while Mahoning County Auditor, accepted a substantial thing of value, being free legal services and/or fees from another person as outlined above in this Bill of Particulars. Sciortino knowingly failed to disclose the source of the value of the benefits received in the form of free legal services and/or fees described above as a gift in excess of \$75 and/or income and/or debt in excess of \$1,000, as required by R.C. Section 102.02(A)(2) and/or (A)(5) and/or (A)(7). (See *STATE029675-029685*; *STATE029732-029743*; *STATE029781-029792*; *STATE029832-029857*).

### **COUNT 71**

#### ***SOLICITING OR ACCEPTING IMPROPER COMPENSATION***

The State of Ohio incorporates statements made with respect to the other counts contained herein and further submits that Defendant Sciortino, unlawfully during the period set forth at this count of the indictment did unlawfully, 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 of the Ohio Revised Code.

Defendant Sciortino, while Mahoning County Auditor, accepted free legal services and/or fees from another person as outlined above in this Bill of Particulars. These legal services were provided to Defendant Sciortino to perform his official duties as Auditor, to perform any other act or service in his public capacity as Auditor, for the general performance of his duties as Auditor, or as a supplement to his public compensation as Auditor. See STATE 029675-029685; STATE029732-029743; STATE029781-029792; STATE029832-029857).

#### CONCLUSION

Defendant Sciortino has been placed on notice of the crime for which he is charged pursuant to a proper indictment; he has been provided with this Bill of Particulars and he will have access to extensive information in this case through voluminous discovery to be afforded him under Ohio Criminal Rule 16. Said information is sufficient to fully apprise him of the charges pending against him and to enable him to prepare for trial. To the extent evidentiary details in excess of such needs are sought, such is beyond the proper scope of a bill of particulars.

Respectfully submitted,



Dennis P. Will 0038129

Paul Nick 0046516

Anthony Cillo 0062497

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 1<sup>st</sup> day of December, 2010 upon Defendant Sciortino and in care of his attorney at his address appearing on the attached distribution list and served upon counsel for defendants charged by way of the same common indictment and shall be filed with the court, all via their respective email addresses appearing on said distribution list and through the same method of delivery.

  
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*Special Prosecuting Attorney*

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

**DEFENSE COUNSEL & COURT DISTRIBUTION LIST**

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1. George A. Stamboulidis, Esq.  
Baker & Hostetler  
45 Rockefeller Plaza  
New York, NY 10111  
212.589.4211  
Fax: 212.589.4201  
[gstamboulidis@bakerlaw.com](mailto: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](mailto:jjohnson@johnsoneddy.com)  
[ceddy@johnsoneddy.com](mailto: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](mailto:jfm@paladin-law.com)  
**Counsel for Ohio Valley Mall LP  
& The Marion Plaza, Inc.**
  4. Ralph E. Cascarilla, Esq.  
Darrell 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](mailto:rcascarilla@walterhav.com)  
[dclay@walterhav.com](mailto: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  
[jbjurisdoc@yahoo.com](mailto:jbjurisdoc@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  
[schoejlka@aol.com](mailto:schoejlka@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](mailto:jgerald_ingram@yahoo.com)  
[rduffrin@yahoo.com](mailto:rduffrin@yahoo.com)  
**Counsel for Martin Yavoreik**
  8. Lou DeFabio, Esq.  
4822 Market St # 220  
Youngstown, Ohio 44512  
[loudefabio@aol.com](mailto: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](mailto:rsynenberg@aol.com)  
[dcoletta@synenberg.com](mailto: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](mailto: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](mailto:judgewolff@woh.rr.com)  
[sfrank@mahoningcountyoh.gov](mailto:sfrank@mahoningcountyoh.gov)
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