PA LAW FUND EXHIBIT

RE: WHALEN, BONONI,

9/26/16 12:56 PM

FOR PRIVATE CRIMINAL COMPLAINT FILED BY DEBORAH A. BUJDOS

To, the Westmoreland County District Attorney

RE PRIVATE CRIMINAL COMPLAINTS FOR ATTORNEY LINDA WHALEN , ATTORNEY HENRY MOORE, ATTORNEY ERIC BONONI, JUDGE CHRITSIAN SCHERER, JUDGE HARRY F. SMAIL MR. LAURENCE BUJDOS

I BELIEVE ALL PARTICIPANTS ARE GUILTY OF ALLOWING ATTORNEY WAHLEN TO ACCOMPLISH THIS FRAUD BY GRANTING HER 4 YEARS OF VEXATIOUS FRAUDULENT MOTIONS AND CONTINUING MERITLESS HEARINGS WITH NO LEGAL REASON TO DO SO, OTHER THAN TO HARASS AND DEFRAUD ME OF MY OWN PROPERTY AND MAKING HOMELESS.

RE:

HAVING MY MAIL STOLEN DUEING MY PFA.

ATTORNEY WHALEN WAS AWARE THAT MR. BUJDOS CHANGED MY ADDRESS TO HIS WHEN WE WERE SEPARATED SO THAT MY METLIFE AND JOHN HANCOCK ANNUITY CHECKS WOULD NOT COME TO ME. MR. BUJDOS ILLEGALY NOTIFIED THE COMPANYS AND REMOVED MY NAME EVEN TOUGH I WAS JOIN OWNER IN FEB, 2015.

ATTORNEY WHALEN BEGAN CASHING THE CHECKS THAT BEGAN COMING IN FEB. 2015 AFTER HE TOOK MY NAME OFF. I BELIEVE HE USED THE FAKE POA THAT ATTORNEY WHALEN MADE FOR HIM

WITHOUT MY KNOWLEDGE OR PERMISSION TO GET MY NAME REMOVED FROM MY RETIREMENT ANNUITY. ATTORNEY WHALEN KNEW HE DID THIS BECAUSE SHE NO LONGER HAD TO WAIT TO GET MY SIGNATURE. AS THEY CAME ONLY IN MR. BUJDOS'S NAME AND ATTORNEY PLACED THEM IN HER ESCROW ACCT WITHOUT MY PERMISSION.

PLEASE KEEP IN MIND THAT WAS FEB. 2015 AFTER I REFUSED TO HAVE A HALLWAY HEARING WITH THEM AS WE WAITED FOR HENRY MOORE. EVERYTHING THAT HAPPENED AFTER THAT WAS THE TRUE SCHEME TO HAVE ME MADE HOMELESS AND PENNYLESS, ALL DONE ILLEGALY.

PLEASE NOTE I HAVE INCLUDED 3 INDIVIDUALS CASES THAT PROVE I HAVE BEEN VICTIMIZED BY THIS COURT AND ALL PARTIES LISTED IN MY COMPLAINTS.

CASE #1 58802010-D

CASE #2 2144OF 207D

CASE #3 2351 OF 2008 D

WHO ALL HAD JUDGE SMAIL OR JUDGE SCHERE ON THEIR CASES.

IN REVIEWING THEM IT IS EASY TO SEE THAT I HAVE BEEN VICTIMIZED BY ALL THE PARTIES NAMED IN THE COMPLAINT.

I WAS DENIED CORRECT AMOUNT OF APL FOR FAIR REPRESENTATION

HUSBAND LIED ABOUT HIS TRUE MONTHLY INCOME .

HE STATED IT WAS 7,000.00 A MONTH BUT MY FORENSIC ACCOUNTANT PROVED OTHERWISE. THE TRUE MONTHLY NET INCOME WAS 18,000.00

COMPARE TO ONE OF THE CASES JUDGE SMIAL HEARD WIFE WAS ACCUSED OF THE SAME THING) HE IS HAVING HEARINGS

IN ALL 3 CASES I HAVE REFERRED TO FOR COMPARRISON WITH MY CASE, IT IS CLEAR THAT THE COURT ALWAYS PROVIDED THE WIFE WITH ENOUGH APL THAT ALLOWED THEM TO BE ON THE SAME PAR FINANCIALLY TO DEFEND THEMSELVES. IN THIS CASE THE DIFFERERNCE IS THAT THEY TOOK ALL OF MY OWN INCOME FROM ME AND MADE SURE I WAS ONLY RECEIVING THE TRUE AMOUNT AWARDED TO ME. ALL PARTIES IN THIS CASE KNEW I DID NOT HAVE FAIR REPRESNTATION DUE TO THEM HOLDING MY INCOME.

THE OTHER CASES SHOW THE PARTIES WERE ASSIGNED MASTERS THAT ALL DID PRETRIAL WHICH IS MANDATORY HOWEVER SINCE MASTER BONONI APPEARED TO RECEIVE PAYMENT UP FRONT IT COU;D BE SEEN AS A BRIBE AND HE CHOSE TO WAIVE THE PRETRIAL IN MY CASE WHEN IT IS NEEDED. V THE OTHER CASES SHOWED THEY ALL HAD REAL ALL COUNTS HEARINGS . MY CASE NEVER HAD ONE. WHICH IS REQUIRED BEFORE YOUR ASSIGNED A MASTER.

Attorney Linda Whalen and Larry Bujdos are guilty of the following charges:

1) THE FIRST CHARGE IS VIOLATING THE DIVORCE COMPLAINTS INJUNCTION WHEN THE DIVORCE WAS FILED. IT PROHIBITS EITHER PARTY WAS ALLOWED TO CHANGE AND FINANCIAL ACCT, INS, OR ALIENTATE EACH OTHER FROM PROPERTY THAT WAS MARITAL . THE ANNUITIES WERE MARITAL AND MONTHLY INCOME THAT THEY ALIENATED ME FROM HAVING FOR 4 YEARS,

Whalen holding annuities see rohrer no double dipping

The Superior Court held that "money included in an individual's income for the purpose of calculating support payments may not also be labeled as a marital asset subject to equitable distribution." *Rohrer*, at 465.

When a lawyer learns that the lawyer's services have been improperly utilized in a civil case to place false testimony or other material into evidence, the rule generally recognized is that the lawyer must disclose the existence of the deception to the court or to the other party, if necessary rectify the deception. See paragraph (b) and Rule 1.05(h).

See also Rule 1.05(g). Such a disclosure can result in grave consequences to the client, including not only a sense of betrayal by the lawyer but also loss of the case and perhaps a prosecution for perjury. But the alternative is that the lawyer would be aiding in the deception of the tribunal or jury, thereby subverting the truth-finding process which the adversary system is designed to implement. See Rule 1.02(c).

Furthermore, unless it is clearly understood that the lawyer will act upon the duty to disclose the existence of false evidence, the client can simply reject the lawyer's advice to reveal the false evidence and insist that the lawyer keep silent.

Thus the client could in effect coerce the lawyer into being a party to fraud on the court.

2) **915. False Statements as to Future Actions**

Although the statement that is the subject of an 18 U.S.C. § 1001 violation usually concerns past or present facts, it need not do so. A present statement as to future intent, e.g., a promise to do that which is not actually intended may be a false

statement of an existing fact. *See United States v. Shah*, 44 F.3d 285 (5th Cir. 1995). Under Section 1001 "a promise may amount to a false, fictitious or fraudulent statement if it is made without any present intention of performance and under circumstances such that it plainly, albeit implicitly, represents the present existence of an intent to perform." *Id.* at 294.

[cited in USAM 9-42.001]

ENTERING 3 FRAUDULENT MOTIONS JUNE 2015

3)

914. Concealment--Failure to Disclose

Although 18 U.S.C. § 1001 is often referred to as a false statement statute, its scope extends beyond statements. The statute proscribes the acts of making false statements, falsifying, concealing or covering up. The statute also covers half-truths if there is a duty to speak the truth. *See generally United States v. Lutwak*, 195 F.2d 748 (7th Cir. 1948), *aff'd*, 344 U.S. 604 (1953).

Concealment and cover-up are essentially identical concepts and often result from falsification. These acts need not have any relation to a statement or representation. A concealment may involve a failure to disclose or partial disclosures of information required on an application form; however, when using such a theory, the government must prove that the defendant had a duty to disclose the facts in question at the time of the alleged concealment of them. *United States v. Irwin*, 654 F.2d 671, 678-79 (10th Cir. 1981), *cert. denied*, 455 U.S. 1016 (1982). Concealment may also involve a merely physical act of concealment such as transferring inspection stamps, changing numbers on bottles to conceal rejection, conceal use of certain drugs, or using false stamps to conceal ownership of tobacco. Some courts have required that the government be

prepared to prove that the "concealment by trick" consisted of affirmative acts. *United States v. London*, 550 F.2d 206 (5th Cir. 1977).

[cited in USAM 9-42.001]

REFUSING TO PRODUCE ALL FINANCIAL ASSESTS DOCUMENTS,

4) **947. Fiduciary Duty**

QUERY: Whether a fiduciary duty or relationship is a necessary ingredient to frauds relating to intangible property rights. *See generally* Laura A. Eilers & Harvey B. Silikovitz, *Mail and Wire Fraud*, 31 Am. Crim. L. Rev. 703, 706 n. 19 (1994) ("Unlike traditional frauds which may arise regardless of the relationship between the defendant and the victim, frauds related to intangible rights stem from a fiduciary relationship between the defendant and the defrauded party or entity."). "At the core of the judicially defined 'scheme to defraud' is the notion of a trust owed to another and a subsequent breach of that trust." *United States v. Lemire*, 720 F.2d 1327, 1335 (D.C. Cir. 1983) ("But '[n]ot every breach of a fiduciary duty works a criminal fraud.'") (quoting *United States v. George*, 477 F.2d 508 (7th Cir.), *cert. denied*, 414 U.S. 827 (1973)), *cert. denied*, 467 U.S. 1226 (1984). *But cf. United States v. Sawyer*, 878 F. Supp. 279, 288-90 (D. Mass. 1995) (mail fraud statutes do not require that a public fiduciary be a participant in the scheme). It may follow that to defraud one of the "right to honest services" would generally require a fiduciary relationship that creates the right to provide or protect honest services. It does not necessarily follow, however, that the existence or protection of an intangible property right must depend upon the existence of a fiduciary relationship or duty. Nonfiduciaries can steal, embezzle and defraud others of property interests, regardless of whether the property interest is tangible or intangible. *Cf. United States v. Allen*, 554 F.2d 398, 410 (10th Cir.) ("While the existence of a fiduciary duty is relevant and an ingredient in some mail fraud prosecutions, . . . it is not an essential in all such cases.")

(citations omitted), *cert. denied*, 434 U.S. 836 (1977); Eilers & Silikovitz, 31 Am. Crim. L. Rev. at 711 ("There is some debate in the Circuit Courts about whether intangible rights can be violated if they are not premised upon fiduciary duty.").

Courts have held nonfiduciaries criminally liable for frauds related to intangible rights when a co-schemer or co-conspirator was a fiduciary. *See United States v. Alexander*, 741 F.2d 962, 964 (7th Cir. 1984) (an intangible rights scheme is cognizable when at least one of the schemers has a fiduciary relationship with the defrauded person or entity), *overruled on other grounds by, United States v. Ginsburg*, 773 F.2d 798 (7th Cir. 1985), *cert. denied*, 475 U.S. 1011 (1986); *see also Sawyer*, 878 F. Supp. at 289 (describing situation of nonfiduciary) (citing *United States v. Margiotta*, 688 F.2d 108, 121-23 (2d Cir. 1982), *cert. denied*, 461 U.S. 913 (1983), and *Alexander*, 741 F.2d at 964).

ATTORNEY WHALEN IS GUILTY OF ACTING AS MY FIDUCIARY OVER MY INCOME WITHOU MY PERMISSION

5) **949. Proof of Fraudulent Intent**

"The requisite intent under the federal mail and wire fraud statutes may be inferred from the totality of the circumstances and need not be proven by direct evidence." *United States v. Alston*, 609 F.2d 531, 538 (D.C. Cir. 1979), *cert. denied*, 445 U.S. 918 (1980). Thus, intent can be inferred from statements and conduct. *United States v. Cusino*, 694 F.2d 185, 187 (9th Cir. 1982) (*citing United States v. Beecroft*, 608 F.2d 753, 757 (9th Cir. 1979)), *cert. denied*, 461 U.S. 932 (1983). Impression testimony, that is, testimony of victims as to how they had been misled by defendants, is admissible to show an intent to defraud. *See Phillips v. United States*, 356 F.2d 297, 307 (9th Cir. 1965), *cert. denied*, 384 U.S. 952 (1966). Also consider complaint letters received by defendants as relevant to the issue of

intent to defraud. The inference might be drawn that, since the defendant knew victims were being misled by solicitation literature and other representations, the continued operation of the business despite this knowledge showed the existence of a scheme to defraud.

Fraudulent intent is shown if a representation is made with reckless indifference to its truth or falsity. *Cusino*, 694 F.2d at 187. In addition, "[f]raudulent intent may be inferred from the modus operandi of the scheme." *United States v. Reid*, 533 F.2d 1255, 1264 n. 34 (D.C. Cir. 1976) ("[T]he purpose of the scheme 'must be to injure, which doubtless may be inferred when the scheme has such effect as a necessary result of carrying it out.") (quoting *United States v. Regent Office Supply Co.*, 421 F.2d 1174, 1180-81 (2d Cir. 1970) (quoting *Horman v. United States*, 116 F. 350, 352 (6th Cir.), *cert. denied*, 187 U.S. 641 (1902))). "Of course proof that someone was actually victimized by the fraud is good evidence of the schemer's intent." *Id.* (quoting *Regent Office Supply Co.*, 421 F.2d at 1180-81). In *United States v. D'Amato*, the court explained the government's burden of proving fraudulent intent as follows:

The scheme to defraud need not have been successful or complete. Therefore, the victims of the scheme need not have been injured. However, the government must show "that some actual harm or injury was contemplated by the schemer." Because the defendant must intend to harm the fraud's victims, "[m]isrepresentations amounting only to a deceit are insufficient to maintain a mail or wire fraud prosecution." "Instead, the deceit must be coupled with a contemplated harm to the victim." In many cases, this requirement poses no additional obstacle for the government. When the "necessary result" of the actor's scheme is to injure others, fraudulent intent may be inferred from the scheme itself. Where the scheme does not cause injury to the alleged victim as its necessary result, the government must produce evidence independent of the alleged scheme to show the defendant's fraudulent intent.

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39 F.3d 1249, 1257 (2d Cir. 1994) (citations and footnote omitted) (holding that

the government failed to produce legally sufficient evidence of criminal intent).

6)

965. Conspiracy to Violate the Mail Fraud or Wire Fraud Statutes

Where a scheme and artifice to defraud is shared by two or more, it becomes a conspiracy to defraud. The essential elements of conspiracy to commit mail fraud or wire fraud in violation of 18 U.S.C. § 371, are (1) an agreement between two or more persons; (2) to commit mail fraud or wire fraud; and (3) an overt act committed by one of the conspirators in furtherance of the conspiracy. *See United States v. Brumley*, 79 F.3d 1430, 1442 (5th Cir. 1996) (citing *United States v. Hatch*, 926 F.2d 387, 393 (5th Cir.), *cert. denied*, 500 U.S. 943 (1991)); *United States v. Massey*, 827 F.2d 995, 1001 (5th Cir. 1987); *United States v. Gordon*, 780 F.2d 1165, 1170 (5th Cir. 1986)). "Conspiracy to commit a particular substantive offense cannot exist without at least the degree of criminal intent necessary for the substantive offense." *Massey*, 827 F.2d at 1001 (*quoting Ingram v. United States*, 360 U.S. 672, 678 (1959)).

As in any conspiracy, it is sufficient that the defendant knowingly joined the conspiracy in which wire fraud or mail fraud was a foreseeable act in furtherance of the conspiracy. *United States v. Leahy*, 82 F.3d 624 (5th Cir. 1996) (citing *United States v. Basey*, 816 F.2d 980, 997 (5th Cir. 1987) (holding that once a defendant's knowing participation in a conspiracy has been established, "the defendant is deemed guilty of substantive acts committed in furtherance of the conspiracy by any of his criminal partners")).

[cited in USAM 9-43.100]

JUDGE SMAIL HAS REFUSED TO RECUSE EVEN THOUGH THERE HAS BEEN ENOUGH EVIDENCE TO PROVIDE ME THAT RELIEF.

RESPECTFULLY SUBMITTED BY.

Deborah A. Bujdos 9-24-14

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