Case No. 17-7203

IN THE SUPREME COURT OF THE UNITED STATES

MARIJAN CVJETICANIN

Petitioner

v. Case No. 17-7203

UNITED STATES OF AMERICA

Respondent

PETITION FOR REHEARING OF THE

PETITION FOR CERTIORARI

Marijan Cvjeticanin
#65437-050
FCI Fort Dix
P.O. Box 2000
Joint Base MDL, NJ 08640

Due to the intervening circumstances of substantial effect, the petitioner seeks the Court's rehearing on the following Certiorari question.

CERTIORARI QUESTION NUMBER 2:

In the biggest judicial scandal in the history of New Jersey, didn't the outrageous Government misconduct violate the Petitioner's Constitutionally guaranteed Right to Jury Trial and Fifth Amendment Due Process Rights, and shouldn't this Court exercise its Supervisory Powers to vacate the Petitioner's conviction, when the Government, in violation of the Rules of the Court, secretly removed the exculpatory evidence from the courtroom, after the District Court took the possession of evidence, making the evidence unavailable for Jury review and deliberations?

1) Introduction and Procedural History

The petitioner's Writ of Certiorari to the Supreme Court was denied on January 22, 2018, Appendix "A". Due to the intervening circumstances of substantial effect which occurred while the Writ of Certiorari was pending with the Honorable Court, and other substantial grounds not previously presented, the Petitioner hereby asks the Honorable Court to rehear and reconsider his Certiorari Petition question number two (2), vacate his conviction and sentence, or at least remand the matter to the District Court for evidentiary hearing for the proper factual determination, particularly in view of the following.

2) Statement of Facts and the Intervening Circumstance

Both the indictment and the Government's trial presentation claimed that the petitioner committed mail fraud by falsely billing his employer's large corporate clients, ADP and Broadridge, for non-existent services. A copy of the Indictment in the Appendix "B". The claim was that the petitioner, or the advertising agency which he directly or indirectly controlled, did not run immigration-related advertisements for which they billed ADP and Broadridge, and that the petitioner did not disclose to ADP and Broadridge his ownership and control of the advertising agency. Day after day during the trial, the Government was "pounding" on the court and jury with the statements that no advertisements existed and that the petitioner concealed his control and ownership of the advertising agency. This was "central" to the Government's case.

On the last day of the trial, June 25, 2015, defense and Government agreed, by stipulation, to admit significant exculpatory evidence, consisting of hundreds of copies and original newspaper advertisements into trial evidence. As these were the advertisements run and paid by the petitioner and his advertising agency, the evidence was highly exculpatory in nature. Tr. 6/25/15, 108:11-13.

Shortly thereafter, one of two Assistant U.S. Attorneys who prosecuted the case, stated on record, and reassured both the judge and the defense, that all newspaper and other trial exhibits, properly admitted into evidence, were physically present in the courtroom and ready for jury's review, Tr. 6/25/15, 114. At least on visual inspection that appeared to be true. District court judge acknowledged such a "reassurance" on the same day, 6/25/15, 115.

In the closing statement, the defense informed the jury that the advertisements existed and specifically called on jury to verify it by reviewing the admitted evidence, which was physically located in the courtroom, just next to the jury box. Newspaper advertisements were highly exculpatory evidence, disproving the existence of any scheme to defraud, critical mail fraud element.

Almost immediately after starting its deliberations, jury took the defense for its promise and requested to see newspaper advertisement evidence for the indictment counts one and five (out of nine counts of indictment). Jury sent its first note at 1:10 PM, see Appendix at "C".

Almost hour and half later, at 2:38 PM, while still waiting for the simple evidence of two newspaper advertisements to be delivered to the jury deliberation room, jury sent its second, considerably more forceful note, once again asking for the same evidence. This is the so called Jury Communication #2, Appendix "D". However, as the evidence could not have been found in the courtroom, the search continued, Tr. 6/29/15, 88:17-20.

But the search was in vain. Few minutes later, only after the direct inquiry from the district court judge, the Government finally admitted that some (or all) of the exculpatory evidence was secretly removed from the courtroom by the Government. Speaking of the missing advertisements, the second of two Assistant U.S. Attorneys who prosecuted the case admitted on record "I think it was inadvertently taken back here" (meaning from courtroom to the U.S. Attorney's Office), Tr. 6/29/15, 90:09-13, Appendix at "E".

Rule 79.1 of the United States District Court for New Jersey (Local Area Rules of the Court) - Custody of Original Papers, Records and Exhibits, states the following:

"(a) No original papers or records shall be taken from the Clerk's office or the **Courtroom** (except in the custody of the Clerk) without an order from a Judge.

(b) Unless the Court otherwise directs, each exhibit admitted into evidence prior to disposition of any matter shall be held in the custody of the Clerk" *(Emphasis added)*, Appendix at "F".

Secret removal of the evidence from the courtroom caused a significant delay in the presentation of the exculpatory evidence to the jury. For at least for one count of indictment (count five) no evidence was ever presented to the jury, which was 50% of all the evidence requested by the jury. Jury specifically asked for evidence not once but twice. The upset jury arrived to the only possible conclusion - that the exculpatory evidence simply did not exist, concluded its deliberations and convicted the petitioner on all counts.

By removing the evidence from the courtroom, the Government directly violated rules of the federal district court *(Local Area Rules)*, an act which should not go unsanctioned as it clearly violated the petitioner's constitutionally guaranteed procedural due process rights.

By falsely promising that the evidence was present in the courtroom and then secretly removing it and admitting this illegal act only hours after the jury specifically asked for the evidence, and only upon the direct inquiry of the judge, the Government committed an outrageous and shocking act of misconduct which shakes the conscience of the court and represents a structural trial error warranting an automatic reversal, *Arizona v. Fulminante, 499 U.S. 279 (1991).*

As noted in the Certiorari petition, numerous factual questions remain which should be subject of remand and district court's evidentiary hearing, specifically:

a) How did it happen that the jury picked up and requested the evidence for the counts which were missing from the courtroom, or was it the case that the entire exculpatory evidence was removed?

b) What was the statistical chance that the jury would, with the incredible "surgical precision" pick and chose to request exactly the evidence for the count missing from the courtroom, exactly one out of nine?

c)After secretly removing evidence, did someone also secretly tip one of the jurors to request the evidence for exactly the count of indictment for which the evidence was removed from the courtroom, out of all other eight presumably available counts?

d) Moreover, if the evidence was presumably missing for one one specific count of indictment (number five), why did it take well over an hour to deliver evidence for the other requested count (number one), which apparently was available in the courtroom?

e) On what factual basis did the Assistant U.S. Attorney Carletta, who tried the case and was present in the courtroom at all times, assure, on record, both the Court and the defense counsel that all the admitted evidence was located in the courtroom, and since the Court already took the possession of evidence, what was the purpose of that false assurance, if not to purposefully lull the unsuspecting defense counsel in the erroneous belief regarding the true location of the exculpatory evidence?

f) When and how did the second Assistant U.S. Attorney Navarro, who also tried the case and was present in the courtroom during the entire time, learn that the evidence was indeed removed from the courtroom? Who provided that info to him, and once he became aware of it, why did he wait for the judge to specifically question him about the status of the evidence delivery and waste invaluable jury waiting time in the process, instead of disclosing that fact to the court and defense counsel at the time he became fully aware of the missing evidence?

As the above and many other factual questions remain, the Honorable Court should remand the matter to the District Court for evidentiary hearing in order to arrive to proper factual determinations in the case.

Last but not the least, while the Certiorari was pending with this Honorable Court, the second "shoe dropped", too. The Government's claim to the jury that the petitioner concealed from ADP and Broadridge his ownership of the advertising agency was false and the key government's witnesses committed a perjury. This might have been known to the Government, too. As an **intervening circumstance of substantial effect** and other substantially new grounds, the Petitioner discovered the written proof of the fact that he previously not only informed ADP and Broadridge that he was the owner, or controlled, the advertising agency, but that he even ethically and properly offered to ADP management a choice of using his own agency, or any other advertising agency of their choice, see copies of emails in Appendix "G".

The intervening discovery, which effectively eviscerates the existence of any specific intent to defraud and the scheme to defraud, will soon be a topic of the special motion for a new trial pursuant to the Rule 33 of the Federal Rules of Criminal Procedure. However, in the interests of justice and judicial economy, the petitioner would appreciate if this Honorable Court could order district court evidentiary hearing as it now emerges that the removal of advertisements from the courtroom was not an isolated or inadvertent incident, there was a much larger Government's scheme to perpetrate a fraud upon tribunal.

This truly warrants a **Remand** and district court's **Evidentiary Hearing**.

3) Statement of Law

There are two main reasons for the rehearing of this matter and issuance of the remand to the district court for the purposes of evidentiary hearing.

First, the gross and manifest injustice and misconduct committed by the Government against the petitioner. Second, the existence of critical constitutional issues of grave national importance stemming from the Government's misconduct. While this Court dealt with the issues of Government misconduct before, e.g. *Lisenba v. California, 314 U.S. 219 (1941)*, etc, to the best of our research, the case of a secret removal of exculpatory evidence from the courtroom is the issue of **first impression**, at least in its current form.

The scandalous affair that occurred in the courtroom of Trenton, New Jersey district court represents a represents a substantial violation of the petitioner's constitutionally guaranteed right to jury trial *(Article III, Section 2, Clause 3 of the U.S. Constitution)*, Sixth Amendment's right to impartial jury and Fifth Amendment's procedural and substantive due process rights. It is also a grave and manifest injustice, which if unchecked, will turn into a critical legal and *public policy* issue of national importance.

The issue can be summarized as follows: is it really possible that the Government's control of the nation's courtrooms goes so far as to even allow the Government to directly violate federal court rules and suffer no consequences in the process?

It looks like we forgot that "the right to jury trial in criminal cases is fundamental to the American system of justice", *Duncan v. Louisiana, 391 U.S. 145 (1966)*, as these are "those fundamental principles of liberty and justice which lie at the base of all civil and political institutions", *Powell v. Alabama, 287 U.S. 415 (1932).*

The right to **Fair Trial** is one of the fundamental rights "implicit in the concept of ordered liberty", *Palko v. Connecticut, 302 U.S. 319 (1937)*, emphasis added.

Government's secret removal of evidence from the Trenton's federal courtroom violated the applicant's constitutionally guaranteed right to jury trial, as such a guarantee includes, **DE MINIMIS**, the right of a jury to review, without obstruction, influence, or undue delay, the evidence it requested, and to be allowed to properly function as a true and knowledgeable trier of fact. In the petitioner's case, the jury was first intentionally misled by perjurious testimonies of government witnesses and then physically prevented from orderly discharging its constitutional duties as it was oppressively deprived of the basic tool of its trade - documentary trial evidence which it requested several hours earlier, and which the jury, due to the trial circumstances, reasonably believed was readily available in the adjacent courtroom. Without protecting the right of a jury to review specifically requested documentary evidence, especially in complex federal fraud cases, jury is deprived of its fact finding tools and the petitioner's right to jury trial is extinguished.

Since a conviction in the federal courts, the foundation of which is "evidence obtained in disregard of liberties deemed fundamental by the Constitution cannot stand", *McNabb v. U.S. 318 U.S. 332 (1943)*, equally, a conviction in the federal courts, the foundation of which is the evidence illegally removed from the eyes of the jury, cannot stand.

In addition to violating the petitioner's constitutionally guaranteed right to a jury trial, the Government's action also violated the petitioner's right to impartial jury, guaranteed by the Sixth Amendment of the U.S. Constitution. The lack of availability of admitted evidence, particularly exculpatory evidence, prevented the jury from viewing and correctly balancing the equities of the case - evaluating facts and the overall trial evidence. This naturally tilted the jury in one direction over the other, making the jury "partial", unfairly and unduly favoring and supporting one party in the criminal litigation over the other (Government over defense). Jury requested the evidence not once but twice. Jury's first communication was followed by the second one strongly reiterating jury's previous specific evidentiary request and jury's requests were unmet solely due to the Government's horrific misconduct.

"In connection with constitutional right to trial by impartial jury, impartiality is not static concept, but can be defined only in relation to specific facts and circumstances", *Farese v. U.S. 428 F. 2d 178 (5th Cir. 1970).* This principle is so rooted in our nation's legal history that "if only ONE juror is improperly influenced, defendant in criminal case is denied his Sixth Amendment right to impartial jury", *Styler v. State, 417 A. 2d 947 (1980, Del.)*, emphasis added. The chance that at least one juror, if not all of them, was adversely influenced by non-delivery of evidence is extremely high under the described circumstances and should be at least subject of district court's evidentiary hearing.

"The jury's overriding responsibility is to stand between the accused and potentially arbitrary or abusive Government that is in command of the criminal sanction", *U.S. v. Goetz, 746 F.2d 705 (11th Cir. 1984).* In its rebuttal motion, the Government claimed that the petitioner suffered no prejudice as some of the requested evidence was allegedly inculpatory and not exculpatory, so presumably the "missing" evidence would not have helped him. However, it is not for the Government but for the jury to make such a determination and the jury's fact finding function was heavily affected by keeping it in the "dark".

Moreover, "Sixth Amendment must be liberally construed", *U.S. Ex Rel Whitaker v. Henning, 15 F. 2d 760 (9th Cir. 1926).* Second Circuit, creating a potential circuit split with the Third Circuit, recently determined that even a simple misleading statement by the prosecutor to the jury is sufficient to violate Sixth Amendment, *U.S. v. Whitten, 610 F.3d 168 (2d Cir. 2010).* Such a simple violation pales in comparison with the act of the Government's secret removal of the exculpatory evidence specifically requested by the jury. Time and again, this Court has also emphasized that "failure to afford such Sixth Amendment guarantees as public trial, **Impartial Jury**, notice of charges, or compulsory service can ordinarily be cured by providing those guaranteed rights in new trial", *Strunk v. U.S., 412 U.S.434 (1973).* However, these rights were flatly denied to the petitioner.

As if all of the above was not enough, while the Certiorari was pending with the Honorable Court, the Petitioner found a rock solid, written, evidence of Government witnesses committing a perjury which goes to the heart of the issue - whether the petitioner concealed his ownership and control of the advertising agency from ADP and Broadridge. "Since in a jury trial the primary finders of fact are the jurors", *U.S. v. Martin Linen Supply Company, 430 U.S. 564 (1977),* and the jurors in this matter were clearly deprived of the key tool and instrument for the fact finding - documentary evidence which they requested to review and were also lied to, it is hard to accept that a majority of this Court will conclude that the Third Circuit's decision, allowing such a blatant lawlessness in the nation's courtrooms, was not erroneous.

Finally, even if considered minor or marginal, which is clearly not, but even then, "the court may **not** ignore a violation of constitutional right because it is relatively not as bad as it might have been", *Patton v. U.S., 281 U.S. 276 (1930),* overruled in part on other grounds by *Williams v. Florida, 339 U.S. 78 (1970), emphasis added.*

Since "there is no right more sacred than the right to fair trial", *Stone v. U.S., 113 F. 2d 70 (6th Cir. 1940),* the Government's conduct in this matter needs to be seriously scrutinized and subject of the district court's evidentiary hearing.

The scandalous event that occurred in the courtroom of the Trenton, New Jersey, district court, represented not only a clear violation of the petitioner's numerous constitutional rights listed above, but also an act of grave and manifest injustice and outrageous government misconduct, which if unchecked, will turn into a critical legal issue of national importance. The issue can be summarized as follows: is it really possible that the Hobbes' Leviathan has reached the point that the Government's control of the nation's courtrooms goes so far as to allow the Government to commit gross and open violations of the federal court rules and defendant's due process and other constitutionally protected rights with impunity and suffer absolutely no consequences in the process?

4) Conclusion

In this respect the Petitioner prays for the Supreme Court to grant a Petition for Rehearing and correct this gross and manifest injustice caused to him, and also address an urgent issue of outrageous government misconduct and order a district court evidentiary hearing in this matter.

Pursuant to the provisions of 18 U.S.C. 1746 the petitioner states under the penalty of perjury that all of the statements above are true and correct.

Dated: February 27, 2018

MARIJAN CVJETICANIN

#65437-050

Federal Correctional Institution

Bldg. 5803, 3rd Floor

Box 2000

Joint Base MDL, New Jersey 08640

GOOD FAITH FILING CERTIFICATE

Pursuant to the provisions of Rule 44 of the Supreme Court, I hereby certify, under the penalty of perjury, that the filing of this Petition for Rehearing is done in good faith and not for delay.

No separate stay or bail motions were filed with this Petition, so the filing cannot cause any delays. I file this Petition in a good faith, hoping that someone will read it and truly consider the consequences of inaction for the country as a whole, not just for my individual criminal case.

Dated: February 27, 2018

Sincerely,

MARIJAN CVJETICANIN

#65437-050

Federal Correctional Institution

Bldg. 5803, 3rd Floor

Box 2000

Joint Base MDL, New Jersey 08640

RULE 44 FILING CERTIFICATE

Pursuant to the provisions of the Supreme Court Rule 44, this is to certify that, as presented herein, the grounds for filing of the Petition for Rehearing are limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented.

Petition for Rehearing is filed primarily on the grounds of intervening circumstances of substantial effect and other substantial grounds not previously presented to the Honorable Court.

Dated: February 27, 2018

MARIJAN CVJETICANIN, PRO SE

#65437-050

Federal Correctional Institution

Bldg. 5803, 3rd Floor

BOX 2000

Joint Base MDL, New Jersey 08640

TABLE OF AUTHORITIES:

-Lisenba v. California, 314 U.S. 219 (1941);

- Arizona v. Fulminante, 499 U.S. 279 (1991);

-Duncan v. Louisiana, 391 U.S. 135 (1966);

- Powell v. Alabama, 287 U.S. 415 (1932);

- Palko v. Connecticut, 302 U.S. 319 (1937);

- McNabb v. United States, 318 U.S. 332 (1943);

-United States v. Goetz, 746 F.2d 705 (11th Cir. 1984);

- Strunk v. United States, 412 U.S. 434 (1973);

- United States v. Whitten, 610 F.3d 168 (2d Cir. 2010);

-Stone v. United States, 113 F. 2d 70 (6th Cir. 1940);

- *United States v. Martin Linen Supply Company, 430 U.S.564 (1977);*

- *Patton v. United States, 281 U.S. 276 (1930);*

Case No. 17-7203

IN THE SUPREME COURT OF THE UNITED STATES

MARIJAN CVJETICANIN

Petitioner

v. Case No. 17-7203

UNITED STATES OF AMERICA

Respondent

APPENDIX

OF THE PETITIONER

Mr. MARIJAN CVJETICANIN

MARIJAN CVJETICANIN, Pro Se
#65437-050
Federal Correctional Institution
Bldg. 5803, 3rd Floor
BOX 2000
Joint Base MDL, New Jersey 08640

INDEX OF APPENDIX:

APPENDIX A

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

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

January 22, 2018

Mr. Marijan Cvjeticanin
Prisoner ID # 65437-050
F.C.I.
Building 1503, 3rd Floor, Box 2000
Joint Base MDL, NJ 08640

Re: Marijan Cvjeticanin
v. United States
No. 17-7203

Dear Mr. Cvjeticanin:

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

The petition for a writ of certiorari is denied.

Sincerely,

Scott S. Harris

Scott S. Harris, Clerk

APPENDIX B

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	: Crim. No. 14-274 (MAS)
	:
v.	: 18 U.S.C. § 1341
	: 18 U.S.C. § 2
MARIJAN CVJETICANIN	:

INDICTMENT

The Grand Jury in and for the District of New Jersey, sitting at Newark, charges:

Counts 1-6
(Mail Fraud)

Relevant Entities and Individuals

1. At all times relevant to this Indictment unless otherwise specifically noted:

a. Company A was a business outsourcing company that had its global headquarters in Essex County, New Jersey.

b. Company B provided investor communications and technology-driven-solutions to financial industry businesses and other companies. Company B had offices in Hudson County, New Jersey.

c. "Law Firm A" was a law firm located in New York, New York that specialized in immigration law. Law Firm A served as outside counsel to Company A and Company B for immigration matters.

d. Defendant MARIJAN CVJETICANIN ("CVJETICANIN") was employed by Law Firm A from approximately September 1996 through approximately September 2012. During the majority of his employment with Law Firm A, CVJETICANIN worked as a paralegal. In or around 2010, CVJETICANIN became licensed to practice law in the State of New York.

e. Flowerson Holdings, Inc., a/k/a Flowerson Advertising ("Flowerson"), was a purported advertising agency located in New York, New York that was controlled by CVJETICANIN.

Background and Overview of the Immigration Process

2. Many companies in the United States, including Company A and Company B, employed foreign nationals through a temporary non-immigrant visa known as an "H-1B" visa, which had to be approved by the United States Citizenship and Immigration Services ("USCIS").

3. In general terms, an H-1B visa allowed employers based in the United States to temporarily employ foreign workers in certain specialty occupations for a period of time.

4. If an employer wished to apply for permanent residency on behalf of an employee, the employer had to demonstrate, among other things, that it had a need to hire a foreign worker for a specific position and that there was no minimally qualified United States citizen available to fill that particular position. To meet those requirements, an employer had to engage

in recruiting by, among other things, placing print advertisements in the geographic location where the position was located, and had to attest in a labor certification submitted to the United States Department of Labor ("DOL") that it had advertised for the specific position and interviewed any qualified applicants.

5. A significant percentage of Law Firm A's representation of Company A and Company B involved preparing applications for permanent residency for certain foreign-citizen employees of Company A and Company B. CVJETICANIN was the case manager for these matters and handled the day-to-day tasks, including, among other things, overseeing the recruiting and job advertising process, and coordinating with representatives of Company A and Company B to gather relevant information pertaining to the DOL certifications.

6. To fulfill the advertising requirements of the DOL certification process, Law Firm A had long utilized the services of a third-party advertisement agency.

<u>The Scheme to Defraud</u>

7. From at least as early as 2010 through in or about September 2012, in the District of New Jersey and elsewhere, defendant

MARIJAN CVJETICANIN

did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud Company A and Company B and to obtain money and property from Company A and Company B by means of materially false and fraudulent pretenses, representations, and promises, which scheme and artifice to defraud was in substance as set forth below, and for the purpose of executing such scheme and artifice, knowingly and intentionally caused to be placed in post offices and authorized depositories for mail matter, matters and things to be sent and delivered by the United States Postal Service.

Object of the Scheme to Defraud

8. It was the object of the scheme to defraud for CVJETICANIN and others to obtain money and property from Company A and Company B by fraudulently billing and collecting monies from Company A and Company B for services which Flowerson never provided.

Manner and Means of the Scheme to Defraud

9. It was part of the scheme to defraud that at some point prior to January 2010, CVJETICANIN caused Law Firm A to replace the existing advertising agency with Flowerson.

10. It was further a part of the scheme to defraud that from at least 2010 through in or about September 2012, CVJETICANIN concealed his interest and control of Flowerson from Law Firm A, Company A, Company B, and others.

11. It was further a part of the scheme to defraud that beginning in or about January 2010 and continuing through

September 2012, Flowerson purportedly handled all of the advertisement obligations of Company A and Company B in connection with DOL certifications for permanent residency applications.

12. It was further a part of the scheme to defraud that throughout this time, CVJETICANIN sent over $500,000 in invoices on behalf of Flowerson to Company A and Company B in New Jersey by mail for advertising services allegedly rendered.

13. It was further a part of the scheme to defraud that the invoices contained false and fraudulent statements because neither CVJETICANIN nor Flowerson placed many of the advertisements for which Company A, Company B, and others were invoiced.

14. It was further a part of the scheme to defraud that CVJETICANIN and Flowerson caused Company A and Company B to pay the fraudulent invoices under the belief that the relevant advertisements had been placed.

15. It was further a part of the scheme to defraud that from in or about August 2010 through in or about September 2012, CVJETICANIN deposited into a checking account maintained by Flowerson at TD Bank (the "Flowerson TD Account") the payments that Company A and Company B made to Flowerson for advertisements allegedly placed.

16. It was further a part of the scheme to defraud that during that time period, CVJETICANIN disbursed funds from the

Flowerson TD Account for the benefit of himself, his family, and other entities controlled by him. Among other things, CVJETICANIN used the funds obtained from Company A and Company B to finance his lifestyle and service his debts.

17. On or about the dates shown below, in the District of New Jersey and elsewhere, having devised and intending to devise the above-described scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, defendant

MARIJAN CVJETICANIN

for the purpose of executing and attempting to execute the above-described scheme and artifice to defraud, knowingly and intentionally placed and caused to be placed in a post office and authorized depository of mail, and caused to be delivered thereon, certain mail matter, namely fraudulent invoices to be sent and delivered by the United States Postal Service, and by any private and commercial interstate carrier to Company A and Company B in the District of New Jersey.

Count	Date	Amount	Originator	Recipient
1	January 26, 2010	$3,150	Flowerson	Company A
2	March 6, 2011	$3,128	Flowerson	Company A
3	September 22, 2011	$3,242	Flowerson	Company B
4	January 4, 2012	$3,380	Flowerson	Company B
5	January 5, 2012	$3,222	Flowerson	Company A
6	April 1, 2012	$3,629	Flowerson	Company B

In violation of Title 18, United States Code, Sections 1341 and 2.

FIRST FORFEITURE ALLEGATION

1. The allegations contained in all paragraphs of Counts 1 through 6 of this Indictment are hereby realleged and incorporated by reference for the purpose of noticing forfeitures pursuant to Title 28, United States Code, Section 2461(c).

2. The United States hereby gives notice to the defendant that, upon conviction of the offenses charged in Counts 1 through 6 of this Indictment, the government will seek forfeiture, in accordance with Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 981(a)(1)(C), of any and all property, real or personal, that constitutes or is derived from proceeds traceable to the violations of Title 18, United States Code, Sections 1341, alleged in Counts 1 through 6 of this Indictment, including but not limited to a sum of money equal to at least $431,890 in United States currency.

3. If by any act or omission of the defendant, any of the property subject to forfeiture described in paragraph 2 herein:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be subdivided without difficulty, the United States of America will be entitled to forfeiture of substitute property up to the value of the property described above in paragraph 2, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

A TRUE BILL.

Paul J. Fishman

PAUL J. FISHMAN
United States Attorney

CASE NUMBER: 14- 274 (MAS)

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

v.

MARIJAN CVJETICANIN

INDICTMENT FOR
18 U.S.C. § 1341
18 U.S.C. § 2

A True Bill.

PAUL J. FISHMAN
UNITED STATES ATTORNEY
NEWARK, NEW JERSEY

Francisco J. Navarro
ASSISTANT UNITED STATES ATTORNEY
973-645-2515

RECEIVED

MAR 13 2015

AT 8:30______________M
WILLIAM T. WALSH, CLERK

2013R00225:FJN/DCC

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Crim. No. 14-274 (MAS)
	:	
v.	:	18 U.S.C. § 1341
	:	18 U.S.C. § 2
MARIJAN CVJETICANIN	:	

SUPERSEDING INDICTMENT

The Grand Jury in and for the District of New Jersey, sitting at Newark, charges:

Counts 1-12
(Mail Fraud)

Relevant Entities and Individuals

1. At all times relevant to this Superseding Indictment unless otherwise specifically noted:

a. "Company A" was a business outsourcing company that had its global headquarters in Roseland, New Jersey.

b. "Company B" was a global technology company and operations provider to the financial services industry. Company B had offices in Jersey City, New Jersey.

c. "Law Firm A" was a law firm located in New York, New York that specialized in immigration law. Law Firm A served as outside counsel to Company A and Company B for immigration matters.

d. Defendant MARIJAN CVJETICANIN ("CVJETICANIN") was employed by Law Firm A from approximately September 1996 through approximately September 2012. During the majority of his employment with Law Firm A, CVJETICANIN worked as a paralegal. In or around 2010, CVJETICANIN became licensed to practice law in the State of New York.

e. Flowerson Holdings, Inc., a/k/a Flowerson Advertising ("Flowerson"), purported to be an advertising agency located in New York, New York that was controlled by CVJETICANIN.

f. The United States Department of Labor ("DOL") was an agency of the executive branch of the United States and was empowered to approve and process applications for permanent employment certifications.

g. The United States Citizenship and Immigration Services ("USCIS") was an agency of the executive branch of the United States and was empowered to approve and process applications for permanent residency.

Background and Overview of the Immigration Process

2. Many companies in the United States, including Company A and Company B, employed foreign nationals through a temporary non-immigrant visa known as an "H-1B" visa, which had to be approved by USCIS.

3. In general terms, an H-1B visa allowed employers based in the United States to temporarily employ foreign workers in certain specialty occupations for a period of time.

4. If an employer wished to apply for permanent residency on behalf of an employee, the employer had to demonstrate, among other things, that it had a need to hire a foreign worker for a specific position and that there was no minimally qualified United States citizen available to fill that particular position. To meet those requirements, an employer had to engage in recruiting by, among other things, placing print advertisements in the geographic location where the position was located and/or in an appropriate professional journal, and had to attest in a labor certification submitted to the DOL and USCIS that it had advertised for the specific position and interviewed any qualified applicants. The DOL would periodically audit these labor certifications and, on occasion, request additional information from the filer.

5. A significant percentage of Law Firm A's representation of Company A and Company B involved preparing applications for permanent residency for certain foreign-citizen employees of Company A and Company B, including individuals who will be referred to herein as "Applicant A" through "Applicant K." CVJETICANIN was the case manager for these matters and handled the day-to-day tasks, including, among other things, overseeing the job advertisement process, and coordinating with representatives of Company A and Company B to gather relevant information pertaining to the DOL certifications.

6. To fulfill the advertising requirements of the DOL certification process, Law Firm A had utilized the services of third-party advertisement agencies, including Flowerson.

The Scheme to Defraud

7. From at least as early as 2010 through in or about September 2012, in the District of New Jersey and elsewhere, defendant

MARIJAN CVJETICANIN

did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud Company A and Company B and to obtain money and property from Company A and Company B by means of materially false and fraudulent pretenses, representations, and promises, which scheme and artifice to defraud was in substance as set forth below, and for the purpose of executing such scheme and artifice, knowingly and intentionally caused to be placed in post offices and authorized depositories for mail matter, matters and things to be sent and delivered by the United States Postal Service.

Object of the Scheme to Defraud

8. It was the object of the scheme to defraud for CVJETICANIN and others to obtain money and property from Company A and Company B by fraudulently billing and collecting monies from Company A and Company B for services which Flowerson never provided.

Manner and Means of the Scheme to Defraud

9. It was part of the scheme to defraud that at some point prior to January 2010, CVJETICANIN caused Law Firm A to replace its existing advertising agency with Flowerson.

10. It was further a part of the scheme to defraud that from at least 2010 through in or about September 2012, CVJETICANIN concealed his interest in and control of Flowerson from Law Firm A, Company A, Company B, and others.

11. It was further a part of the scheme to defraud that beginning in or about January 2010 and continuing through September 2012, Flowerson purportedly handled all of the advertisement obligations of Company A and Company B in connection with the DOL certifications for permanent residency applications.

12. It was further a part of the scheme to defraud that throughout this time, CVJETICANIN sent over $500,000 in invoices on behalf of Flowerson to Company A and Company B in New Jersey by mail for advertising services allegedly rendered, including a combined total of approximately $206,210 for advertisements that were purportedly placed in Computer World magazine.

13. It was further a part of the scheme to defraud that the invoices CVJETICANIN caused to be mailed to Company A and Company B contained false and fraudulent statements because neither CVJETICANIN nor Flowerson placed many of the advertisements for which Company A and Company B were

invoiced. Indeed, CVJETICANIN and Flowerson did not place any advertisements in Computer World during the relevant time period.

14. It was further a part of the scheme to defraud that CVJETICANIN and Flowerson caused Company A and Company B to pay fraudulent invoices under the belief that the relevant advertisements had been placed.

15. It was further a part of the scheme to defraud that CVJETICANIN falsely informed other persons at Law Firm A that he had placed the required advertisements knowing that such false information would be submitted to the DOL and USCIS in connection with labor certifications and permanent residency applications, including in response to audits conducted by the DOL.

16. It was further a part of the scheme to defraud that CVJETICANIN, as the case manager and later attorney, was responsible for, among other things, preparing the information to be submitted to the DOL regarding the print advertisements that had purportedly been placed concerning Company A and Company B. Because, in many instances, CVJETICANIN had not placed the required print advertisements, he was unable to provide copies of the relevant print advertisements in response to DOL audit requests.

17. It was further a part of the scheme to defraud that CVJETICANIN, in order to avoid detection of his fraud, took print advertisements that he and Flowerson had placed in the past, altered them by superimposing them on a publication from another date, photocopied them, and submitted them in response to DOL audit requests. The photocopied submissions purported to show that the relevant advertisements had been placed on the appropriate

dates, when, in fact, the actual newspapers that were printed on those dates contained no such advertisements.

18. It was further a part of the scheme to defraud that CVJETICANIN deposited into a checking account maintained by Flowerson at TD Bank (the "Flowerson TD Account") and other related accounts payments that Company A and Company B made to Flowerson for advertisements that were never placed.

19. It was further a part of the scheme to defraud that CVJETICANIN disbursed funds from the Flowerson TD Account and other related accounts to benefit himself, his family, and other entities controlled by him. Among other things, CVJETICANIN used funds obtained from Company A and Company B to finance his lifestyle and service his debts.

20. On or about the dates set forth below, in the District of New Jersey and elsewhere, having devised and intending to devise the above-described scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, defendant

MARIJAN CVJETICANIN

for the purpose of executing and attempting to execute the above-described scheme and artifice to defraud, knowingly and intentionally placed and caused to be placed in a post office and authorized depository of mail, and caused to be delivered thereon, certain mail matter, namely fraudulent invoices identified below to be sent and delivered by the United States Postal Service, and by any private and commercial interstate carrier to Company A and Company B in the

District of New Jersey, each constituting a separate count of this Superseding Indictment.

Count	Date	Invoice Number	Amount	Victim	Applicant
1	January 26, 2010	772-XXX	$3,150	Company A	Applicant A
2	September 7, 2010	818-XX	$3,276	Company B	Applicant B
3	October 2, 2010	830-XXX	$3,192	Company A	Applicant C
4	October 2, 2010	826-XXX	$3,195	Company A	Applicant D
5	October 2, 2010	827-XXX	$2,770	Company A	Applicant E
6	November 13, 2010	844-XX	$3,343	Company B	Applicant F
7	March 6, 2011	860-XXX	$3,128	Company A	Applicant G
8	September 22, 2011	910-XX	$3,242	Company B	Applicant H
9	January 4, 2012	1938	$3,380	Company B	Applicant I
10	January 5, 2012	1941	$3,222	Company A	Applicant J
11	January 31, 2012	1952	$3,165	Company A	Applicant C
12	July 31, 2012	1999	$3,219	Company A	Applicant K

In violation of Title 18, United States Code, Sections 1341 and 2.

FORFEITURE ALLEGATION

1. The allegations contained in all paragraphs of Counts 1 through 12 of this Superseding Indictment are hereby realleged and incorporated by reference for the purpose of noticing forfeitures pursuant to Title 28, United States Code, Section 2461(c).

2. The United States hereby gives notice to the defendant that, upon conviction of the offenses charged in Counts 1 through 12 of this Superseding Indictment, the government will seek forfeiture, in accordance with Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 981(a)(1)(C), of any and all property, real or personal, that constitutes or is derived from proceeds traceable to the violations of Title 18, United States Code, Section 1341, alleged in Counts 1 through 12 of this Superseding Indictment, including but not limited to a sum of money equal to at least $579,000 in United States currency.

3. If by any act or omission of the defendant, any of the property subject to forfeiture described in paragraph 2 herein:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be subdivided without difficulty, the United States of America will be entitled to forfeiture of substitute property up to the value of the property described above in paragraph 2, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

A TRUE BILL,

Paul J Fishman

PAUL J. FISHMAN
United States Attorney

CASE NUMBER: 14-cr-274 (MAS)

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

v.

MARIJAN CVJETICANIN

SUPERSEDING INDICTMENT FOR
18 U.S.C. § 1341
18 U.S.C. § 2

A True Bill,

PAUL J. FISHMAN
UNITED STATES ATTORNEY
NEWARK, NEW JERSEY

Francisco J. Navarro
Dennis C. Carletta
ASSISTANT UNITED STATES ATTORNEYS
973-645-2700

APPENDIX C

UNITED STATES DISTRICT COURT
DISTRICT of NEW JERSEY

UNITED STATES OF AMERICA

CR. 14-274

-v-

Jury Communication # 1

MARIJAN CVJETICANIN

need newspapers for Count One & Five

DATE: 6/29/15 TIME: 1:10pm

FOREPERSON:

APPENDIX D

UNITED STATES DISTRICT COURT
DISTRICT of NEW JERSEY

UNITED STATES OF AMERICA CR. 14-274

-v- Jury Communication # ~~1~~ 2

MARIJAN CVJETICANIN

What is going on? We have been waiting for over an hour!

DATE: 6/29/15 TIME: 2 38

FOREPERSON: C

APPENDIX E

stipulate to or that the Court may instruct you to find.

Certain things are not evidence and must not be considered by you. I'm going to list them for you now. Statements, arguments and questions by lawyers, are not evidence. Objections to questions, not evidence. Lawyers have an obligation to their clients to make objections when they believe evidence being offered is improper under the rules of evidence. You should not be influenced by the objection or by the Court's ruling on it.

If the objection is sustained, ignore the question. If it is overruled, treat the answer like any other. If you are instructed that some item of evidence is received for a limited purpose only, you must follow that instruction.

Testimony that the Court has excluded or told you to disregard is not evidence and must not be considered. Anything you may have seen or heard outside of this courtroom is not evidence and must be disregarded. You are to decide the case solely on the evidence presented here in this courtroom.

There are two types of evidence: Direct and circumstantial. Direct evidence is direct proof of a fact such as testimony of an eye witness. Circumstantial evidence is proof of facts from which you may infer or conclude that other facts exist. I'll give you further instructions on these as well as other matters at the end of the case, but government submits that it has met its burden.

THE COURT: Anything further, Ms. Gauli-Rufo on rebuttal?

MS. GAULI-RUFO: No, your Honor.

THE COURT: Okay. With that, the Court has received the Rule 29 motion. The Court finds that, based upon the elements for a mail fraud, that there is an issue that ought to go to the jury, and the motion, at this time, is denied.

So, with that, are we prepared for defense counsel to call your first witness today?

MR. AMBROSIO: Judge, the only defense evidence will be a stipulation that has been agreed upon by defense and the government.

THE COURT: Okay. So after that, are you intending to rest?

MR. AMBROSIO: Yes.

THE COURT: And are we going to give this case -- well, I guess we're going to then have a charging conference? Where are we going from here?

MR. NAVARRO: Your Honor, the one thing that the government would request is that your Honor conduct a colloquy with the defendant regarding his right to testify or not testify.

THE COURT: We'll do that.

MR. NAVARRO: Yeah, and can we do the stip on the

THE COURT: Has counsel advised you that you and only you are the only person here who can decide whether or not to waive that right to testify?

THE DEFENDANT: Yes, they did.

THE COURT: Do you have any questions about your right to testify and your ability to waive your rights to testify?

THE DEFENDANT: No, I don't.

THE COURT: Are you waiving your right to testify?

THE DEFENDANT: Yes, I am.

THE COURT: And this is a knowing and voluntarily waiver, correct?

THE DEFENDANT: Yes. Yes, it is.

THE COURT: Thank you.

THE DEFENDANT: Thank you, your Honor.

THE COURT: With that, I'm ready to bring in the jury. Are there any other issues that we need to address?

MR. NAVARRO: Not from the government, your Honor. Just so I understand -- you have something?

MR. CARLETTA: I don't know if the jury knows this, we submitted all the newspapers in evidence, early on in the case, and maybe before they deliberate, they should just be -- they should be made aware to them, that there are all here in the courtroom. I don't know if they want to see them, but I don't know that we actually made that clear to them. To the extent that they know that all the evidence is here, I just want to get that on the record.

THE COURT: Okay.

MR. CARLETTA: If the Court can just --

THE COURT: That's really going to be more pertinent once we give them the case, to let them know everything is here if they want to see anything.

For today's purposes, I'm just going to pretty much let the defendant go on the record and rest, and then we can let them go, in essence.

MR. NAVARRO: Your Honor, just one question. The timing of the reading of the stip, I don't know what Mr. Ambrosio had in mind or what the Court had in mind for that?

MR. AMBROSIO: Judge, I was going to say the same thing that I said to your Honor before.

THE COURT: We'll do that. Then you're going to rest right after that.

MR. AMBROSIO: Yes.

MR. NAVARRO: That's fine. Thank you, Judge.

THE COURT: We'll do the charge conference afterwards. Nati, let's bring in the jury.

THE DEPUTY COURT CLERK: All rise.

(At which time the jury was brought into the courtroom and the following took place at 1:05 p.m.)

THE COURT: Please be seated. At this time, the

THE DEPUTY COURT CLERK: Please state your name for the record.

CSO MCGINTY: CSO Joseph McGinty.

THE COURT: At this time I'm going to instruct the jurors to go with CSO McGinty. I'm going to instruct the alternates report to the second floor assembly room and you'll be instructed from there.

(At which time the jury was excused from the courtroom at 12:07 p.m.)

THE COURT: At this point we're in recess until such time as the jury communicates with the Court.

MS. GAULI-RUFO: Thank you, your Honor.

THE DEPUTY COURT CLERK: All rise.

(Recess at 12:08 p.m.)

THE DEPUTY COURT CLERK: All rise.

(Open court begins at 2:07 p.m.)

THE COURT: Please be seated. As counsel is aware, the Court has received juror communication number 1 in the matter of United States versus Marijan Cvjeticanin. And the note reads: "Need newspapers for Count 1 and 5."

And at this juncture, the parties have been made aware of it. Is there a plan to send some of these articles down so that we don't continue to get these types of requests, or how are we proceeding?

MR. CARLETTA: Judge, we're happy to provide all the they're there, they're ready for them, and they're going to go back right now.

THE COURT: All right. Then we will go ahead and you can coordinate through my courtroom deputy to see that the list is returned, the *Computer World* magazines are in order, and that the remaining boxes get down to the jury room.

MS. GAULI-RUFO: Thank you, your Honor.

THE DEPUTY COURT CLERK: All rise.

(Recess at 2:11 p.m.)

THE DEPUTY COURT CLERK: All rise.

(Open court begins at 2:42 p.m.)

THE COURT: Please be seated. We're back on the record in the United States of America versus Marijan Cvjeticanin. The Court has received what's marked as jury communication number 10, however, it's really jury communication number 2, but apparently they feel like it's number 10. Their note says, quote, What is going on, question mark. We have been waiting for over an hour, exclamation point. So, apparently, you have a very anxious jury.

Have we assembled their request pursuant to 1 and -- was it 1 and 5?

MR. NAVARRO: Yes, Judge. Judge, here's where we stand. The Court has, over there, copies of all the exhibits aside from the newspapers including *Computer World*. Then in the top box is all the relevant newspapers for Count 1. We are right now putting together Count 5. My suggestion is, let's start them with this. We'll send Count 5 as soon as it's ready, and then will send down the rest of the newspapers as soon as they're ready.

THE COURT: Ms. Gauli-Rufo.

MS. GAULI-RUFO: No objection, your Honor.

THE COURT: Okay. That's how we're going to proceed. At this juncture, I'm going to ask you to move as quickly as possible. I don't like receiving requests like this. I'm sure they don't like writing them, but I imagine they're getting a little anxious.

MR. NAVARRO: Yes, Judge, we'll move as quickly as we can. But I think the piecemeal approach, at least, will get them started.

MS. GAULI-RUFO: Thank you, your Honor.

THE DEPUTY COURT CLERK: All rise.

(Recess at 2:45 p.m.)

THE DEPUTY COURT CLERK: All rise.

(Open court begins at 3:09 p.m.)

THE COURT: Please be seated. We are back on the record in the United States of America versus Marijan Cvjeticanin. The Court has received jury communication number 3 and it simply says, "We have a verdict." Does counsel need to be heard at all with this?

MR. NAVARRO: Not for the government, your Honor.

THE COURT: Ms. Gauli-Rufo.

MS. GAULI-RUFO: No, your Honor.

THE COURT: Okay. At this juncture, then, I am inclined in an abundance of caution to simply ask the jury to hold tight on their verdict, send down that last batch of documents that you guys were sending down. They didn't receive it, did they?

MR. NAVARRO: No, your Honor. The -- so here's what we have. We have all the documents here, all the newspapers for all counts except for one newspaper that we are getting from the U.S. Attorney's Office. I think it was inadvertently taken back there. So minus that one newspaper, we have everything.

THE COURT: Okay. So I'm not really interested in that full submission. It was one -- do we have the --

MR. NAVARRO: It was Count 5, Judge. It's that one newspaper that we were missing relates to Count 5, of course.

THE COURT: Okay. In an abundance of caution, I think it's appropriate that we make sure they have that. Even though they say they have a verdict, there's nothing that requires us to do that. I think it's only appropriate just so that they make sure what they requested initially has no bearing whatsoever on their verdict. And I think it's the appropriate thing to do. So I'm going to go ahead and let them at least peruse through that document, and then once they've looked at whatever that document is, they can advise the Court if they have a verdict at that time. Mr. Carletta.

MR. CARLETTA: Judge, I just don't want -- I'm not saying that your Honor would intentionally do this -- I don't want the communications to the jury that somehow seem like, hey, your verdict is not correct until you see this, one newspaper because --

THE COURT: No, no.

MR. CARLETTA: That's my fear, because in reality --

THE COURT: I think --

MR. CARLETTA: I'm sorry, your Honor.

THE COURT: -- no, no, go ahead.

MR. CARLETTA: In reality they can convict on *Computer World* alone, for example, or the other eight counts. So I just want to make sure we're not kind of sending them a warning sign, hey, that verdict is not right, whatever it is, until you see the newspaper, that's all I'm saying.

THE COURT: No, no, that's why I think that newspaper -- where is the rest of the submission for Count 5? Is that that box there? Where? That's going to go in conjunction -- is this on the cart here? Yeah, I just think you run into a greater potential for trouble down the road if they've made a request, we've not supplied them with their request, and then there is some appearance at all - not saying that that's the case here - that they were declined or deprived of their

APPENDIX F

Civ Rule 79.1. Custody of Original Papers, Records and Exhibits

(a) No original papers or records shall be taken from the Clerk's office or the courtroom (except in the custody of the Clerk) without an order from a Judge.

(b) Unless the Court otherwise directs, each exhibit admitted into evidence prior to disposition of any matter shall be held in the custody of the Clerk.

(c) Unless the Court otherwise directs in civil matters, the Clerk shall permit only the parties to the action or their attorneys to examine or copy exhibits in the Clerk's custody.

(d) At the conclusion of the trial or other disposition of a civil matter, the Clerk shall promptly return all exhibits to the attorney for the party on whose behalf they were introduced, except those pleadings from the Clerk's file marked as exhibits. The attorney to whom the exhibits are returned shall be responsible for their preservation until the time for appeal has passed, during the pendency of any appeal, or for six months, whichever period is longer, and shall make them available to any party or attorney for any party for the purpose of preparing the record or appendix on appeal.

(e) In the event that exhibits consist of heavy or bulky models or other material which cannot conveniently be mailed, the Clerk, in writing, shall notify the attorney who introduced such exhibits to remove them within 21 days and, upon the attorney's failure to do so, they shall be disposed of as the Clerk sees fit.

HISTORY

APPENDIX G

[redacted]

From: Marijan <marijan@wildesweinberg.com>
Sent: Thursday, November 02, 2006 4:37 PM
To: Elizabeth_Sielewonczuk@adp.com
Subject: CONF. CALL

Hi Elizabeth:

Please bring to David's attention the following, might be important during the conference calls with aliens and managers for him to know. Some I have already mentioned. The ads Enrico placed were not only late, but defective. The ads state different requirements than the requirements signed by David (and Linda Chui). The Labor Department did not notice this (they just noticed that the ads were late), but the alien associates may notice this if they examine the cases as filed once this is discussed.

Further, I had problems with Linda Chui being late, too. She was overwhelmed with the amount of work, requests. My strategy was, and still is, always to tell my ad agency to stop advertising until all the paperwork is done, as it may always happen that the manager does not want to sign, job may change (Heidi Hendriks), etc. If Enrico only placed one ad, only one ad in December 2003/ January 2004 we would not be in this situation now. Hope this also explains to you why I use ad agency which is friendly to us at W&W, etc. Call me if you need further explanation, but I think this is OK?

Marijan

Paul Viola

From:	mcvjetican@aol.com
Sent:	Wednesday, October 03, 2012 2:51 PM
To:	Steven Weinberg; Paul Viola
Subject:	SPOKE WITH ELIZABETH, WILL SPEAK WITH CEO OF ADP NEXT WEEK (IF NECESSARY)

SLW:

I just spoke with Elizabeth and she told me that she would like to continue to use Flowerson agency and particularly now since I am no longer with W&W that she would like Flowerson to review their resumes first and not their managers (and only send/alert if problem, as managers are just employees are this is a decision of Corporate HR who handles what, not the decision of individual managers, etc).

I also apologized to her regarding Chava, Shinganmakki and Thomas cases and explained to her that all three were on my desk for filing last Thursday afternoon. Apparently, no one has complained to her yet, but ADP Indians are massively contacting me by social media, so we need to act fast. Elizabeth appeared genuine to me, I don't think she was not telling me the truth (no reason). As you know I don't really care whether they use Flowerson or not, so I am leaving this to you, but let's not overreact again at least on a short run to manage the transition in an orderly way. I will be next week on an event with House Speaker Boehner (Republican Immigration Reform Task Force) and maybe ADP CEO, but I guess this is too high and no need to mention anything. Mark Digidio and Patricia also called to wish me well, etc, all went well (so far).

I will reply to Paul's last e-mails later on to form a definitive list as to which cases are a priority to do, etc, thank you

Marijan

Marijan

From: Marijan
Sent: Monday, October 13, 2003 10:51 AM
To: Flowerson Flowerson (E-mail); 'newimmigrant@aol.com'
Cc: 'Investholdings@aol.com'
Subject: FW: RIR LABOR CERT FOR STUART M. BROCK

FORWARDING FOR ADVERTISING - RIR CASE THANK YOU

MARIJAN

-----Original Message-----
From: Marijan
Sent: Monday, October 13, 2003 10:49 AM
To: 'Strommen, Sheila x66070'
Subject: RE: RIR LABOR CERT FOR STUART M. BROCK

Thank you and I will proceed with the advertising.

Marijan

-----Original Message-----
From: Strommen, Sheila x66070 [mailto:Sheila_Strommen@adp.com]
Sent: Monday, October 13, 2003 10:41 AM
To: Marijan
Subject: RE: RIR LABOR CERT FOR STUART M. BROCK

Hi Marijan:

Thank you for answering my questions this morning regarding this process. I will posting the posting notice in our building this morning.

Sheila Strommen
ADP/SIS
4725 Independence Street
Wheat Ridge, CO 80033
Tel. 303-590-6070
Fax. 303-590-6402

-----Original Message-----
From: Marijan [mailto:marijan@wwgw.com]
Sent: Monday, October 13, 2003 7:59 AM
To: Sheila Strommen (E-mail)

Cc: Illene Ocampo-Aquino (E-mail); Sidra D'Amato (E-mail)
Subject: RIR LABOR CERT FOR STUART M. BROCK

Dear Sheila:

Enclosed please find the draft posting notice and draft letter in support of Mr. Stuart Brock's RIR Labor Certification to be filed with the State of Colorado Department of Labor.

Please start the posting now, RIR support letter is for your review only, has to be finalized only after the advertising stage is completed.

Please let me know regarding the advertising - would you like to use your agency to place ads or would you like me to use my agency, so that you would not have to deal with placing ads, obtaining tearsheets, collecting resumes, etc. My ad agency can organize everything for you, but if you insist on using your ad agency it is fine with us. Please let me know, as the next step is to start the advertising in this matter.

Sincerely,

Marijan

<<BROCK ADP-suggested.letter RIR Colorado.doc>> <<BROCK-ADP-RIR.NOTICE Lead Programmer Analyst 092803.doc>>