79 PRB

[Filed 12-Aug-2005]

In re Sinnott (2005-337)

[Filed 25-Aug-2005]

ENTRY ORDER

SUPREME COURT DOCKET NO. 2005-337

AUGUST TERM, 2005

In re Howard Sinnott, Esq.	}	Original Jurisdiction
	}	
	}	
	}	Professional Responsibility Board
	}	
	}	
	}	PRB File No. 2002-240

In the above-entitled cause, the Clerk will enter:

The Professional Responsibility Board had submitted a recommendation that attorney Howard Sinnott be disbarred. The recommendation is based upon the affidavit of resignation submitted by attorney Sinnott and an additional statement of facts and memorandum of law submitted by disciplinary counsel. The undisputed facts reveal that attorney Sinnott was indicted by a federal grand jury for offenses relating to the misappropriation of over $500,000 in client funds, and that, in February 2005, pursuant to a plea agreement, attorney Sinnott pled guilty to two felony counts of interstate transmission of stolen property, in violation of 18 U.S.C. § 2341. Based on these facts, the Court finds clear and convincing evidence that attorney Sinnott violated Rules 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), 8.4(d) (conduct prejudicial to the administration of justice), and 8.4(h) (conduct that adversely reflects on the lawyer's fitness to practice law) of the Vermont Rules of Professional Conduct. Accordingly, attorney Sinnott's resignation and the recommendation of the Board that attorney Sinnott be disbarred are accepted. We hereby order that Howard Sinnott is disbarred from the office of attorney and counselor at law.

Attorney Sinnott shall comply with the requirements of A.O. 9, Rule 23.

FOR THE COURT:

_____

Paul L. Reiber, Chief Justice

_____

John A. Dooley, Associate Justice

Denise R. Johnson, Associate Justice

Marilyn S. Skoglund, Associate Justice

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY BOARD

In re: Howard Sinnott, Esq.
PRB Docket No. 2002-240

Decision No. 79

Upon receipt of the Affidavit of Resignation submitted to the Board and pursuant to Administrative Order No. 9, Rule 19, we recommend to the Court that the above referenced Respondent be disbarred. Attached hereto are the Affidavit of Resignation, Disciplinary Counsel's Statement of Additional Facts - Paragraphs 1-4 and 6-10, Disciplinary Counsel's Memorandum of Law, and Exhibits B-D[1].

Dated at Montpelier, Vermont this 12th day of August, 2005.

_____
Joan Loring Wing, Esq. - Chair

attachments

cc: Howard Sinnott
Michael Kennedy, Disciplinary Counsel

[1]Respondent requested, and Disciplinary Counsel did not object, that Paragraph 5 of the Statement of Additional Facts and Exhibit A be stricken from the record.

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY BOARD

In Re: Howard Sinnott, Esq., Respondent
PRB File No. 2002.240

Memorandum of Law

NOW COMES Disciplinary Counsel Michael Kennedy and submits this Memorandum of Law in support of his position that the Statement of Additional Facts, which is incorporated by reference herein, supports a finding that Attorney Sinnott violated the Vermont Rules of Professional Conduct.

I Rule 8.4(b) of the Vermont Rules of Professional Conduct

Rule 8.4(b) prohibits attorneys from engaging in conduct involving a serious crime. The Rule defines a "serious crime" as "illegal conduct involving any felony", as well as certain types of lesser crimes.

In September of 2004, a federal grand jury returned a Second Superseding Indictment against Attorney Sinnott (Exhibit C). In February of 2005, Attorney Sinnott pled guilty to Counts 11 and 13 of the Second Superseding Indictment (Exhibit D). More specifically, Attorney Sinnott pled guilty to two counts of violating 18 U.S.C. § 2341. The statute prohibits the interstate transmission of stolen property. The crime is punishable by up to ten years in prison. As such, it is a felony. *See 18 U.S.C § 3559(a).* In that the crime to which he pled guilty is a felony, it is also a "serious crime". Therefore, the facts support a finding that Attorney Sinnott violated Rule 8.4(b) by engaging in conduct involving a serious crime.

Office of Disciplinary Counsel

Professional Responsibility Program

II The Offense of Misappropriation & Additional Violations

At its heart, this case involves the misappropriation, if not outright theft, of client funds. That is, in pleading guilty to Counts 11 and 13 of the Second Superseding

Indictment, Attorney Sinnott admitted to having transmitted in interstate commerce over $500,000 that he knew had been stolen, converted, or taken by fraud from clients.

Several jurisdictions have defined "misappropriation". For instance, the Nebraska Supreme Court recently stated that

> "[i]n the context of attorney discipline proceedings, 'misappropriation' is any unauthorized use of client funds entrusted to an attorney, including not only stealing, but also unauthorized temporary use for the attorney's own purpose, whether or not the attorney derives any personal gain or benefit therefrom."

State ex rel. Counsel for Dis. v. Wintroub, 678 N.W.2d 103, 112 (Neb. 2004) (citing State ex rel. NSBA v. Malcolm, 561 N.W. 2d 237 (Neb. 1997)). Misappropriation is so serious that, in Nebraska, the presumptive response thereto is disbarment. Wintroub, 678 N.W. 2d, at 112. Indeed, long before it decided the Wintroub matter, the Nebraska Court touched on the serious nature of the offense, stating that "[m]isappropriation of a client's funds is more than a grievous breach of professional ethics. It violates the basic notions of honesty and endangers public confidence in the legal profession." State ex rel. NSBA v. Gridley, 545 N.W.2d 737 (Neb. 1996) (citations omitted). The Gridley Court noted that the "fact that no client suffered any financial loss is no excuse for a lawyer to misappropriate clients' funds nor any reason why a lawyer should not receive a severe sanction." Id., at 740 (citing State ex rel. NSBA v. Veith, 470 N.W. 2d 549 Neb. 1991)).

Nebraska's view of the offense of misappropriation is consistent with views taken by other jurisdictions. For instance, in the District of Columbia, misappropriation "is defined as any 'unauthorized use by an attorney of a client's funds entrusted to him or her, whether or not temporary or for personal gain or benefit.' " In re Davenport, 794 A.2d 602, 603 (D.C. 2002) (quoting In re Choroszej, 624 A.2d 434, 436 (D.C. 1992)). The offense is considered

so serious in the District that "in virtually all cases of misappropriation, disbarment will be the only appropriate sanction unless it appears that the misconduct resulted from nothing more than simple negligence." In re Addams, 579 A.2d 190, 191 (D.C. 1990); *See* In re Thomas-Pinkney, 840 A.2d 700 (D.C. 2004) (Reckless misappropriation of client funds warrants disbarment despite significant mitigating factors that include the absence of a dishonest motive). As the District's Board Professional Responsibility has stated, " '[t]he virtual certainty of disbarment or a six-month suspension for acts of misappropriation serves the public and the profession by providing a powerful deterrent for any attorney who might contemplate engaging in this most serious misconduct.'" Davenport, at 603.

Similar reasoning prevails across the Anacostia River. In Maryland,

> "it is well settled that the sanction for misappropriation of client funds or funds entrusted to a lawyer is, in the absence of compelling extenuating circumstances justifying a lesser sanction, disbarment, because misappropriation 'is an act infected with deceit and dishonesty.' "

Attorney Grievance Comm'n v. Sperling, 844 A.2d 397, 404 (Md. 2003) (quoting Attorney Grievance Comm'n v. Spery, 810 A.2d 487, 491-92 (Md. 2002)).

The New Jersey Supreme Court has also had occasion to consider attorneys' misappropriation of client funds. In New Jersey, misappropriation is "any unauthorized use by the lawyer of clients' funds entrusted to him, including not only stealing, but also temporary use for the lawyer's own purpose, whether or not he derives any potential gain or benefit therefrom." In the Matter of Wilson, 409 A.2d 1153, 1155 n.1 (NJ 1979); *See* In the Matter of Barlow, 657 A.2d 1197, 1200 (NJ 1997). Since it rendered the Wilson decision, the New Jersey Court "has not retreated from the strict rule that knowing misappropriation of client funds almost invariably warrants disbarment of an attorney." Barlow, 657 A.2d at

1200 (citations omitted). The Barlow Court went on to state that:

> "Intent to deprive permanently a client of misappropriated funds, however, is not an element of knowing misappropriation. Nor is the intent to repay funds or otherwise make restitution a defense to the charge of knowing misappropriation. A lawyer who uses funds, knowing that the funds belong to a client and that the client has not given permission to invade them, is guilty of knowing misrepresentation. The sanction is disbarment." Id., at 1201.

That disbarment should be routine in cases of knowing misappropriation stems from the basic fact that "[w]hatever the need may be for the lawyer's handling of clients' money, the client permits it because he trusts the lawyer." Wilson, 409 A.2d at 1154. Furthermore, lawyers' "[a]buse of this trust has always been recognized as particularly reprehensible:

> '[T]here are few more egregious acts of professional misconduct of which an attorney can be guilty than misappropriation of a clients's funds held in trust.

Id., at 1155 (citing In re Beckman 400 A.2d 792, 793 (N.J. 1979)). Indeed, citing Wilson, Vermont's Professional Conduct Board noted that the

> "[t]heft of client funds is one of the most serious ethical violations which an attorney can commit. It is an offense which demands imposition of the most serious sanction." In re Mitiguy, PCB No. 59 (September 30, 1993).

In sum, a lawyer commits an egregious breach of the ethics rules when he or she uses client funds for anything other than a purpose authorized by the client. The offense is so severe that only the most serious of responses is warranted.

Office of Disciplinary Counsel

Professional Responsibility Program

A. The facts support a finding that Attorney Sinnott's misappropriation of client funds violated the Vermont Rules of Professional Conduct.

In essence, by pleading guilty to Counts 11 and 13 of the Second Superseding Indictment, Attorney Sinnott admitted to misappropriating more than $500,000 that he knew

had been stolen, converted, or taken by fraud from clients of LCCP. As such, he violated Rules 8.4(c), 8.4(d), and 8.4(h) of the Vermont Rules of Professional Conduct.

1. **Rule 8.4(c)**

Rule 8.4(c) of the Vermont Rules of Professional Conduct prohibits lawyers from engaging in conduct involving misrepresentation, dishonesty, deceit, or fraud. Attorney Sinnott's conduct is fraught with dishonesty and deceit. Each time that Attorney Sinnott transferred funds that he knew had been stolen from clients, he engaged in conduct "infected with deceit and dishonesty". Spery, 810 A.2d, at 491-92. In sum, the evidence supports a finding that Attorney Sinnott violated Rule 8.4(c).

2. **Rule 8.4(d)**

Rule 8.4(d) of the Vermont Rules of Professional Conduct prohibits attorneys from engaging in conduct that is prejudicial to the administration of justice. This prohibition is typically applied to misconduct that interferes with a judicial proceeding or compromises the integrity of the legal profession. In re Andres, PRB Dec. No. 41, at 5 (Sept. 18, 2002) (citing Section 31.301 *ABA/BNA Lawyers' Manual on Professional Conduct*, 2002 ABA BNA).

The Gridley case is instructive here. In concluding that Attorney Gridley violated, among other rules, the rule that prohibited attorneys from engaging in conduct that was prejudicial to the administration of justice, the Nebraska Court stated:

> "Misappropriation of a client's funds is more than a grievous breach of professional ethics. It violates the basic notions of honesty and endangers public confidence in the legal profession. Misappropriation of client funds, as one of the most serious violations of duty an attorney owes to his client, the public, and the courts typically warrants disbarment." Gridley, 545 N.W. 2d, at 739.

Attorney Sinnott's misconduct impugned the integrity of the legal profession. As did Attorney Gridley's, it represents such a betrayal of the public's trust as to bring the bar into disrepute. Moreover, Attorney Sinnott's misconduct detracts from the public's confidence in the profession and constitutes a breach of the most basic duty he owed to his clients, the public, and the bar. The facts support a finding that Attorney Sinnott violated Rule 8.4(d).

3. **Rule 8.4(h)**

Rule 8.4(h) of the Vermont Rules of Professional Conduct prohibits lawyers from engaging in conduct that adversely reflects on their fitness to practice law. Attorney Sinnott's misappropriation of client funds adversely reflects on his fitness to practice law.

III Conclusion

Wherefore, Disciplinary Counsel respectfully recommends that the Board conclude that the facts support a finding that Attorney Sinnott violated the Vermont Rules of Professional Conduct. In addition, Disciplinary Counsel respectfully recommends that the Board accept Attorney Sinnott's Affidavit of Resignation.

DATED at Burlington, Vermont, on July 21, 2005

Michael Kennedy
Disciplinary Counsel
32 Cherry Street, Suite 213
Burlington, Vermont 05403
(802) 859-3000

Office
of
Disciplinary
Counsel

Professional
Responsibility
Program

LANGROCK SPERRY & WOOL, LLP

ATTORNEYS AT LAW

A Limited Liability Partnership
Including a Professional Corporation

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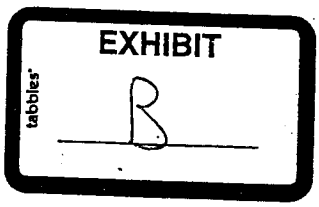
Michael W. Wool
Mark L. Sperry
Christopher L. Davis
Liam L. Murphy
Thomas Z. Carlson
Alison J. Bell
Lisa B. Shelkrot
Eric M. Knudsen

REPLY TO:
Burlington Office



July 16, 2001

DELIVERED BY HAND

Michael E. Kennedy, Esq.
Disciplinary Counsel
Office of Disciplinary Counsel
32 Cherry Street, Suite 213
Burlington, VT 05401

Re:

PRB File No. 2001.173, 175

PRB File No. 2001.172, 174

Dear Mr. Kennedy:

This firm, acting as local counsel, and Edwards & Angell, LLP, attorneys for the Law Centers for Consumer Protection and its predecessors and affiliates (altogether, the "Law Centers"), submit the following answer to the above referenced complaints against Thomas Daly and Howard Sinnott (together, "Respondents").[1]

Your May 1, 2001 letters to Respondents, which enclosed packets of information comprising the complaints, ask them to account for the financial transactions and document the communications between the Law Centers and the complainants, and explain what work the Law Centers performed on their behalf.

[1]Your letters to Mr. Sinnott indicate that he was named as a respondent solely in view of his role as "supervising/sponsoring attorney" for Mr. Daly pending Mr. Daly's formal admission to the Vermont bar. Since Mr. Daly is now a member in good standing of the Vermont bar, we respectfully submit that Mr. Sinnott should no longer be named as a respondent in these matters.

As we demonstrate below, the complaints are without merit because the Law Centers' financial transactions with the and , including the refund of their monies, were handled appropriately; because the Law Centers reasonably communicated with complainants; and because in the case, the Law Centers were in no position to settle their overwhelming debts, and in case, attempted to settle some of her debts.

Background

The Law Centers operates a for-profit debt reduction program that offers its more than 11,000 clients an alternative to bankruptcy. Over the years, the Law Centers has helped thousands of debt-strapped persons and families get a fresh start by avoiding the life-altering and ruinous consequences of bankruptcy. At the same time, it has challenged the business practices of large banking corporations who prey on vulnerable individuals by offering easy credit they cannot afford.[2]

The Law Centers' debt reduction program is straightforward: a client identifies unsecured debts the client wishes or needs to settle, and the Law Centers attempts to negotiate a discounted lump-sum settlement of those debts on an account-by-account basis. The Law Centers' fee is then calculated at 28% of the total amount saved on the client's behalf. Thus, if the client's debt is $10,000, and the Law Centers is able to settle this debt for $4,000 (which would be typical), then it earns 28% of the $6,000 saved, or $1,680. If, however, the Law Centers is unable to settle a client's debts, or if the client discharges the Law Centers before any debts are settled, then it earns nothing as a legal fee, and can only collect certain minor fees, pursuant to its retainer agreement with the client, to reimburse its costs for maintaining the client's funds.

In order to pay settlements of their debts and the Law Centers' fees, all of the Law Centers' clients agree, pursuant to a specific provision in every retainer agreement, to deposit funds in both an "office fees"account, and a "creditor reserve" interest-bearing escrow fund. For obvious reasons, the Law Centers' retainer is funded fully first (although, in the usual instance, the client's deposits are split between the two accounts after a few months). This way the Law Centers is assured of collecting its fees at the time a settlement is achieved.

Many clients (like the and) have extraordinary debt problems that cannot be easily resolved. Indeed, it takes most clients years to raise sufficient funds to settle the clients' debts in total and pay the Law Centers' fees. The program is, therefore, inherently risky because some creditors refuse to negotiate or wait for payment, but prefer instead to sue for a judgment, a possibility the Law Centers obviously cannot foreclose. Consequently, the Law Centers

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[2]As you may know, an individual who has run up a couple thousand dollars of debt, but can only afford to pay the minimum monthly fee, will not completely pay off his or her debt for approximately 50 years – *i.e.* after generating a huge financial windfall for banks and credit card companies.

explicitly advises each client - advice which is reaffirmed in the client's retainer agreement - that it cannot "guarantee . . . that debt reductions will be obtained;" that "the negotiation process for each debt can take several months or longer, and no guarantee can be provided as to when the negotiation process will be concluded;" that the Law Centers "will not finalize a negotiated settlement until . . . sufficient funds [exist] to pay off the settlement in full;" that any failure to make "regular payment to . . . creditors [could result in] added interest, late fees, delinquencies, collection efforts, and legal action;" and that a creditor's legal action "could result in a judgment." (See Exhibit A [' ' and 's retainer agreements])

The instant complaints allege, in essence, that Messrs. Daly and Sinnott should be called to task for failing to communicate with, work for, or properly refund monies to the complainants during a period of time starting in the fall of 1999 and ending in the early part of this year. This time period was marked by enormous upheaval in the Law Centers' operations resulting from the disciplinary proceeding and disbarment in September 2000 of the Law Centers' founder and original sole principal and shareholder, Andrew Capoccia.[3] And as one might expect given the extraordinary media attention paid throughout upstate New York to the Capoccia case - there were practically daily articles in the *Albany Times-Union* - many of the Law Centers' clients (as well as staff) disassociated themselves from the Law Center all at once, leaving a skeletal staff inundated and overwhelmed by requests for refunds. Under these circumstances, it should come as no surprise that some refunds to clients were delayed, inadvertently miscalculated (in many cases, in favor of the client), or left less than fully explained. Adding to this upheaval was the Law Centers' need, driven by the economic downturn caused when its clients departed in droves, to close numerous offices in New York and consolidate its operations in one place, which came to be Bennington where Mr. Sinnott lives.

As a result, although the relevant evidence cannot be fairly read to support a conclusion that the current Law Centers' principals engaged in professional misconduct, we are not looking to spin the events in these matters to imply that the and (or their attorney) are wholly without justification for their displeasure. That said, however, the question before the Office of Disciplinary Counsel is whether the credible evidence clearly and convincingly establishes, under the circumstances presented, that Mr. Daly and/or Mr. Sinnott personally did anything unreasonable or wrong under the Vermont Rules of Professional Conduct to justify professional discipline.

We believe the answer to that question must be "no." As a practical matter, it should be understood that Messrs. Daly and Sinnott did not exercise actual supervisory control over the Law Centers' debt reduction accounting practices until after Capoccia was disbarred in September 2000. Prior to that time, they were associates in the Law Centers, and then,

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[3]Capoccia was disbarred for conduct entirely unrelated to the refund and communications issues raised here. His purported sin was overzealous advocacy on behalf of his clients in litigated matters.

starting in the spring of 2000, were made non-equity and non-shareholding members in anticipation of Capoccia's disbarment.[4] Thus, it would be incompatible with the Rules and unfair to seek to impose disciplinary penalties against either Mr. Daly or Mr. Sinnott under a strict liability theory in view of the fact that neither of them actually handled the ' or 's file. (Exhibit B.) See also VRPC §§ 5.1, 5.3 (a partner or supervisory attorney shall make "reasonable" efforts to ensure that employees and subordinate attorneys adhere to the Rules of Professional Conduct; a partner or supervisory attorney shall be responsible for unethical conduct by employees or subordinate attorneys in the event *he knows of or orders the unethical conduct*).

In any event, as noted above and explained below, even if our concerns about the fairness of any effort to blame Messrs. Daly and/or Sinnott for events outside their control are cast aside, the fact remains that the ' and 's complaints lack merit in their own right.

The ' Complaint

retained the Law Centers on March 21, 2000[5] and requested that the Law Centers attempt to settle $26,466 in total debt (See Exhibit A.) The ' monthly minimum payments on their six credit card debts were $652 out of a net monthly salary of $2759. This meant the had to pay $7,824 per year just in monthly minimum payments; a number which would swell to $23,472 over three years without any appreciable reduction in the principal owed if they were unable to increase their monthly payments or otherwise negotiate a settlement with their creditors. (Exhibit C.) Given that the still had a $68,000 mortgage to pay and another $10,000 loan against their retirement account, it seems fair to conclude that debt settlement or bankruptcy were their only real options. (Exhibit D.)

As evidenced by the funding schedule in their retainer agreement, the agreed to pay $212 per month by electronic debit, and understood that funds would not begin to accumulate in their "creditor reserve" escrow fund for settlement purposes until after the fourth month of debits, at which time their escrow fund would increase by $62 per month. Thus, assuming *arguendo* a 60% reduction could be achieved, they were plainly aware that even their smallest debt could not

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[4]Under New York law, if Capoccia were the only member of the Law Centers at the time of his disbarment, then the Law Centers would have been effectively forced to dissolve and abandon its many clients -- clients who would have nowhere else to turn given the uniqueness of the Law Centers' program. By making attorneys like Messrs. Daly and Sinnott nominal members, Capoccia was able to avoid that potentially disastrous result without diluting his authority until his disbarment was ordered.

[5]The Law Centers' New York offices were then known as the Daly, Cilingiryan, Murphy, Sinnott & Capoccia Law Centers LLC.

be settled until $837.60 had accumulated in their creditor reserve fund, an event which could not occur for many months.

At the risk of stating the obvious, since the Law Centers do not make minimum monthly payments to creditors or negotiate settlements before they can be concluded, there is really very little the Law Centers can do as a practical matter until sufficient funds to achieve a settlement have accrued in a client's escrow. Here relevant excerpts from the work log kept by the Law Centers regarding the ' case shows that in the course of numerous telephone calls, the supplied documents to the Law Centers as needed and asked for the date of their monthly debits to be pushed back a few days. (Exhibit E.) They then apparently decided to withdraw just six months into the program. The ' formalized their withdrawal in a letter to the Law Centers in December 2000.

They received a refund of the monies held on their behalf by the Law Centers in April 2001. Our review of the ' account records revealed that they are also entitled to a small amount of additional funds totaling $66. Those additional funds have been tendered to the along with a letter from the Law Centers' attorneys accounting for all financial transactions between them and the Law Centers. (Exhibit F.)[6]

* * *

Addressing the particular allegations in the complaint, the evidence shows unequivocally that the Law Centers engaged in appropriate communications with the . The communications may not have been extensive; but there was no call for extensive communications because there was nothing the Law Centers could practically do to effectuate settlements until the deposited sufficient funds to permit meaningful settlement discussions to occur.

Also, while the were, of course, entitled to a reasonably prompt refund and accounting, given that they were just one of many clients who rushed to discharge the Law Centers in the wake of Capoccia's disbarment, it would not be fair to impose a professional punishment on the current principals as a consequence of the Law Centers' short-term inability to process requests for withdrawal immediately. The bottom line is the received a refund within an acceptable period of time after their formal request to withdraw was made; and the accounting provided to their attorney - which comports substantially to the number the ' attorney could easily determine from the payment schedule in the retainer agreement - merely confirms that the Law Centers handled this matter reasonably, albeit not perfectly.

Accordingly, we respectfully submit that this inquiry should be closed without further action.

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[6]This letter also accounts for the transactions with Ms. .

's Complaint

retained the Law Centers on September 14, 1999. Her debts were $9,255 and the schedule in her retainer agreement called for $156 monthly debits to fund the Law Centers anticipated fees and, starting four months later, her creditor reserve fund. (See Exhibit A.) In December 1999, Ms. and the Law Centers agreed to speed up the funding process by increasing her monthly debits to $216. (Exhibit G.) In June, 2000, Ms. made a lump-sum payment to her creditor reserve fund of $6,240.

Before Ms. withdrew six months later in December 2000, the Law Centers' work log reflects that the Law Centers and Ms. were communicating regularly and that the Law Centers in fact attempted to settle some of her debts, but unfortunately was not successful. (Exhibit H.) In this respect, we take note of the concern set forth in your May 1 letters to Messrs. Daly and Sinnott that Ms. "continued to be billed on a monthly basis after her accounts were supposed to have been settled." For one thing, as the work log reveals, there were only two debits after Ms. 's $6,240 check was deposited - debits which were plainly inadvertent and were, as even Mr. Crystal acknowledges, rectified. Secondly, the assumption that Ms. 's accounts were "supposed to have been settled" presupposes that there were offers on the table from all her creditors to fully settle her debts after her lump-sum check was deposited. The evidence, however, shows that this was not true, and that to the contrary, none of the creditors had made satisfactory settlement offers while the Law Centers' offers to settle were rejected.

As for the issues of Ms. 's refund and accounting, her situation is for all intents and purposes identical to the . She withdrew in December 2000 and her refund was remitted three months later in March 2001.[7] As with , the Law Centers has accounted to her attorney and supplemented her refund per the terms set forth in the letter annexed hereto as Exhibit F. Thus, this matter should be closed as well.

* * *

We wish to acknowledge once again that the and matters were not handled as well as, in a perfect world, they could have been. Certainly, the accountings and refunds should, and in a normal situation would have been provided sooner than they were. That said, the evidence here fails to show that either client suffered material harm as a consequence of anything the Law Centers did or did not do. Put differently, these cases illustrate something the

[7]We also note that Mr. Crystal's letter to you dated April 24, 2001 mistakenly states that Ms. 's escrow money should have been deposited in an IOLA account. In fact, we are advised that under New York law, attorneys are not required to hold client funds retained on a long-term basis in an IOLA account, but may, as was done here, keep such funds in an account where the interest is credited to the client.

Law Centers constantly stresses to its clients and explicitly states in its retainer agreements; namely, that its debt reduction program will not work in every instance. Sometimes the client's debts are just too large (like the), sometimes the client's creditors will not respond to or make reasonable settlement offers (as with), and sometimes there is another reason or a hybrid of many reasons why the Law Centers cannot relieve a given client's debt burden.

In closing, we urge you to view Messrs. Daly and Sinnott in appropriate context and not attempt to impose professional liability when they are diligently trying to make the Law Centers as responsive and efficient as practically possible. Indeed, it is fair to point out that notwithstanding Messrs. Daly and Sinnott's best efforts now and in the future, the general nature of the debt-reduction business means that not every client overwhelmed with debt is going to be satisfied with the Law Centers at the end of the day.

If you conclude, upon reviewing the Law Centers' operations in context, that Messrs. Daly and Sinnott have not satisfactorily remediated any of the problems which began during the turbulent fall of 2000, then your scrutiny will of course be warranted. However, we submit that any effort to impose discipline for minor, inconsequential delays and shortcomings which occurred in the aftermath of the Capoccia disbarment - which is the case with both the and matters - would elevate the form of compliance with the Rules of Professional Conduct over the substance of such compliance, and would accordingly constitute an injustice.

Please feel free to contact Rick Supple at Edwards & Angell or me if you have any questions or concerns about these complaints, or wish to discuss anything else pertaining to the Law Centers. We also invite you to visit the Law Centers' office in Bennington to get a first-hand look at what the Law Centers is currently doing to improve its services for its clients.

Very truly yours,

Lisa B. Shelkrot, Esq.
Richard Supple, of counsel

Enclosures

210287.1

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF VERMONT

UNITED STATES OF AMERICA	)	
	)	
v.	)	No. 1:03CR35-01-04
	)	
ANDREW CAPOCCIA	)	(18 U.S.C. §§ 371, 1341,
HOWARD SINNOTT	)	1343, 1956, 2314,
THOMAS J. DALY	)	2315, & 2;
SHIRLEY DINATALE	)	26 U.S.C. § 7206)

SECOND SUPERSEDING INDICTMENT

Introduction

The grand jury charges:

1. In or about February 1997, the defendant ANDREW CAPOCCIA formed a company known as Andrew F. Capoccia, LLC. In 1998, the firm changed its name to the Andrew F. Capoccia Law Centers, LLC. The firm underwent additional name changes, including to the Daly, Cilingiryan, Murphy & Sinnott Law Centers, LLC. These entities will be collectively referred to as the Capoccia Law Centers. The Capoccia Law Centers operated out of offices in New York state.

2. The Capoccia Law Centers engaged in a debt reduction business that targeted consumers who had difficulty paying unsecured debt, primarily credit card debt. The Capoccia Law Centers represented debtors in negotiations with creditors. The Law Centers promoted its business in radio, television and newspaper advertising, and via an Internet website. The Law Centers frequently claimed that it could negotiate 50% - 70% reductions in clients' debts. The Capoccia Law Centers

represented thousands of client debtors.

3. ANDREW CAPOCCIA owned the Capoccia Law Centers. The defendants HOWARD SINNOTT and THOMAS DALY were attorney-employees of the Capoccia Law Centers. The defendant SHIRLEY DINATALE was an employee.

4. In or about June 2000, CAPOCCIA, SINNOTT and DALY signed an agreement whereby the Daly, Murphy & Sinnott Law Centers, PLC agreed to purchase for at least $12,000,000 the assets of the Capoccia Law Centers. Subject to certain conditions, the purchase and sale agreement required the Daly, Murphy & Sinnott Law Centers to pay 20% of its gross income to CAPOCCIA over a period of ten years.

5. After the asset purchase, the Daly, Murphy & Sinnott Law Centers continued to provide similar debt-reduction services to past clients of the Capoccia Law Centers and in addition recruited new clients. The Daly, Murphy & Sinnott Law Centers also underwent name changes. The Daly, Murphy & Sinnott Law Centers and successor firms will collectively be referred to as The Law Centers for Consumer Protection or LCCP. In approximately July 2000, LCCP moved its main base of operations from New York to Bennington, Vermont.

6. The Law Centers for Consumer Protection was owned by HOWARD SINNOTT. THOMAS DALY was an attorney-employee who at times assisted SINNOTT in making management decisions on behalf of LCCP. SHIRLEY DINATALE and co-conspirators Stephanie Gardner and Jerry Forkey were employees of LCCP. In approximately June

2001, DINATALE was named the head of LCCP's accounting department. ANDREW CAPOCCIA remained affiliated with LCCP in an advisory capacity and participated in making management decisions.

7. At times material to this indictment, the Capoccia Law Centers maintained bank accounts at Key Bank in New York and, later, at PNC Bank in New Jersey. The Law Centers for Consumer Protection maintained accounts in New Jersey at PNC Bank. The accounts for both firms included general or retainer accounts, payroll accounts and creditor reserve fund or escrow accounts. LCCP also had accounts at Chittenden Bank in Vermont and, for a period in 2001, an account at First Massachusetts Bank in Massachusetts.

8. At times material to this indictment, Carol Capoccia, the wife of ANDREW CAPOCCIA, maintained or controlled accounts at Key Bank in New York and at First Union National Bank, Wachovia Bank, Republic Security Bank and SunTrust Bank in Florida.

9. Clients enrolling in the debt reduction programs offered by the Capoccia Law Centers and The Law Centers for Consumer Protection entered into written contracts or legal representation agreements. These contracts specified the total amount of the enrolling client's unsecured debts and projected the total savings the client would enjoy if he or she successfully completed the debt reduction program. The contracts estimated the retainer fees that the Capoccia Law

Centers and LCCP would earn, calculated as a percentage of the savings the client realized through the negotiated settlement of debts. The firms did not earn their fees until they settled debts on behalf of clients. Under the contracts, the client agreed to make monthly payments to the Capoccia Law Centers or to LCCP to fund the debt reduction program and to pay the firms' account maintenance and retainer fees. Most of these monthly payments were made by automatic debits from the client's bank account. The contracts specified what portion of each monthly payment would be disbursed to the Capoccia Law Centers or to LCCP as part of its anticipated retainer fee, and how much would be deposited into the escrow account to build up a reserve of funds with which to settle a client's debts. In entering into contracts with its clients, LCCP used and caused the use of the United States mail.

10. Monthly retainer fees received from clients were deposited into the general accounts the Capoccia Law Centers and LCCP maintained at Key Bank and PNC Bank. At all times material to this indictment, the Capoccia Law Centers treated retainer fees as income even before they were earned by settling debts on behalf of clients. LCCP likewise treated unearned retainer fees as income at least until April 2002. The Capoccia Law Centers and LCCP used earned and unearned retainer fees to pay the operating expenses of the firms.

11. Monthly payments by clients to the Capoccia Law Centers and The Law Centers for Consumer Protection to fund the

clients' debt reduction programs were deposited into the escrow accounts at Key Bank and PNC Bank and held on behalf of the firms' clients.

The Misappropriation Of Client Retainer Fees

12. At all times material to this indictment, the Capoccia Law Centers experienced severe financial difficulties. Earned and unearned retainer fees received from clients were insufficient to cover all the firm's expenses, which included large payroll, advertising, legal and other costs, and which also included substantial periodic payments to ANDREW CAPOCCIA. Because of insufficient revenue, the Capoccia Law Centers frequently deferred, or simply did not make, payments to creditors. The firm was also unable to pay timely and complete refunds of unearned retainer fees to clients who withdrew from the debt reduction program.

13. Despite its difficult financial situation, the Capoccia Law Centers transferred, between July 1998 and June 2000, approximately $1,700,000 from its operating accounts to bank accounts controlled by Carol Capoccia. These transfers were to benefit ANDREW CAPOCCIA and included the following:

APPROXIMATE DATE	AMOUNT
July 29, 1998	$10,200
August 4, 1998	$10,200
August 11, 1998	$10,200
August 11, 1998	$72,000
August 12, 1998	$10,000
August 18, 1998	$14,000
August 18, 1998	$10,200
August 26, 1998	$10,200
September 1, 1998	$10,200

September 9, 1998	$10,200
September 11, 1998	$10,000
September 16, 1998	$10,200
September 22, 1998	$15,400
September 23, 1998	$6000
September 29, 1998	$15,400
October 6, 1998	$15,400
October 14, 1998	$15,400
October 20, 1998	$15,400
October 27, 1998	$15,400
November 3, 1998	$20,900
November 12, 1998	$20,900
November 17, 1998	$20,900
November 24, 1998	$20,900
December 1, 1998	$20,900
December 8, 1998	$20,900
December 15, 1998	$20,900
December 18, 1998	$105,000
December 22, 1998	$20,900
December 29, 1998	$20,900
January 6, 1999	$20,900
January 12, 1999	$20,900
January 19, 1999	$20,900
January 27, 1999	$41,800
February 3, 1999	$20,900
February 16, 1999	$41,800
March 2, 1999	$41,800
March 16, 1999	$41,800
April 9, 1999	$28,800
April 14, 1999	$10,000
April 27, 1999	$41,800
May 11, 1999	$41,800
May 25, 1999	$41,800
June 8, 1999	$41,800
June 22, 1999	$41,800
July 6, 1999	$41,800
July 20, 1999	$41,800
August 3, 1999	$41,800
August 17, 1999	$41,800
September 8, 1999	$41,800
September 20, 1999	$41,800
September 28, 1999	$41,800
October 12, 1999	$41,800
November 12, 1999	$21,500
November 24, 1999	$10,000
December 7, 1999	$18,800
December 21, 1999	$18,800
January 4, 2000	$18,800
May 24, 2000	$100,000
June 23, 2000	$100,000

14. Between approximately August 1999 and March 2000, the Capoccia Law Centers paid an additional $650,000 to the Internal Revenue Service and $173,500 to the New York State Department of Taxes for the personal tax liability of ANDREW CAPOCCIA.

15. After acquiring the assets of the Capoccia Law Centers, The Law Centers for Consumer Protection also experienced severe financial difficulty. LCCP lacked the revenue to pay timely refunds of unearned retainer fees to clients who withdrew from the debt reduction program. By June 2001, LCCP owed more than one thousand withdrawing clients approximately $1,000,000 in unearned retainer fees. Some of those demands for refunds had been pending for more than one year. In addition, as set forth in paragraphs 20-28 of this indictment, LCCP wrongfully converted, between December 2000 and October 2001, more than $2,700,000 in client escrow money and did not have sufficient income to repay the misappropriated funds.

16. Although LCCP was in a difficult financial situation, ANDREW CAPOCCIA and HOWARD SINNOTT caused the firm to continue to make substantial periodic payments to accounts controlled by Carol Capoccia. These payments included the following:

APPROXIMATE DATE	**AMOUNT**
July 28, 2000	$100,000
August 3, 2000	$25,000
August 28, 2000	$200,000
October 31, 2000	$140,000
November 30, 2000	$110,000
January 3, 2001	$150,000
February 5, 2001	$200,000

April 2, 2001	$200,000
May 29, 2001	$200,000
June 14, 2001	$12,500
June 27, 2001	$100,000
July 11, 2001	$12,500
July 25, 2001	$12,500
July 26, 2001	$100,000
August 8, 2001	$12,500
August 23, 2001	$12,500
August 28, 2001	$125,000
September 7, 2001	$12,500
September 19, 2001	$12,500
September 28, 2001	$100,000
October 16, 2001	$12,500
October 31, 2001	$50,000
November 5, 2001	$12,500
November 28, 2001	$25,000
December 14, 2001	$12,500
December 26, 2001	$12,500
December 28, 2001	$75,000
January 9, 2002	$12,500
January 23, 2002	$12,500
February 6, 2002	$37,500

17. Notwithstanding the volume of unpaid refunds and misappropriated escrow funds, LCCP paid HOWARD SINNOTT and THOMAS DALY substantial sums of money in addition to their salaries. These payments were in the nature of bonuses. Between October 2000 and February 2002, LCCP paid more than $200,000 in bonus money to a Chittenden Bank account titled the "Howard Account" on behalf of HOWARD SINNOTT, as follows:

APPROXIMATE DATE	**AMOUNT**
October 31, 2000	$10,000
November 30, 2001	$7500
January 9, 2001	$10,000
March 5, 2001	$7500
April 2, 2001	$5000
May 29, 2001	$50,000
June 27, 2001	$25,000
July 26, 2001	$25,000
August 28, 2001	$20,000
October 1, 2001	$20,000
October 29, 2001	$5000

December 28, 2001	$10,000
February 27, 2002	$15,000

18. During the same period, LCCP also paid more than $200,000 in bonuses to a Chittenden Bank account titled the "Tom Account" on behalf of THOMAS DALY. On or about the dates listed below, LCCP made the following bonus payments to THOMAS DALY:

APPROXIMATE DATE	**AMOUNT**
October 31, 2000	$10,000
November 30, 2001	$7500
January 9, 2001	$10,000
March 5, 2001	$7500
April 2, 2001	$5000
May 24, 2001	$30,000
May 30, 2001	$20,000
June 27, 2001	$25,000
July 26, 2001	$25,000
August 28, 2001	$20,000
October 1, 2001	$20,000
October 29, 2001	$5000
December 28, 2001	$10,000
February 27, 2002	$15,000

19. In his year 2000 federal tax return, THOMAS DALY failed to report any of this aforementioned bonus income. In his year 2001 federal tax return, DALY reported only $20,000 of this bonus income.

The Misappropriation Of Client Escrow Funds

20. LCCP contracted with ADP, Inc. to process LCCP's payroll. Prior to each payroll, LCCP transferred sufficient funds from its general account into the PNC Bank payroll account. The payroll funds were subsequently transferred to an account ADP maintained in New York state.

21. Because there were insufficient funds in its general

account at PNC Bank, The Law Centers for Consumer Protection, beginning in December 2000, used client escrow money to fund its payroll. The following escrow-to-payroll transfers caused client escrow money to be diverted to ADP to pay LCCP's payroll:

APPROXIMATE DATE	AMOUNT
December 5, 2000	$104,500
January 16, 2001	$104,000
January 30, 2001	$105,500

22. On or about February 5, 2001, LCCP wired $200,000 to one of Carol Capoccia's Florida bank accounts as partial payment to ANDREW CAPOCCIA under the purchase and sale agreement. This payment to ANDREW CAPOCCIA was made directly from LCCP's escrow account at PNC Bank.

23. Beginning no later than approximately late February 2001, the LCCP general account at PNC Bank was frequently overdrawn. ANDREW CAPOCCIA and Stephanie Gardner authorized PNC Bank automatically to transfer client funds from the creditor reserve fund (escrow) account into the general account to cover these overdrafts. In inducing PNC Bank to establish this automatic overdraft-coverage system, CAPOCCIA and Gardner misrepresented and concealed the fact that the creditor reserve fund account was actually an escrow account containing money held on behalf of LCCP's clients.

24. In approximately Spring 2001, HOWARD SINNOTT, THOMAS DALY and SHIRLEY DINATALE learned that escrow money was being diverted to cover overdrafts in the general account. Among other things, the funds taken from the escrow account were used

to pay LCCP's day-to-day expenses, to refund unearned retainer fees paid by withdrawing clients, and to make large periodic payments to ANDREW CAPOCCIA, HOWARD SINNOTT and THOMAS DALY. On or about the dates listed below, the following amounts were transferred from the LCCP escrow account to the general account to cover overdrafts:

APPROXIMATE DATE	AMOUNT
March 2, 2001	$300,000
March 12, 2001	$50,000
March 13, 2001	$100,000
March 14, 2001	$50,000
March 15, 2001	$100,000
April 2, 2001	$200,000
April 5, 2001	$600,000
April 9, 2001	$56,797.60
April 12, 2001	$200,000
April 26, 2001	$100,000
May 25, 2001	$200,000
July 20, 2001	$50,000
July 31, 2001	$42,000
August 13, 2001	$100,000
September 26, 2001	$66,000
October 1, 2001	$60,000

These diversions of funds from LCCP's escrow account to its general account totaled $2,274,797.60.

25. In the course of covering each overdraft, LCCP caused PNC Bank to use the interstate wire communication system to send facsimile transmissions between New Jersey, Ohio and Vermont.

26. PNC Bank continued to transfer money from the creditor reserve fund account to cover overdrafts in LCCP's general account until approximately mid-October 2001, when PNC Bank discovered the creditor reserve account contained escrow money. At that point, PNC Bank discontinued the overdraft coverage.

27. LCCP also misappropriated some client escrow funds by charging the escrow account for service fees not authorized by the clients' contracts.

28. None of the millions of dollars misappropriated from LCCP's client escrow account was ever repaid.

The 58% - 42% Split Of Extra Funds And Settlement Checks

29. On occasion, clients of The Law Centers for Consumer Protection turned over to LCCP funds other than and in addition to the monthly payments specified under their legal representation agreements. The clients intended that these additional funds would be used to settle specific debts that the clients owed, or to increase the reserve of funds held in escrow for the purpose of making settlements. LCCP deposited extra funds and settlement checks and money orders received from clients into the escrow account it maintained at PNC Bank and into accounts at Chittenden Bank and First Massachusetts Bank.

30. Beginning in approximately December 2000 and continuing until about April 2002, The Law Centers for Consumer Protection regularly diverted to its general accounts at PNC Bank and First Massachusetts Bank approximately 42% of these additional funds clients tendered to LCCP to settle debts or to fund their escrow accounts. Extra funds and settlement checks were frequently split despite the fact that clients had fully paid their retainer obligations under the legal representation agreements. LCCP usually split these checks without the knowledge of the clients.

31. The following were some of the extra funds and settlement checks that were split as part of the scheme to misappropriate client funds:

APPROXIMATE DATE	CLIENT	AMOUNT
December 28, 2000	Janice Beckford	$10,000
January 2, 2001	Janice Beckford	$10,000
January 17, 2001	Carl Harris	$11,000
January 30, 2001	John Irvine	$30,000
January 30, 2001	Carroll Wilson	$1000
January 31, 2001	Janice Beckford	$3400
January 31, 2001	Bertram Wagner	$5000
February 16, 2001	William Gardner	$17,264
February 16, 2001	Richard Esposito	$17,000
February 16, 2001	May Hines	$2060
February 16, 2001	Karen and Andrew Hyland	$1500
February 16, 2001	Mary Louise Penn	$4644
February 16, 2001	Bradley Robison	$28,000
February 20, 2001	Russ Rose	$10,000
February 28, 2001	John Hardin	$1861.79
March 5, 2001	William Drexel	$8310
March 7, 2001	Colleen and David Brown	$1750
March 7, 2001	Rand and Sarah Cushman	$9000
March 7, 2001	Timothy DeGonzague	$2440
March 7, 2001	Susan Sarawski	$5200
March 16, 2001	Ronald McIntyre	$11,570
March 22, 2001	Larry Dunn	$2328
March 22, 2001	Carroll Wilson	$1000
April 11, 2001	Thomas Kurzepa	$3200
May 31, 2001	Mark Stevens	$12,140
June 4, 2001	Vernon Gibbs	$1000
June 4, 2001	May Hines	$3090
June 4, 2001	Jean Howard	$1024
June 4, 2001	Debra Kollmer	$2000
June 7, 2001	Vernon Gibbs	$1000
June 8, 2001	Walter Adamcewicz	$1500
June 12, 2001	Karen Fullana	$1350.89
June 12, 2001	Karen and Andrew Hyland	$3500
June 12, 2001	Michael Marsh	$1158
June 14, 2001	William Drexel	$29,863
June 19, 2001	Stuart and Diana Beluke	$3156
June 19, 2001	Jeffrey Hesbon	$3049.53
June 22, 2001	Paul Kordovski	$20,000
June 29, 2001	May Hines	$1030
June 29, 2001	Joshua Holland	$38,505
July 10, 2001	Paul Fobare	$1800
July 10, 2001	Mary Louise Penn	$4000
July 10, 2001	Charles Surre	$4000

July 19, 2001	Flynn and Sherri Clanton	$15,000
July 19, 2001	Vernon Gibbs	$984
July 26, 2001	Karl Mersich	$2000
July 26, 2001	Maryann Nina	$3218
August 10, 2001	Robert Strzelczyk	$700
August 16, 2001	Walter Adamcewicz	$1000
August 21, 2001	Diana Calandriello	$12,000
August 24, 2001	Walter Adamcewicz	$1000
August 24, 2001	Robert Strzelczyk	$500
September 7, 2001	Eric Brathwaite	$2000
September 14, 2001	Robert Strzelczyk	$2000
October 26, 2001	Sean Eastland	$1600
October 31, 2001	Donnie Estes	$150
November 8, 2001	James Wall	$1000
November 14, 2001	Donnie Estes	$267
November 14, 2001	Donnie Estes	$300
November 14, 2001	Alicia Stefanopoulos	$3240
December 5, 2001	Arsuna Grashin	$1000
December 6, 2001	Kathleen Saal	$4000
December 13, 2001	Walter Adamcewicz	$1000
December 13, 2001	Sajid Hasan	$1400
December 18, 2001	Bertram Wagner	$5000
December 21, 2001	Gary Becker	$1000
January 3, 2002	Bruce Crandall	$1500
January 22, 2002	Steven Zajac	$850
January 23, 2002	David Green	$11,000
January 23, 2002	Rand and Sarah Cushman	$3000
January 25, 2002	Shannon Walker	$10,000
February 5, 2002	Aaron Yousey	$10,000
February 6, 2002	Patricia Abamonte	$3000
February 18, 2002	Ronald Iannelli	$1305
February 22, 2002	Steven Soccoli	$1388
February 26, 2002	Rita Krutchik	$902
February 26, 2002	Stephan Erb	$14,000
February 26, 2002	Dimitrios Stathopoulos	$1500
March 1, 2002	John Hardin	$10,000
March 8, 2002	Joan Teabout	$20,000
March 13, 2002	Carey Zaweda	$21,500
April 2, 2002	Tonia Bailey	$1500
April 2, 2002	Salvatore Carrano	$1000
April 2, 2002	Richard Fogelson	$1400
April 2, 2002	Jenine (Morse) Goss	$1900
April 15, 2002	Howard Dickey	$1000

Diversion Of Money To Debt Settlement Associates

32. Debt Settlement Associates, Ltd. (DSA) was a Delaware company that was incorporated on or about May 4, 2001. From offices in New York state, DSA also engaged in the debt

reduction business on behalf of clients. DSA had no legal relationship to The Law Centers for Consumer Protection. ANDREW CAPOCCIA, HOWARD SINNOTT and THOMAS DALY participated in creating DSA. Carol Capoccia and Rodger Kolsky were part owners of DSA. SINNOTT and DALY each loaned to or invested substantial sums of money in DSA. Kolsky left LCCP to become the president of DSA and SHIRLEY DINATALE became an employee of DSA. At all times material to this indictment, DSA maintained general and payroll bank accounts in New Jersey at PNC Bank. DSA contracted with ADP, Inc. to process its payroll.

33. Beginning in approximately August 2001 and continuing until approximately April 2002, LCCP diverted more than $860,000 from its accounts at PNC Bank to DSA to pay advertising, payroll and other operating expenses of DSA. Some of the transfers consisted of wire transfers of funds from LCCP's general account at PNC Bank to DSA's payroll account at PNC Bank. Thereafter, the payroll funds were transferred to an account ADP maintained in New York state. On or about the dates listed below, the following sums of money were transferred from LCCP to DSA's payroll account and then to ADP:

APPROXIMATE DATE	**AMOUNT**
September 11, 2001	$10,000
September 28, 2001	$8000
October 9, 2001	$7132.56
October 23, 2001	$9220.44
November 6, 2001	$11,600
November 20, 2001	$17,000
December 4, 2001	$18,400
December 18, 2001	$18,250
December 28, 2001	$18,250

January 15, 2002	$23,000
January 29, 2002	$25,000

34. On or about February 21, 2002, $25,000 was transferred by wire from LCCP's general account at PNC Bank into DSA's general account at PNC Bank. On the same day, $25,000 was transferred by wire from DSA to Carol Capoccia's SunTrust Bank account in Florida. The money was first wired to DSA to conceal the fact that LCCP was the source of the funds being deposited into Carol Capoccia's account.

35. On or about February 28, 2002, $60,000 was transferred by wire from LCCP's general account at PNC Bank into DSA's general account at PNC Bank. On or about March 1, 2002, $60,000 was transferred by wire from DSA to the Carol Capoccia SunTrust Bank account. Again, the money was first wired to DSA to conceal the fact that LCCP was the source of the funds being deposited into Carol Capoccia's account.

The Demise Of The Law Centers For Consumer Protection

36. Throughout 2001 and 2002, LCCP continued to suffer serious financial difficulties. LCCP did not have enough cash or income to repay the millions of dollars that had been misappropriated from the escrow account. It also lacked money to keep up with an escalating demand by withdrawing clients for refunds of unearned retainer fees. Finally, LCCP lacked funds to repay the millions of dollars in retainer fees that had been paid to the firm but not earned. These circumstances severely undermined LCCP's ability to service its clients and to remain

in business.

37. Despite these financial difficulties, LCCP continued to recruit new clients into its debt reduction program, and to charge the bank accounts of old and new clients for escrow and retainer fees. LCCP misrepresented to, concealed from, and failed to disclose to, current or prospective clients the following material facts, among others:

(a) Failing to disclose that more than $2.7 million dollars had been misappropriated from the escrow account.

(b) Failing to disclose that LCCP was the subject of a federal criminal investigation for stealing millions of dollars from its clients' escrow account.

(c) Failing to disclose that the depletion of the escrow account jeopardized LCCP's ability to remain in business, to settle debts on behalf of clients and to refund escrow moneys to clients upon demand.

(d) Falsely representing that clients terminating the debt reduction program would receive refunds of unearned fees.

(e) Failing to disclose that LCCP did not have enough money to pay refunds of unearned fees to hundreds of clients who had previously withdrawn from the debt reduction program.

(f) Failing to disclose that approximately 42% of the proceeds of many extra funds and settlement checks were diverted to LCCP's general account and used to pay operating expenses of the firm.

38. On or about January 27, 2003, The Law Centers for

Consumer Protection ceased doing business. When it discontinued operations, LCCP owed to thousands of former clients, and did not have the funds to repay, millions of dollars in escrow and unearned retainer fees.

COUNT 1

39. The grand jury repeats and realleges paragraphs 1-38 of this indictment. Among other things, those paragraphs describe ANDREW CAPOCCIA'S scheme, between 1997 and 2002, to convert to his own benefit and to the benefit of others unearned retainer fees paid by clients to the Capoccia Law Centers and to LCCP.

40. On or about the dates listed below, in the District of Vermont and elsewhere, the defendant

ANDREW CAPOCCIA

transmitted and transferred in interstate commerce, from PNC Bank in New Jersey, from Chittenden Bank in Vermont and from First Massachusetts Bank in Massachusetts to various banks in Florida, the following sums of money having a value of $5000 or more that derived from said unearned retainer fees, knowing said moneys to have been stolen, converted and taken by fraud:

APPROXIMATE DATE	**AMOUNT**
May 24, 2000	$100,000
June 23, 2000	$100,000
July 28, 2000	$100,000
August 3, 2000	$25,000
August 28, 2000	$200,000
October 31, 2000	$140,000
November 30, 2000	$110,000
January 3, 2001	$150,000
April 2, 2001	$200,000
May 29, 2001	$200,000
June 14, 2001	$12,500
June 27, 2001	$100,000
July 11, 2001	$12,500
July 25, 2001	$12,500
July 26, 2001	$100,000
August 8, 2001	$12,500
August 23, 2001	$12,500

August 28, 2001	$125,000
September 7, 2001	$12,500
September 19, 2001	$12,500
September 28, 2001	$100,000
October 16, 2001	$12,500
October 31, 2001	$50,000
November 5, 2001	$12,500
November 28, 2001	$25,000
December 14, 2001	$12,500
December 26, 2001	$12,500
December 28, 2001	$75,000
January 9, 2002	$12,500
January 23, 2002	$12,500
February 6, 2002	$37,500

(18 U.S.C. §§ 2314 & 2)

COUNT 2

41. The grand jury repeats and realleges paragraphs 1-38 of this indictment.

42. Commencing on or about July 1, 2000 and continuing until on or about January 27, 2003, in the District of Vermont and elsewhere, the defendants

ANDREW CAPOCCIA
HOWARD SINNOTT
THOMAS DALY
SHIRLEY DINATALE

knowingly and willfully conspired and agreed with each other, with Stephanie Gardner and Jerry Forkey, and with other persons to commit the following offenses against the United States:

(a) to use wire communications in furtherance of a scheme and artifice to defraud and to obtain money by means of false and fraudulent pretenses and misrepresentations, in violation of 18 U.S.C. § 1343;

(b) to use the United States Postal Service in furtherance of a scheme and artifice to defraud and to obtain money by means of false and fraudulent pretenses and misrepresentations, in violation of 18 U.S.C. § 1341;

(c) to transmit in interstate commerce money having a value of $5000 or more that had been stolen, converted or taken by fraud, in violation of 18 U.S.C. § 2314; and

(d) to receive money having a value of $5000 or more which had crossed a state boundary after being stolen, converted, or taken, in violation of 18 U.S.C. § 2315.

Object Of The Conspiracy

43. It was the object of the conspiracy that the defendants and other conspirators would divert to themselves, to The Law Centers for Consumer Protection, and to Debt Settlement Associates, escrow and retainer money that properly belonged to the clients of LCCP. The defendants would and did use these diverted moneys to unjustly enrich themselves and to fund the operational activities of LCCP and DSA.

Manner And Means

44. It was part of the conspiracy that the defendants would misappropriate money from the client escrow account in order to pay for LCCP's operational expenses, to benefit the defendants ANDREW CAPOCCIA, HOWARD SINNOTT and THOMAS DALY, and to divert money to Debt Settlement Associates.

45. It was further part of the conspiracy that the defendants solicited retainer fees from clients, and used unearned retainer fees to pay operational expenses of LCCP, to benefit the defendants ANDREW CAPOCCIA, HOWARD SINNOTT and THOMAS DALY, and to divert money to DSA, under circumstances in which the defendants knew, or deliberately closed their eyes to the fact that the unearned retainer fees could not be repaid in full upon demand.

46. It was further part of the conspiracy that the defendants made, and caused others to make, materially false and fraudulent representations and promises to LCCP's clients, and caused others to conceal from and fail to disclose material

facts to clients, in order to recruit clients into the debt reduction program; to persuade clients to send additional moneys, beyond those specified in the clients' contracts, to fund their debt reduction programs; and to dissuade clients from withdrawing from the debt reduction program.

Overt Acts

47. In furtherance of the conspiracy, the defendants and co-conspirators committed, or caused to be committed, the following overt acts in the District of Vermont:

(1) On or about December 5, 2000, a conspirator issued instructions that caused PNC Bank to transfer $104,500 from LCCP's escrow account to its payroll account.

(2) On or about January 16, 2001, a conspirator issued instructions that caused PNC Bank to transfer $104,000 from LCCP's escrow account to its payroll account.

(3) On or about January 30, 2001, a conspirator issued instructions that caused PNC Bank to transfer $105,500 from LCCP's escrow account to its payroll account.

(4) On or about February 5, 2001, a conspirator issued instructions that caused PNC Bank to transfer $200,000 from LCCP's escrow account to a Florida bank account controlled by Carol Capoccia.

(5) In approximately March 2001, conspirators issued instructions that, over a seven-month period, caused PNC Bank to transfer $2,274,797.60 from LCCP's escrow account to cover overdrafts in its general account.

(6) Between August 1, 2001 and April 4, 2002, conspirators issued instructions that caused PNC Bank to transfer more than $860,000 from LCCP's accounts to Debt Settlement Associates.

(7) Between July 2000 and March 2002, conspirators issued instructions that caused LCCP to transfer approximately $2,000,000 to accounts controlled by Carol Capoccia.

(8) Between October 2000 and February 2002, conspirators issued instructions that caused LCCP to pay more than $200,000 in bonus money to HOWARD SINNOTT.

(9) Between October 2000 and February 2002, conspirators issued instructions that caused LCCP to pay more than $200,000 in bonus money to THOMAS DALY.

(10) In or about October 2001, SHIRLEY DINATALE issued to employees of LCCP a written formula for splitting clients' extra funds and settlement checks and diverting approximately 42% of the proceeds to LCCP's general account.

(11) On or about February 21, 2002, SHIRLEY DINATALE issued instructions to divert $25,000 through Debt Settlement Associates to Carol Capoccia's SunTrust account.

(12) On or about February 28, 2002, SHIRLEY DINATALE issued instructions to divert $60,000 through Debt Settlement Associates to Carol Capoccia's SunTrust account.

(18 U.S.C. § 371)

COUNT 3

48. The grand jury repeats and realleges paragraphs 1-38 of this indictment. Among other things, those paragraphs describe the scheme devised by ANDREW CAPOCCIA to take and convert for the benefit of ANDREW CAPOCCIA and others money held on behalf of clients in LCCP's escrow account.

49. On or about the dates listed below, in the District of Vermont and elsewhere, the defendant

ANDREW CAPOCCIA

transmitted and transferred in interstate commerce, from LCCP's payroll account at PNC Bank in New Jersey to ADP's account in New York, the following sums of money having a value of $5000 or more, knowing said moneys to have been stolen, converted and taken by fraud:

APPROXIMATE DATE	AMOUNT
December 5, 2000	$104,500
January 16, 2001	$104,000
January 30, 2001	$105,500

(18 U.S.C. §§ 2314 & 2)

COUNT 4

50. The grand jury repeats and realleges paragraphs 1-38 of this indictment. Those paragraphs describe the scheme devised by ANDREW CAPOCCIA to take and convert for the benefit of ANDREW CAPOCCIA money held on behalf of clients in LCCP's escrow account.

51. On or about February 5, 2001, in the District of Vermont and elsewhere, the defendant

ANDREW CAPOCCIA

received money having a value of $5000 or more which had crossed state boundaries after being stolen, unlawfully converted and taken, namely, $200,000 transferred by wire from LCCP's escrow account at PNC Bank in New Jersey to a Florida account controlled by Carol Capoccia, knowing said money to have been stolen, unlawfully converted and taken.

(18 U.S.C. §§ 2315 & 2)

COUNT 5

52. The grand jury repeats and realleges paragraphs 1-38 of this indictment. Those paragraphs describe the scheme devised by ANDREW CAPOCCIA to take and convert for the benefit of ANDREW CAPOCCIA and others money held on behalf of clients in LCCP's escrow account.

53. On or about the dates listed below, in the District of Vermont and elsewhere, the defendant

ANDREW CAPOCCIA,

having devised the scheme and artifice to defraud and for obtaining money by means of false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, caused to be transmitted by wire in interstate commerce, between New Jersey, Ohio and Vermont, facsimile transmissions authorizing and enabling overdrafts in LCCP's general account at PNC Bank to be covered by a transfer of funds from the escrow account:

APPROXIMATE DATE	AMOUNT
March 2, 2001	$300,000
March 12, 2001	$50,000
March 13, 2001	$100,000
March 14, 2001	$50,000
March 15, 2001	$100,000
April 2, 2001	$200,000

(18 U.S.C. §§ 1343 & 2)

COUNT 6

54. The grand jury repeats and realleges paragraphs 1-38 of this indictment. Those paragraphs describe the scheme devised by HOWARD SINNOTT, THOMAS DALY and others to take and convert money held on behalf of clients in LCCP's escrow account.

55. On or about the dates listed below, in the District of Vermont and elsewhere, the defendants

HOWARD SINNOTT
THOMAS DALY,

having devised the scheme and artifice to defraud and for obtaining money by means of false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, caused to be transmitted by wire in interstate commerce, between New Jersey, Ohio and Vermont, facsimile transmissions authorizing and enabling overdrafts in LCCP's general account at PNC Bank to be covered by a transfer of funds from the escrow account:

APPROXIMATE DATE	**AMOUNT**
April 5, 2001	$600,000
April 9, 2001	$56,797.60
April 12, 2001	$200,000
April 26, 2001	$100,000
May 25, 2001	$200,000

(18 U.S.C. §§ 1343 & 2)

COUNT 7

56. The grand jury repeats and realleges paragraphs 1-38 of this indictment. Those paragraphs describe the scheme devised by ANDREW CAPOCCIA, HOWARD SINNOTT, THOMAS DALY, SHIRLEY DINATALE and others to take and convert money held on behalf of clients in LCCP's escrow account.

57. On or about the dates listed below, in the District of Vermont and elsewhere, the defendants

ANDREW CAPOCCIA
HOWARD SINNOTT
THOMAS DALY
SHIRLEY DINATALE,

having devised the scheme and artifice to defraud and for obtaining money by means of false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, caused to be transmitted by wire in interstate commerce, between New Jersey, Ohio and Vermont, facsimile transmissions authorizing and enabling overdrafts in LCCP's general account at PNC Bank to be covered by a transfer of funds from the escrow account:

APPROXIMATE DATE	**AMOUNT**
July 20, 2001	$50,000
July 31, 2001	$42,000
August 13, 2001	$100,000
September 26, 2001	$66,000
October 1, 2001	$60,000

(18 U.S.C. §§ 1343 & 2)

COUNT 8

58. The grand jury repeats and realleges paragraphs 1-38 of this indictment. Those paragraphs describe the scheme devised by HOWARD SINNOTT and THOMAS DALY to divert client escrow money from LCCP's PNC escrow account to LCCP's First Massachusetts Bank account and then to LCCP's general account at PNC Bank.

59. On or about April 27, 2001, in the District of Vermont and elsewhere, the defendants

HOWARD SINNOTT
THOMAS DALY

knowingly and willfully conducted a financial transaction affecting interstate commerce, to wit, the wire transfer of $500,000 from First Massachusetts Bank in Massachusetts to PNC Bank in New Jersey, which involved the proceeds of specified unlawful activity, to wit, a violation of 18 U.S.C. § 1343 (wire fraud), with the intent to promote the carrying on of specified unlawful activity, and that while conducting such financial transaction knew that the funds involved in the wire transfer represented the proceeds of some form of unlawful activity.

(18 U.S.C. §§ 1956(a)(1)(A)(i) & 2)

COUNT 9

60. The grand jury repeats and realleges paragraphs 1-38 of this indictment. Those paragraphs describe the scheme to divert approximately 42% of the proceeds of client extra funds and settlement checks from LCCP's escrow account to its general account.

61. On or about the dates set forth below, in the District of Vermont and elsewhere, the defendants

ANDREW CAPOCCIA
HOWARD SINNOTT
THOMAS DALY
SHIRLEY DINATALE

transported, transmitted and transferred in interstate commerce, between PNC Bank, Chittenden Bank and First Massachusetts Bank, checks containing $5000 or more of the proceeds of clients' extra funds and settlement checks, knowing said moneys to have been stolen, converted and taken by fraud:

APPROXIMATE DATE	AMOUNT
February 16, 2001	$56,797.60
April 5, 2001	$18,214.98
April 10, 2001	$7587.11
April 19, 2001	$7389.93
April 30, 2001	$12,809.27
May 2, 2001	$21,352.33
May 4, 2001	$8284.43
May 8, 2001	$5261.96
May 18, 2001	$8654.63
May 23, 2001	$6041.28
June 4, 2001	$28,931.95
June 5, 2001	$11,026.53
June 6, 2001	$8205.10
June 7, 2001	$12,535.69
June 12, 2001	$15,683.45
June 13, 2001	$15,602.33
June 15, 2001	$29,009.95
June 20, 2001	$24,688.60

June 26, 2001	$25,449.68
June 27, 2001	$18,454.59
July 3, 2001	$21,014.99
July 6, 2001	$13,402.73

(18 U.S.C. §§ 2314 & 2)

COUNT 10

62. The grand jury repeats and realleges paragraphs 1-38 of this indictment. Those paragraphs describe the scheme to divert approximately 42% of the proceeds of client extra funds and settlement checks from LCCP's escrow account to its general account.

63. On or about the dates set forth below, in the District of Vermont and elsewhere, the defendants

ANDREW CAPOCCIA
HOWARD SINNOTT
THOMAS DALY
SHIRLEY DINATALE

having devised the scheme and artifice to defraud and for obtaining money by means of false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, knowingly caused to be delivered by the United States Postal Service and by private and commercial interstate carrier checks diverting to LCCP's general account portions of clients' extra funds and settlement checks:

APPROXIMATE DATE	AMOUNT
July 10, 2001	$8517.07
July 18, 2001	$13,275.50
July 27, 2001	$12,981.25
January 24, 2002	$24,487.44
January 25, 2002	$9179.61
February 6, 2002	$16,254
February 26, 2002	$22,343.82
March 8, 2002	$14,869.30
March 15, 2002	$22,533

(18 U.S.C. §§ 1341 & 2)

COUNT 11

64. The grand jury repeats and realleges paragraphs 1-38 of this indictment. Among other things, those paragraphs describe ANDREW CAPOCCIA'S and HOWARD SINNOTT'S scheme to convert to SINNOTT'S benefit unearned retainer and escrow fees paid by clients to The Law Centers for Consumer Protection.

65. On or about the dates listed below, in the District of Vermont and elsewhere, the defendants

ANDREW CAPOCCIA
HOWARD SINNOTT

transmitted and transferred in interstate commerce, from Chittenden Bank in Vermont to locations outside Vermont, the following sums of money having a value of $5000 or more that derived from said unearned retainer and escrow fees, knowing said moneys to have been stolen, converted and taken by fraud:

APPROXIMATE DATE	**AMOUNT**
May 29, 2001	$200,000
May 31, 2001	$51,000
July 5, 2001	$25,000
August 2, 2001	$23,000
August 31, 2001	$15,000
October 9, 2001	$20,550
January 3, 2002	$9500
March 1, 2002	$15,000

(18 U.S.C. §§ 2314 & 2)

COUNT 12

66. The grand jury repeats and realleges paragraphs 1-38 of this indictment. Among other things, those paragraphs describe ANDREW CAPOCCIA'S and THOMAS DALY'S scheme to convert to DALY'S benefit unearned retainer and escrow fees paid by clients to The Law Centers for Consumer Protection.

67. On or about the dates listed below, in the District of Vermont and elsewhere, the defendants

ANDREW CAPOCCIA
THOMAS DALY

transmitted and transferred in interstate commerce, from Chittenden Bank in Vermont to locations outside Vermont, the following sums of money having a value of $5000 or more that derived from said unearned retainer and escrow fees, knowing said moneys to have been stolen, converted and taken by fraud:

APPROXIMATE DATE	**AMOUNT**
July 6, 2001	$5000
August 6, 2001	$5000
September 24, 2001	$50,000
October 18, 2001	$50,000

(18 U.S.C. §§ 2314 & 2)

COUNT 13

68. The grand jury repeats and realleges paragraphs 1-38 of this indictment. Those paragraphs describe the scheme devised to fund the operations of Debt Settlement Associates, Inc. with money diverted from the retainer and escrow accounts of The Law Centers for Consumer Protection.

69. On or about the dates listed below, in the District of Vermont and elsewhere, the defendants

ANDREW CAPOCCIA
HOWARD SINNOTT
THOMAS DALY
SHIRLEY DINATALE

transported, transmitted and transferred in interstate commerce, from DSA's account at PNC Bank in New Jersey to ADP's account in New York, the following sums of money having a value of $5000 or more, knowing said moneys to have been stolen, converted and taken by fraud:

APPROXIMATE DATE	AMOUNT
September 11, 2001	$10,000
September 28, 2001	$8000
October 9, 2001	$7132.56
October 23, 2001	$9220.44
November 6, 2001	$11,600
November 20, 2001	$17,000
December 4, 2001	$18,400
December 18, 2001	$18,250
December 28, 2001	$18,250
January 15, 2002	$23,000
January 29, 2002	$25,000

(18 U.S.C. §§ 2314 & 2)

COUNTS 14-15

70. The grand jury repeats and realleges paragraphs 1-38 of this indictment. Among other things, those paragraphs describe the scheme devised by the defendants to conceal that The Law Centers for Consumer Protection was the source of funds being sent to Carol Capoccia's SunTrust Bank account.

71. On or about the dates listed below, in the District of Vermont and elsewhere, the defendants

ANDREW CAPOCCIA
HOWARD SINNOTT
SHIRLEY DINATALE

knowingly and willfully conducted a financial transaction affecting interstate commerce, to wit, the wire transfer of funds from PNC Bank in New Jersey to SunTrust Bank in Florida, which involved the proceeds of specified unlawful activity, to wit, a violation of 18 U.S.C. § 2314, knowing that the transaction was designed in part to conceal and disguise the nature, location, source, ownership and control of such proceeds, and that while conducting such financial transaction knew that the funds involved in the wire transfer represented the proceeds of some form of unlawful activity:

COUNT	APPROXIMATE DATE	AMOUNT
COUNT 14	February 21, 2002	$25,000
COUNT 15	February 28 - March 1, 2002	$60,000

(18 U.S.C. §§ 1956(a)(1)(B)(i) & 2)

COUNT 16

72. The grand jury repeats and realleges paragraphs 1-38 of this indictment. Among other things, those paragraphs describe the scheme devised by HOWARD SINNOTT and THOMAS DALY to solicit retainer and escrow fees from new clients by means of false pretenses and by the failure to disclose material facts.

73. On or about the dates listed below, in the District of Vermont and elsewhere, the defendants

HOWARD SINNOTT
THOMAS DALY

having devised the scheme and artifice to defraud and for obtaining money by means of false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, placed in any post office or authorized depository for mail welcoming letters and executed legal representation agreements to be sent and delivered by the Postal Service to the following newly-enrolled clients of The Law Centers for Consumer Protection:

APPROXIMATE DATE	CLIENT
September 24, 2002	Roberta and Richard Armstrong
September 4, 2002	Gary and Mary Austin
July 22, 2002	Eric Aikens
August 29, 2002	Kimberly Allen
October 4, 2002	Minnie Amiels
November 15, 2002	Chester Bedard
August 6, 2002	Aleeshia Bailey and Charles Hudson
September 30, 2002	Milton Bailey
August 16, 2002	Pamela and Douglas Bergeron
November 15, 2002	Sharon Brake
September 30, 2002	Felicia Bracey
August 30, 2002	Bridget Bouthiette
November 4, 2002	Michael Bajek
September 27, 2002	James and Rosita Baker

July 16, 2002	Diana Balavender
December 24, 2002	George Bishop
October 31, 2002	Donald and Janet Bogan
December 19, 2002	Beulah Bolden
August 19, 2002	Barbara Boston
December 11, 2002	Patricia Brown
October 7, 2002	Wallace Brown
September 6, 2002	La Verne Budd
December 2, 2002	Lawrence and Kathleen Buck
September 3, 2002	Roberta Bundy
November 5, 2002	Jennifer Burd
August 22, 2002	Amy and John Calligan
October 21, 2002	Kacem Crump
October 16, 2002	Patricia Caruthers
October 11, 2002	Michelle Campbell
August 2, 2002	Barbara Carter
October 31, 2002	Faith Chavis-Ragin
December 24, 2002	Mary Cooper
August 13, 2002	Willie Crawley
August 26, 2002	Janice Greene
October 1, 2002	Richard Doran
October 21, 2002	Mark and Shelley Daughdrill
August 9, 2002	Michael Dawkins
October 29, 2002	Winfield and Kimberly Dobruck
August 26, 2002	Maria Donovan
November 19, 2002	Bernard and Marylou Doherty
November 8, 2002	Mayra Dube
August 20, 2002	Christine DuBose
November 5, 2002	Thomas and Andrea Eckert
August 26, 2002	Robert Edwards
November 15, 2002	Manfred Eggert
August 28, 2002	Michael Eppes
August 2, 2002	Douglas Felts
November 19, 2002	Russell Fiore
December 9, 2002	Darlene Fleming
October 11, 2002	Lillie Fobbs

(18 U.S.C. §§ 1341 & 2)

COUNT 17

74. The grand jury repeats and realleges paragraphs 1-38 of this indictment. Among other things, those paragraphs describe how THOMAS DALY understated to the Internal Revenue Service the amount of bonus income he realized during the tax year 2000.

75. On or about October 13, 2001, in the District of Vermont and elsewhere, the defendant

THOMAS DALY

willfully made and subscribed a year 2000 IRS Form 1040 and accompanying schedules and attachments, which were verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which he did not believe to be true and correct as to every material matter in that he failed to report that he had realized bonus income from the Law Centers for Consumer Protection of at least $6000 during the tax year.

(26 U.S.C. § 7206(1))

COUNT 18

76. The grand jury repeats and realleges paragraphs 1-38 of this indictment. Among other things, those paragraphs describe how THOMAS DALY understated to the Internal Revenue Service the amount of bonus income he realized during the tax year 2001.

77. On or about March 30, 2002, in the District of Vermont and elsewhere, the defendant

THOMAS DALY

willfully made and subscribed a year 2001 IRS Form 1040 and accompanying schedules and attachments, which were verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which he did not believe to be true and correct as to every material matter in that he reported that he had realized $20,000 in bonus income from the Law Centers for Consumer Protection during the 2001 tax year, whereas as he then and there well knew and believed, he actually realized bonus income of at least $167,500.

(26 U.S.C. § 7206(1))

NOTICE OF SENTENCING ENHANCEMENTS

78. The grand jury repeats and realleges paragraphs 1-38 of this indictment.

79. As to the defendant ANDREW CAPOCCIA,

a. As to Counts 1-5, 7 and 9-13

(1) The offenses and relevant conduct caused a loss of more than $20,000,000 (U.S.S.G. § 2B1.1(b)(1));

(2) The offenses involved 50 or more victims and were committed through mass-marketing (U.S.S.G. § 2B1.1(b)(2));

(3) The offenses involved sophisticated means (U.S.S.G. § 2B1.1(b)(8)(C));

(4) The defendant knew and should have known that a large number of victims of the offenses were vulnerable (U.S.S.G. § 3A1.1(b));

(5) The defendant was the organizer and leader of criminal activity that involved five or more participants and was otherwise extensive (U.S.S.G. § 3B1.1);

(6) The defendant abused a position of private trust (U.S.S.G. § 3B1.3).

80. As to the defendant HOWARD SINNOTT,

a. As to Counts 2, 6, 7, 9-11, 13 and 16

(1) The offenses and relevant conduct caused a loss of more than $2,500,000 (U.S.S.G. § 2B1.1(b)(1));

(2) The offenses involved 50 or more victims and were committed through mass-marketing (U.S.S.G. § 2B1.1(b)(2));

(3) The defendant knew and should have known that a large number of victims of the offenses were vulnerable (U.S.S.G. § 3A1.1(b));

(4) The defendant was a manager and supervisor of criminal activity that involved five or more participants and was otherwise extensive (U.S.S.G. § 3B1.1);

(5) The defendant abused a position of private trust (U.S.S.G. § 3B1.3).

81. As to the defendant THOMAS DALY,

a. As to Counts 2, 6, 7, 9, 10, 12, 13 and 16

(1) The offenses and relevant conduct caused a loss of more than $2,500,000 (U.S.S.G. § 2B1.1(b)(1));

(2) The offenses involved 50 or more victims and were committed through mass-marketing (U.S.S.G. § 2B1.1(b)(2));

(3) The defendant knew and should have known that a large number of victims of the offenses were vulnerable (U.S.S.G. § 3A1.1(b));

(4) The defendant abused a position of private trust (U.S.S.G. § 3B1.3).

b. As to Counts 17 and 18

(1) The offenses caused a tax loss of more than $30,000 (U.S.S.G. § 2T1.1(a));

(2) The defendant failed to report income exceeding $10,000 in any year from criminal activity (U.S.S.G. § 2T1.1(b)(1)).

82. As to the defendant SHIRLEY DINATALE,

a. As to Counts 2, 7, 9, 10 and 13

(1) The offenses and relevant conduct caused a loss of more than $1,000,000 (U.S.S.G. § 2B1.1(b)(1));

(2) The offenses involved 50 or more victims and were committed through mass-marketing (U.S.S.G. § 2B1.1(b)(2));

(3) The defendant knew and should have known that a large number of victims of the offenses were vulnerable (U.S.S.G. § 3A1.1(b));

(4) The defendant abused a position of private trust (U.S.S.G. § 3B1.3).

COUNT 19 -- FORFEITURE ALLEGATION NO. 1

From his engagement in the violations stated in Count 1, ANDREW CAPOCCIA shall forfeit to the United States any and all proceeds of the statutory violations specified, including but not limited to the following:

(a) $2,000,000 moved from the LCCP accounts at PNC Bank, Chittenden Bank and First Massachusetts Bank to banks in Florida; and

(b) $1,820,000 removed from LCCP accounts to accounts controlled by Carol Capoccia, including:

(i) Contents in Account No. 059-644190-69, in the name of or for the benefit of Carol Capoccia, LLC, at Prudential Securities;

(ii) Contents in Account No. TBJ967131E6, in the name of or for the benefit of Valentino Enterprises, Inc., at Prudential Securities;

(iii) Contents in Account No. 35-740-093, in the name of or for the benefit of Carol Capoccia, LLC, at Wachovia Bank;

(iv) Contents in Account No. 325450051868, in the name of or for the benefit of Carol Capoccia, LLC, at Key Bank;

(v) Contents in Account No. 325490036895, in the name of or for the benefit of Eugene A. Bizzarro and/or Deana Bizzarro Karam, at Key Bank;

(vi) Contents in Account No. 0417003221519, in the name of or for the benefit of Carol Capoccia, at SunTrust Bank;

(vii) Contents in E-Trade Account No. 1091-1898, in the name of or for the benefit of Eugene A. Bizzarro, at E-Trade Securities, Inc.;

(viii) Jewelry, a Beaded Compact, a Silver Plated Travel Photo Album, and 6 Waterford Lismore Brandy Balloons;

(ix) Improvements, in the Minimum Amount of $75,000, to 56 Bentwood Drive East, Guilderland, New York; and

(x) U.S. Funds in the Amount of $50,000, in the Possession or Control of Eugene A. Bizzarro.

If any of the above-described forfeitable property, as a result of

any act or omission of the defendants

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third person;

(3) has been placed beyond the jurisdiction of this court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b)(1) and 21 U.S.C. § 853(p), to seek forfeiture of any other property of ANDREW CAPOCCIA up to the value of the above forfeitable property, including but not limited to the following:

(a) 56 Bentwood Drive East, Guilderland, New York;

(b) Contents in Account No. 059-644190-69, in the name of or for the benefit of Carol Capoccia, LLC, at Prudential Securities;

(c) Contents in Account No. TBJ967131E6, in the name of or for the benefit of Valentino Enterprises, Inc. at Prudential Securities;

(d) Contents in Account No. 35-740-093, in the name of or for the benefit of Carol Capoccia, LLC, at Wachovia Bank;

(e) Contents in Account No. 325450051868, in the name of or for the benefit of Carol Capoccia, LLC, at Key Bank;

(f) Contents in Account No. 325490036895, in the name of or for the benefit of Eugene A. Bizzarro and/or Deana Bizzarro Karam, at Key Bank;

(g) Contents in Account No. 0417003221519, in the name of or for the benefit of Carol Capoccia, at SunTrust Bank; and

(h) Contents in E-Trade Account No. 1091-1898, in the name of or for the benefit of Eugene A. Bizzarro, at E-Trade Securities, Inc. [items (b)-(h) will henceforth be referred to herein as the "Capoccia Assets."]

(18 U.S.C. §§ 981(a)(1)(C), 1956, 1957, 1961, 2314 and 2315; 28 U.S.C. § 2461(c))

COUNT 20 -- FORFEITURE ALLEGATION NO. 2

From his engagement in the violations stated in Count 2, the defendants, ANDREW CAPOCCIA, HOWARD SINNOTT, THOMAS J. DALY and SHIRLEY DINATALE, shall forfeit to the United States any and all proceeds of the statutory violations specified in the charged conspiracy, including but not limited to the following:

(a) $2,274,797.60 removed from the LCCP account at PNC Bank;

(b) 860,000 removed from LCCP's accounts to Debt Settlement Associates;

(a) Contents in Account No. 8019327712, in the name of or for the benefit of Debt Settlement Associates, Ltd., at PNC Bank;

(c) $1,720,000 removed from LCCP accounts to accounts controlled by Carol Capoccia, including:

(a) Contents in Account No. 059-644190-69, in the name of or for the benefit of Carol Capoccia, LLC, at Prudential Securities;

(b) Contents in Account No. TBJ967131E6, in the name of or for the benefit of Valentino Enterprises, Inc., at Prudential Securities;

(iii) Contents in Account No. 35-740-093, in the name of or for the benefit of Carol Capoccia, LLC, at Wachovia Bank;

(iv) Contents in Account No. 325450051868, in the name of or for the benefit of Carol Capoccia, LLC, at Key Bank;

(v) Contents in Account No. 325490036895, in the name of or for the benefit of Eugene A. Bizzarro and/or Deana Bizzarro Karam, at Key Bank;

(vi) Contents in Account No. 0417003221519, in the name of or for the benefit of Carol Capoccia, at SunTrust Bank;

(vii) Contents in E-Trade Account No. 1091-1898, in the name of or for the benefit of Eugene A. Bizzarro, at E-Trade Securities, Inc.;

(viii) Jewelry, a Beaded Compact, a Silver Plated Travel Photo Album, and 6 Waterford Lismore Brandy Balloons;

(ix) Improvements, in the Minimum Amount of $75,000, to 56 Bentwood Drive East, Guilderland, New York;

(x) U.S. Funds in the Amount of $50,000, in the Possession or Control of Eugene A. Bizzarro.

If any of the above-described forfeitable property, as a result of any act or omission of the defendants

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third person;

(3) has been placed beyond the jurisdiction of this court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b)(1) and 21 U.S.C. § 853(p), to seek forfeiture of any other property of ANDREW CAPOCCIA, HOWARD SINNOTT, THOMAS J. DALY and SHIRLEY DINATALE up to the value of the above forfeitable property, including but not limited to the following:

(a) 56 Bentwood Drive East, Guilderland, New York; and

(b) The Capoccia Assets.

(18 U.S.C. §§ 981(a)(1)(C), 1956, 1957, 1961, 2314 and 2315; 28 U.S.C. § 2461(c))

COUNT 21 -- FORFEITURE ALLEGATION NO. 3

From his engagement in the violations stated in Count 3 the defendant ANDREW CAPOCCIA shall forfeit to the United States any and all proceeds of the statutory violations specified in the charged conspiracy, including but not limited to the following:

(a) $314,000 in U.S. Funds

If any of the above-described forfeitable property, as a result of any act or omission of the defendant

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third person;

(3) has been placed beyond the jurisdiction of this court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b)(1) and 21 U.S.C. § 853(p), to seek forfeiture of any other property of ANDREW CAPOCCIA up to the value of the above forfeitable property, including but not limited to the following:

(a) 56 Bentwood Drive East, Guilderland, New York; and

(b) The Capoccia Assets.

(18 U.S.C. §§ 981(a)(1)(C), 1956, 1957, 1961, 2314; 28 U.S.C. § 2461(c))

COUNT 22 -- FORFEITURE ALLEGATION NO. 4

From his engagement in the violations stated in Count 4 the defendant ANDREW CAPOCCIA shall forfeit to the United States any and all proceeds of the statutory violations specified in the charged conspiracy, including but not limited to the following:

(a) $200,000 transferred from LCCP escrow account to Republic Security Account 53150; Wachovia Account No. 35-740-093; and

(b) $200,000 in Prudential Account TBJ967131E6, in the name of or for the benefit of Valentino Enterprises, Inc.

If any of the above-described forfeitable property, as a result of any act or omission of the defendant

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third person;

(3) has been placed beyond the jurisdiction of this court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b)(1) and 28 U.S.C. § 853(p), to seek forfeiture of any other property of ANDREW CAPOCCIA up to the value of the above forfeitable property, including but not limited to the following:

(a) 56 Bentwood Drive East, Guilderland, New York; and

(b) The Capoccia Assets.

(18 U.S.C. §§ 981(a)(1)(C), 1956, 1957, 1961, 2314 and 2315; 28 U.S.C. § 2461(c))

COUNT 23 -- FORFEITURE ALLEGATION NO. 5

From his engagement in the violations stated in Count 5 the defendant ANDREW CAPOCCIA shall forfeit to the United States any and all property which constitutes or is derived from any proceeds traceable to such violations, including but not limited to the following:

(a) $800,000 in U.S. Funds; and

(b) $100,000 in Prudential Account No. TBJ967131E6, in the name of or for the benefit of Valentino Enterprises, Inc.

If any of the above-described forfeitable property, as a result of any act or omission of the defendant

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third person;

(3) has been placed beyond the jurisdiction of this court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b)(1) and 21 U.S.C. § 853(p), to seek forfeiture of any other property of ANDREW CAPOCCIA up to the value of the above forfeitable property, including but not limited to the following:

(a) 56 Bentwood Drive East, Guilderland, New York; and

(b) The Capoccia Assets.

(18 U.S.C. §§ 981(a)(1)(C), 982, 1343; 28 U.S.C. § 2461(c))

COUNT 24 -- FORFEITURE ALLEGATION NO. 6

From their engagement in the violations stated in Counts 6 and 8 defendants HOWARD SINNOTT and THOMAS DALY shall forfeit to the United States any and all property which constitutes or is derived from any proceeds traceable to such violations, including but not limited to the following:

(a) $1,156,797.60 in U.S. Funds;

(b) $500,000 in U.S. Funds;

(c) $100,000 in Prudential Account No. 059-644190-69 in the name of Carol Capoccia; and

(d) $100,000 in Prudential Account No. 059-644190-69 in the name of Carol Capoccia.

If any of the above-described forfeitable property, as a result of any act or omission of the defendants

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third person;

(3) has been placed beyond the jurisdiction of this court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b)(1) and 21 U.S.C. § 853(p), to seek forfeiture of any other property of HOWARD SINNOTT and THOMAS DALY up to the value of the above forfeitable property, including but not limited to the following:

(a) 1997 Ford Explorer, VIN 1FMDU35P4VZA49374.

(18 U.S.C. §§ 981(a)(1)(C), 982, 984, 1343, 1956, 1957, 1961 and 2314; 28 U.S.C. § 2461(c))

COUNT 25 -- FORFEITURE ALLEGATION NO. 7

From their engagement in the violations stated in Count 7 the defendants ANDREW CAPOCCIA, HOWARD SINNOTT, THOMAS DALY, and SHIRLEY DINATALE shall forfeit to the United States any and all property which constitutes or is derived from any proceeds traceable to such violations, including but not limited to the following:

(a) $318,000 in U.S. Funds;

(b) $12,500 in Prudential Account TBJ967131E6 in the name of or for the benefit of Valentino Enterprises, Inc.;

(c) $79,500 in Prudential Account TBJ967131E6 in the name of or for the benefit of Valentino Enterprises, Inc.;

(d) $12,500 in Prudential Account TBJ967131E6 in the name of or for the benefit of Valentino Enterprises, Inc.;

(e) $12,500 in Prudential Account TBJ967131E6 in the name of or for the benefit of Valentino Enterprises, Inc.;

(f) $75,000 in Prudential Account TBJ967131E6 in the name of or for the benefit of Valentino Enterprises, Inc.;

(g) $100,000 in Prudential Account TBJ967131E6 in the name of or for the benefit of Valentino Enterprises, Inc.; and

(h) $12,500 in Prudential Account TBJ967131E6 in the name of or for the benefit of Valentino Enterprises, Inc.

If any of the above-described forfeitable property, as a result of any act or omission of the defendants

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third person;

(3) has been placed beyond the jurisdiction of this court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to 18 U.S.C. §

982(b)(1) and 21 U.S.C. § 853(p), to seek forfeiture of any other property of ANDREW CAPOCCIA, HOWARD SINNOTT, THOMAS J. DALY, and SHIRLEY DINATALE up to the value of the above forfeitable property, including but not limited to the following:

(a) 56 Bentwood Drive East, Guilderland, New York;

(b) The Capoccia Assets; and

(c) 1997 Ford Explorer, VIN 1FMDU35P4VZA49374.

(18 U.S.C. §§ 981(a)(1)(C), 982, 984, 1343; 28 U.S.C. § 2461(c))

COUNT 26 -- FORFEITURE ALLEGATION NO. 8

From their engagement in the violations stated in Counts 9 and 10 the defendants ANDREW CAPOCCIA, HOWARD SINNOTT, THOMAS J. DALY, and SHIRLEY DINATALE shall forfeit to the United States any and all property which constitutes or is derived from any proceeds traceable to such violations, including but not limited to the following:

(a) $520,840.10 taken from clients' extra funds and settlement checks.

If any of the above-described forfeitable property, as a result of any act or omission of the defendants

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third person;

(3) has been placed beyond the jurisdiction of this court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b)(1) and 21 U.S.C. § 853(p), to seek forfeiture of any other property of ANDREW CAPOCCIA, HOWARD SINNOTT, THOMAS J. DALY, and SHIRLEY DINATALE up to the value of the above forfeitable property, including but not limited to the following:

(a) 56 Bentwood Drive East, Guilderland, New York;

(b) The Capoccia Assets; and

(c) 1997 Ford Explorer, VIN 1FMDU35P4VZA49374.

(18 U.S.C. §§ 981(a)(1)(C), 982, 1341, 1956, 1957, 1961, 2314; 28 U.S.C. § 2461(c))

COUNT 27 -- FORFEITURE ALLEGATION NO. 9

From their engagement in the violations stated in Count 11 the defendants ANDREW CAPOCCIA and HOWARD SINNOTT shall forfeit to the United States any and all property which constitutes or is derived from any proceeds traceable to such violations, including but not limited to the following:

(a) $265,050. in monies wrongfully taken from unearned client retainer fees and escrow funds;

(b) $200,000 paid as bonus money to Howard Sinnott;

(c) Contents of Account No. 10945230 at Heritage Family of Funds, managed by D.B. McKenna & Co., Bennington, VT, in the names of Howard and Janet M. Sinnott; and

(d) 1997 Ford Explorer, VIN 1FMDU35P4VZA49374.

If any of the above-described forfeitable property, as a result of any act or omission of the defendants

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third person;

(3) has been placed beyond the jurisdiction of this court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b)(1) and 21 U.S.C. § 853(p), to seek forfeiture of any other property of ANDREW CAPOCCIA and HOWARD SINNOTT up to the value of the above forfeitable property, including but not limited to the following:

(a) 56 Bentwood Drive East, Guilderland, New York; and

(b) The Capoccia Assets.

(18 U.S.C. §§ 981(a)(1)(C), 982, 1956, 1957, 1961, 2314; 28 U.S.C. § 2461(c))

COUNT 28 -- FORFEITURE ALLEGATION NO. 10

From their engagement in the violations stated in Count 12 the defendants ANDREW CAPOCCIA and THOMAS J. DALY shall forfeit to the United States any and all property which constitutes or is derived from any proceeds traceable to such violations, including but not limited to the following:

(a) $110,000 in monies wrongfully taken from unearned client retainer fees and escrow funds; and

(b) Contents of Account No. 11033301 at Heritage Family of Funds, managed by D.B. McKenna & Co., Bennington, VT, in the name of Daly & Sinnott.

If any of the above-described forfeitable property, as a result of any act or omission of the defendants

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third person;

(3) has been placed beyond the jurisdiction of this court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b)(1) and 21 U.S.C. § 853(p), to seek forfeiture of any other property of ANDREW CAPOCCIA and THOMAS J. DALY up to the value of the above forfeitable property, including but not limited to the following:

(a) 56 Bentwood Drive East, Guilderland, New York; and

(b) The Capoccia Assets.

(18 U.S.C. §§ 981(a)(1)(C), 982, 1956, 1957, 1961, 2314; 28 U.S.C. § 2461(c))

COUNT 29 -- FORFEITURE ALLEGATION NO. 11

From their engagement in the violations stated in Count 13 the defendants ANDREW CAPOCCIA, HOWARD SINNOTT, THOMAS J. DALY and SHIRLEY DINATALE shall forfeit to the United States any and all property which constitutes or is derived from any proceeds traceable to such violations, including but not limited to the following:

(a) $165,853 in U.S. Funds

If any of the above-described forfeitable property, as a result of any act or omission of the defendants

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third person;

(3) has been placed beyond the jurisdiction of this court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b)(1) and 21 U.S.C. § 853(p), to seek forfeiture of any other property of ANDREW CAPOCCIA, HOWARD SINNOTT, THOMAS J. DALY and SHIRLEY DINATALE up to the value of the above forfeitable property, including but not limited to the following:

(a) 56 Bentwood Drive East, Guilderland, New York;

(b) The Capoccia Assets; and

(c) 1997 Ford Explorer, VIN 1FMDU35P4VZA49374.

(18 U.S.C. §§ 981(a)(1)(C), 982, 1956, 1957, 1961, 2314; 28 U.S.C. § 2461(c))

COUNT 30 -- FORFEITURE ALLEGATION NO. 12

From their engagement in the violations stated in Counts 14 and 15 the defendants ANDREW CAPOCCIA, HOWARD SINNOTT and SHIRLEY DINATALE shall forfeit to the United States any and all property which was involved in such violations, or any property traceable to such property, including but not limited to the following:

(a) $85,000 in U.S. Funds; and

(b) $85,000 in U.S. Funds transferred from DSA's PNC Account to SunTrust Account 0417003221519 for the benefit of Carol Capoccia and later transferred to a Fleet Bank Account in the name of Carlo Spano and then, in part, to SEFCU Account No. 52164, also in the name of Carlo Spano.

If any of the above-described forfeitable property, as a result of any act or omission of the defendants

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third person;

(3) has been placed beyond the jurisdiction of this court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b)(1) and 21 U.S.C. § 853(p), to seek forfeiture of any other property of ANDREW CAPOCCIA, HOWARD SINNOTT and SHIRLEY DINATALE up to the value of the above forfeitable property, including but not limited to the following:

(a) 56 Bentwood Drive East, Guilderland, New York; and

(b) The Capoccia Assets.

(18 U.S.C. §§ 982(a)(1)(A), 1956(a)(1)(B)(i), and 28 U.S.C. § 2461(c))

COUNT 31 -- FORFEITURE ALLEGATION NO. 13

From their engagement in the violations stated in Count 16 the defendants ~~ANDREW CAPOCCIA,~~ HOWARD SINNOTT, and THOMAS J. DALY shall forfeit to the United States any and all property which constitutes or is derived from any proceeds traceable to such violations.

If any of the above-described forfeitable property, as a result of any act or omission of the defendants

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third person;

(3) has been placed beyond the jurisdiction of this court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b)(1) and 21 U.S.C. § 853(p), to seek forfeiture of any other property of ~~ANDREW CAPOCCIA~~, HOWARD SINNOTT, and THOMAS J. DALY up to the value of the above forfeitable property, including but not limited to the following:

(a) ~~56 Bentwood Drive~~ East, Guilderland, New York;

(b) The Capoccia Assets; and

(c) 1997 Ford Explorer, VIN 1FMDU35P4VZA49374.

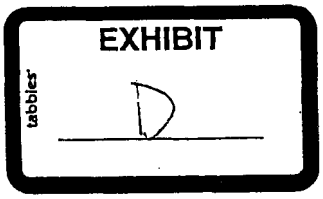
(18 U.S.C. §§ 981(a)(1)(C), 982, 1341; 28 U.S.C. § 2461(c))

A TRUE BILL

Christopher Gillis
FOREPERSON

David V. Kirby
DAVID V. KIRBY (GLW & JJG)
Acting United States Attorney

Burlington, Vermont
September 14, 2004



UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF VERMONT

UNITED STATES OF AMERICA)
)
v.) Crim. No. 1:03CR302
)
HOWARD SINNOTT)

PLEA AGREEMENT

The United States of America, by and through the United States Attorney for the District of Vermont (hereafter "the United States"), and the defendant, HOWARD SINNOTT, agree to the following disposition of pending criminal charges.

1. SINNOTT agrees to plead guilty to Counts 11 and 13 of the second superseding indictment, which charge him with interstate transmittal/transportation of stolen money, in violation of 18 U.S.C. § 2314. SINNOTT acknowledges that Count 27 of the second superseding indictment alleges that the following property:

a. Contents of Account No. 109 45230 at Heritage Family of Funds, managed by D.B. McKenna & Co., Bennington, VT, in the names of Howard and Janet M. Sinnott; and

b. 1997 Ford Explorer, VIN 1FMDU35P4VZA49374;

is forfeitable to the United States pursuant to 18 U.S.C. §§ 981(a)(1)(C), 982, 984, 1956, 1957, 1961, 2314, and 28 U.S.C. § 2461(c) as property which constitutes or is derived from any proceeds traceable to such violations charged in Count 11 to which he is pleading guilty. SINNOTT consents to forfeiture of the above-mentioned property pursuant to 18 U.S.C. §§ 981(a)(1)(C), 982, 1956, 1957, 1961, 2314, and 28 U.S.C. §

2461(c) pursuant to paragraphs 9 through 12 of this plea agreement. Sinnott further consents to the forfeiture of the money or other property frozen or restrained in, or seized from, his IRA Account No. 77615762 held by D.B. McKenna & Co., Bennington, Vermont, pursuant to Count 27 of the second superseding indictment and 18 U.S.C. §§ 981(a)(1)(C), 982, 1956, 1957, 1961, 2314, and 28 U.S.C. § 2461(c), and paragraphs 9 through 12 of this plea agreement.

2. SINNOTT understands, agrees and has had explained to him by counsel that the two crimes to which he will plead guilty are both felonies for which the Court may impose the following sentence on each count: up to ten years of imprisonment, pursuant to 18 U.S.C. § 2314; a fine of up to $250,000 or twice the gross loss, whichever is greater, pursuant to 18 U.S.C. § 3571(b) and (d); a period of supervised release of not more than three years, pursuant to 18 U.S.C. § 3583(b); and a $100 special assessment. SINNOTT also understands that the Court must order full restitution as part of any sentence.

3. It is the understanding of the parties to this agreement that the plea will be entered under oath and in accordance with Rule 11 of the Federal Rules of Criminal Procedure. The defendant represents that he intends to plead guilty because he is, in fact, guilty of the crimes to which he will enter a plea.

4. SINNOTT understands that this agreement is conditioned upon his providing the United States Attorney, at the time this plea agreement is executed, a bank cashier's check payable to

the Clerk, U.S. District Court, in payment for the mandatory special assessment of $200 for which he will be responsible when sentenced. The United States agrees to safeguard and pay the special assessment imposed at sentencing to the Clerk of the Court immediately after sentencing. In the event that this plea agreement is for any reason terminated or the defendant's guilty plea is not accepted by the Court, the special assessment shall be promptly refunded. In the event that the tendered bank check is not honored for whatever reason, the defendant understands that he will still be liable for the amount of the special assessment which the Court imposes. SINNOTT understands and agrees that, if he fails to pay the special assessment in full prior to sentencing, the United States' obligations under this plea agreement will be terminated, the United States will have the right to prosecute him for any other offenses he may have committed, and will have the right to recommend the Court impose any lawful sentence. Under such circumstances, SINNOTT will have no right to withdraw his plea of guilty.

5. SINNOTT agrees and understands that it is a condition of this agreement that he refrain from committing any further crimes, whether federal, state or local, and that he strictly abide by all conditions of release if he is permitted to remain at liberty pending sentence.

6. Pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, the parties stipulate and agree that the Court shall impose concurrent sentences of between 27 months and 41 months imprisonment on Counts 11 and 13. The parties reserve

the right to argue for any sentence within the stipulated range. If the Court declines to impose a sentence within the agreed-upon range, the plea will be vacated on the motion of either party and the United States may prosecute the defendant on all charges in the indictment.

7. The parties further stipulate that the Court should employ the following Guidelines analysis in sentencing the defendant:

a. The November 1, 2001 Guidelines manual governs.

b. The two counts are grouped pursuant to U.S.S.G. § 3D1.2(d).

c. The base offense level is 6 (U.S.S.G. § 2B1.1(a)).

d. The loss resulting from the offenses of conviction and relevant conduct is in the $1,000,000 to $2,500,000 range (U.S.S.G. § 2B1.1(b)(1)(I)).

e. The offenses involved 50 or more victims (U.S.S.G. § 2B1.1(b)(2)(B)).

f. The defendant abused a position of private trust (U.S.S.G. § 3B1.3).

g. The defendant is entitled to a 2-level role reduction (U.S.S.G. § 3B1.2).

h. The defendant is entitled to 3-level credit for acceptance of responsibility (U.S.S.G. § 3E1.1).

i. Other factors which the Court must take into consideration in formulating a sentence under the Sentencing Reform Act justify a downward adjustment to the stipulated range of imprisonment.

j. Accordingly, the Court will sentence the defendant as a level 18, 19 or 20 and criminal history category I offender, for which the advisory Guidelines range is 27-41 months' imprisonment.

8. The United States agrees that in the event that SINNOTT fully and completely abides by all conditions of this agreement, the United States will:

a. Not prosecute SINNOTT, in the District of Vermont, for any other offenses, known to the United States Attorney at the time this agreement is signed, which relate to SINNOTT'S involvement with the Law Centers for Consumer Protection, Debt Settlement Associates, or any related entity; and

b. Move at the time of sentencing to dismiss the remaining counts of the second superseding indictment.

9. SINNOTT agrees he will not contest the forfeiture of the above-mentioned property listed in Paragraph 1 above and Count 27 of the second superseding indictment, and the D.B. McKenna & Co. IRA account, file any claim to that property or cause any other person to file a claim to it. SINNOTT agrees all items of property are forfeitable pursuant to 18 U.S.C. §§ 981(a)(1)(C), 982, 984, 1956, 1957, 1961, 2314, and 28 U.S.C. § 2461(c).

10. SINNOTT agrees that he will cooperate with the Government by taking whatever steps are deemed necessary by the Government in order to carry out and implement the terms and conditions of these paragraphs. SINNOTT agrees that the Ford Explorer may be forfeited once the court has accepted the plea

agreement, even if sentencing has not yet taken place. The Government agrees not to seek a preliminary order of forfeiture of the accounts maintained at D.B. McKenna & Co. until sentencing. SINNOTT agrees that if for any reason this criminal forfeiture cannot be accomplished, the Government may at any time (without regard to any statute of limitations or doctrine of laches) bring a civil forfeiture complaint against all or part of the same property. In the event of any such filing, SINNOTT, will not file a claim nor contest the forfeiture in any way and will not cause any other person to file a claim or contest the forfeiture. Under such circumstances, SINNOTT agrees that the property may be sold immediately or at any time of the Government's choosing.

11. SINNOTT agrees that by entering into this plea agreement he voluntarily and knowingly waives any claim he may have that the forfeiture, administrative or judicial, civil or criminal, of the property or any other administrative or judicial forfeiture action arising out of the course of conduct that provides the factual basis of the information herein, alone or in conjunction with this prosecution, in any way violates any of his rights, including his rights under the Fifth and Eighth Amendments to the United States Constitution. SINNOTT's waiver specifically includes any claim that any such forfeiture, whether preceding or following this criminal prosecution, would constitute double jeopardy, cruel and unusual punishment, an excessive fine, a disproportionate punishment, or a violation of due process. SINNOTT's waiver also includes a waiver of any

rights to a jury trial on the forfeiture of assets.

12. SINNOTT agrees that forfeiture of the above-mentioned property listed in Count 27 of the second superseding indictment shall not be deemed as satisfaction of any fine, restitution, cost of imprisonment or any other penalty this Court may impose upon SINNOTT, in addition to forfeiture. Nevertheless, because it intends to use all forfeited proceeds to pay restitution to victims in this case, the United States agrees that the net value that the Government realizes upon the seizure or sale of any property forfeited pursuant to this plea agreement shall be credited against any restitution judgment the Court may impose on SINNOTT. The parties agree that partial funding of SINNOTT'S obligation for restitution and/or fine shall be effectuated as set forth in paragraph 13.

13. SINNOTT understands that the Court will enter a judgment for restitution against him in this criminal case. Accordingly, he wishes to liquidate certain real estate and to pay the net proceeds to the United States in partial satisfaction of such obligation(s).

(a) SINNOTT represents that he has a current ownership interest in only two parcels of real property. The first property is located on Monument ~~Street~~ Avenue in Bennington, Vermont and includes a house and other improvements ("Bennington Property"). The second property consists of 22.5 acres, more or less, of undeveloped land located in Wilmington, Vermont ("Wilmington Property"). SINNOTT represents that he owns these two parcels of real estate with his wife as tenants by the

entireties and that he has an undivided one-half interest in both parcels. SINNOTT represents that the net equity (fair market value less encumbrances) in the Bennington Property exceeds his net equity in the Wilmington Property. SINNOTT agrees that he shall not transfer title to or allow any encumbrances upon these two parcels prior to sentencing and entry of judgment as to him. SINNOTT also agrees that the United States will obtain fair market appraisals of these two parcels and that its agents may enter upon the parcels for this purpose upon reasonable notice to SINNOTT.

(b) SINNOTT agrees and understands that the United States shall have an immediate statutory lien on the Bennington Property and the Wilmington Property pursuant to 18 U.S.C. § 3613 as security for any fine and/or restitution imposed by the Court upon entry of judgment as to him.

(c) So long as the appraised net equity in the Bennington Property exceeds the appraised net equity in the Wilmington Property, SINNOTT and his wife shall offer the Bennington Property for sale immediately and shall use their best efforts to sell the property within twelve months of the signing of this plea agreement. SINNOTT shall immediately notify the United States of the name and address of the proposed purchaser(s) and proposed sale price and the United States shall have three business days to approve or disapprove the sale. Any listing agreement with a real estate broker or agent shall provide that any sale is contingent upon the approval of the United States. Upon sale of the Bennington Property, SINNOTT

Such consent not to be unreasonably withheld.

agrees to pay to the United States fifty percent of the net sale proceeds in whole or partial satisfaction of any obligation for restitution that he is ordered to pay. The term "net sale proceeds" means the gross sale price less reasonable costs for real estate brokerage fees (including advertising) and the payoff of any mortgages or liens encumbering the property that have a priority over the lien of the United States (as well as any necessary fees for the filing of mortgage satisfactions or other miscellaneous fees such as a state transfer tax obligation, if applicable) plus credits, if any, for prorated taxes, municipal fees, heating fuel and any other applicable prorations. At the sale closing, the United States shall release its lien only insofar as the lien encumbers the Bennington Property. A copy of a draft settlement statement that projects the closing costs and credits shall be provided to the United States three days in advance of the closing. The United States shall apply this payment in partial satisfaction of SINNOTT'S obligation for restitution.

(d) SINNOTT further understands that the statutory lien of the United States shall remain upon his fifty percent share in the Wilmington Property for the statutory life of the lien or until SINNOTT pays to the United States fifty percent of the value of the above noted appraisal of the Wilmington Property to be commissioned by the United States pursuant to paragraph 13(a). The United States agrees not to foreclose its lien on the Wilmington Property provided that SINNOTT does not transfer title to the Wilmington Property, continues to own it with his

wife by the entireties, permits no liens, mortgages or other encumbrances to cloud the title, and pays all taxes and municipal assessments when due. If SINNOTT pays to the United States a sum equal to fifty percent of the appraised value of the Wilmington Property pursuant to paragraph 13(a), the United States shall release its statutory lien as to the Wilmington Property only insofar as the lien encumbers the Wilmington Property. The United States shall apply this payment in partial satisfaction of SINNOTT'S obligation for a criminal fine and/or restitution.

14. SINNOTT agrees that he will provide a copy of any financial affidavit prepared during the course of the Probation Office's presentence investigation to the United States at the same time it is provided to the Probation Office. In addition, he specifically hereby authorizes the Probation Office to provide the United States with a copy of any and all financial affidavits submitted to it by him.

15. If the United States determines, in its sole discretion, that the defendant has committed any offense after the date of this agreement, or violated any condition of release, or has failed to cooperate fully with the Probation Department regarding the offense of conviction, or has provided any intentionally false, incomplete or misleading information to Probation, the United States' obligations under paragraph 8 of this agreement will be void; the United States will have the right to recommend that the Court impose any sentence authorized by law; and will also have the right to prosecute the defendant

for any other offenses he may have committed in the District of Vermont. The defendant understands and agrees that, under such circumstances, he will have no right to withdraw his previously entered plea of guilty.

16. In voluntarily pleading guilty, SINNOTT acknowledges that he understands the nature of the charges to which the plea is offered. He also acknowledges that he has the right to plead not guilty or to persist in a plea of not guilty; that he has the right to be tried by a jury and at that trial a right to the assistance of counsel; that he has the right to confront and cross-examine adverse witnesses; that he has the right against compelled self-incrimination; that if a plea of guilty is accepted by the Court, there will be no further trial of any kind, so that by pleading guilty he waives the right to a trial and the other rights enumerated here.

17. The United States specifically reserves the right to allocute at sentencing. There shall be no limit on the information the United States may present to the Court and the Probation Office relevant to sentencing and the positions the United States may take regarding sentencing (except as specifically provided elsewhere in this agreement). The United States also reserves the right to correct any misstatement of fact made during the sentencing process, to oppose any motion to withdraw a plea of guilty previously entered and to support on appeal any decisions of the sentencing Court whether in agreement or in conflict with recommendations and stipulations of the parties.

18. It is further understood and agreed by the parties that should the defendant's plea not be accepted by the Court for whatever reason, or later be withdrawn or vacated, this agreement may be voided at the option of the United States and the defendant may be prosecuted for any and all offenses otherwise permissible.

19. It is further understood that this agreement is limited to the Office of the United States Attorney for the District of Vermont and cannot bind other federal, state or local prosecuting authorities.

20. SINNOTT expressly states that he makes this agreement of his own free will, with full knowledge and understanding of the agreement and with the advice and assistance of his counsel, Lisa Shelkrot, Esq. SINNOTT further states that his plea of guilty is not the result of any threats or of any promises beyond the provisions of this agreement. Furthermore, SINNOTT expressly states that he is fully satisfied with the representation provided to him by his attorney and has had full opportunity to consult with his attorney concerning this agreement, concerning the applicability and impact of the sentencing guidelines (including, but not limited to, the relevant conduct provisions of U.S.S.G. § 1B1.3), and concerning the potential terms and conditions of supervised release.

21. No agreements have been made by the parties or their counsel other than those contained herein.

22. It is agreed that a copy of this agreement shall be filed with the Court before the time of the defendant's change

of plea.

UNITED STATES OF AMERICA

DAVID V. KIRBY
United States Attorney

February 8, 2005
Date

GREGORY L. WAPLES
JAMES J. GELBER
Assistant U.S. Attorneys

2/8/05
Date

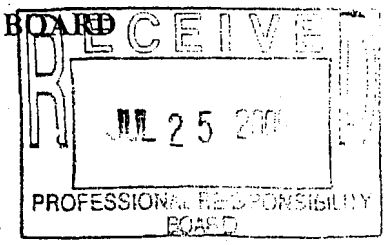
HOWARD SINNOTT
Defendant

I, Lisa B. Shelkrot, Esq., have read, fully reviewed and explained this agreement to my client, Howard Sinnott, and I hereby approve of it.

2/8/05
Date

LISA B. SHELKROT. ESQ.

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY BOARD



In Re: Howard Sinnott, Esq., Respondent
PRB File No. 2002.240

Statement of Additional Facts

NOW COMES Michael Kennedy and, pursuant to Rule 19B of Administrative Order 9, submits this Statement of Additional Facts.

1. The Respondent, Howard Sinnott, is an attorney licensed to practice law in the State of Vermont.

2. From 2000 to 2002, Attorney Sinnott operated a law firm in Bennington. The firm was called "The Law Centers for Consumer Protection" (hereinafter "LCCP")and focused on representing clients who were in debt.

3. LCCP was a direct descendant of a New York firm that was known as The Law Centers of Andrew Capoccia. The Capoccia firm formed in 1997 and focused on providing debt reduction services to clients who had difficulty making payments on unsecured debt. The firm attempted to convince a client's creditors to agree to settle the client's debt for a reduced sum. The firm took its fee in the form of a percentage of the net reduction it negotiated on behalf of a client. Attorney Sinnott was an associate in Attorney Capoccia's firm.

4. In the spring of 2000, and for reasons not related to this proceeding, it became clear that Attorney Capoccia was going to be disbarred by New York disciplinary authorities. In anticipation of Attorney Capoccia's disbarment, Attorney Sinnott and other lawyers in the Capoccia firm purchased the firm's assets, changed its name, and moved its

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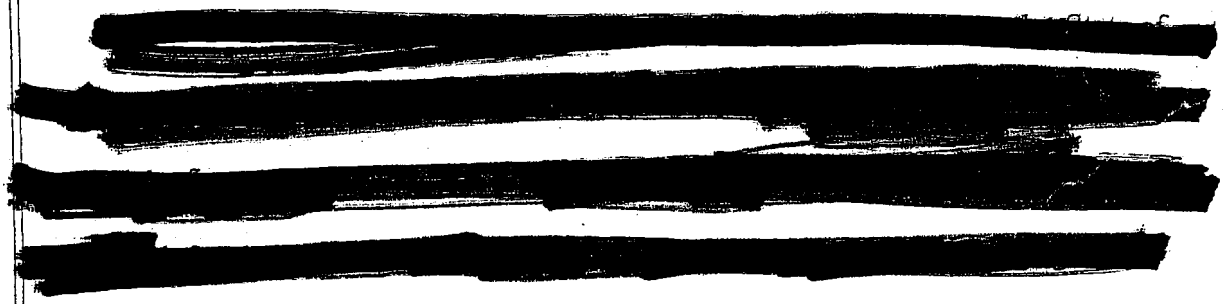
base of operations to Bennington, Vermont. Upon arriving in Vermont, LCCP continued to focus on providing debt reduction services.



6. In June of 2001, two ethics complaints were filed against Attorney Sinnott here in Vermont. Through counsel, Attorney Sinnott filed an answer to the complaints. Exhibit B is a copy of his answer. Attorney Sinnott's answer describes the manner in which the firm's debt reduction program operated.

7. By October of 2001, over twenty ethics complaints had been filed against Attorney Sinnott in Vermont. On October 1, 2001, Disciplinary Counsel petitioned the Supreme Court for the interim suspension of Attorney Sinnott's license to practice law. The petition was denied.

8. On March 10, 2003, a grand jury in the United States District Court for the District of Vermont indicted Attorney Sinnott and other lawyers/employees associated with LCCP.

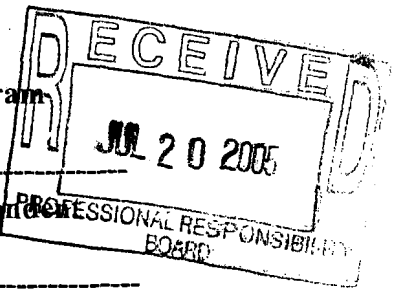
9. On September 14, 2004, the grand jury returned a "Second Superseding Indictment" against Attorney Sinnott. Exhibit C is a copy of the Second Superseding Indictment.

10. On February 8, 2005, Attorney Sinnott entered into a plea agreement in which he pled guilty to Counts 11 and 13 of the Second Superseding Indictment. Exhibit D is a copy of the plea agreement. Attorney Sinnott has yet to be sentenced.

DATED at Burlington, Vermont, on July 21, 2005

Michael Kennedy
Disciplinary Counsel
32 Cherry Street, Suite 213
Burlington, Vermont 05403
(802) 859-3000

State of Vermont
Professional Responsibility Program



In Re: Howard Sinnott, Esq., Respondent
PRB File No. 2002.240

Affidavit of Resignation

NOW COMES Howard Sinnott, being duly sworn, and, pursuant to Rule 19(A) of Administrative Order 9, submits this Affidavit of Resignation.

1. I am an attorney licensed to practice law in Vermont.

2. I was admitted to the Vermont Bar on September 2, 1986.

3. I desire to resign from the Vermont Bar.

4. This resignation is freely and voluntarily rendered.

5. I was not subjected to coercion or duress in tendering this resignation.

6. I have reviewed Administrative Order 9 and I am fully aware of the implications of submitting this resignation.

7. I am aware that Disciplinary Counsel is presently investigating whether I am guilty of misconduct that violates the Vermont Rules of Professional Conduct. Specifically, I am aware that Disciplinary Counsel is investigating whether I violated the Rules of Professional Conduct by conspiring with others to transmit in interstate commerce money that had been stolen, converted or taken by fraud from funds that had been entrusted to my law firm by clients thereof.

8. I acknowledge that the material facts upon which Disciplinary Counsel's investigation is predicated are true. That is, I acknowledge that on February 8, 2005, I executed a plea agreement in which I pled guilty to two counts of a federal indictment

Office of Disciplinary Counsel

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that charged me with the interstate transmittal/transportation of stolen money, in violation of 18 U.S.C. § 2314

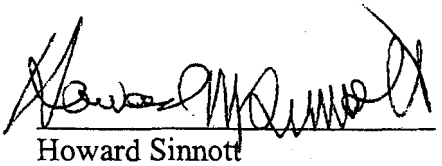
9. I am submitting this resignation because I know that if disciplinary charges were predicated upon the misconduct under investigation by Disciplinary Counsel that I could not successfully defend against them.

10. I am aware that, pursuant to Rule 19(B) of Administrative Order 9, Disciplinary Counsel will file a statement of facts relating to the misconduct under investigation.

11. The facts recited herein are based on my personal knowledge and I believe them to be true.

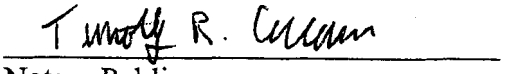
Dated at Bennington, Vermont, on this 14th day of July, 2005.

Respectfully submitted,



Howard Sinnott

Subscribed and sworn before me
at Bennington, Vermont, on this 14 day
of July, 2005.



Notary Public
My commission expires on 2/10/07

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