



**DISTRICT OF NEVADA
UNITED STATES ATTORNEY'S OFFICE
DISTRICT ACCOMPLISHMENTS 2013**

United States Attorney's Office
District of Nevada
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From The Desk of U.S. Attorney Daniel G. Bogden



Dear Staff, Friends, Law Enforcement Partners, and Members of the Court Family:

I want to express my great appreciation and thanks to each of you for your service, commitment and efforts in accomplishing the important work of the Nevada United States Attorney's Office and the United States Department of Justice during 2013. The year was challenging and filled with many successes and accomplishments. It was complicated by a budget sequestration and government shutdown, as well as an on-going hiring and spending freeze. Our offices in Las Vegas and Reno were able to successfully weather the 16-day government shutdown, during which our staff worked without pay and without the valued services of their furloughed co-workers. Despite the uncertainty of another potential lapse in funding, our employees, as well as many other government employees, continued their important work at making a difference in their community.



Each and every day, despite the obstacles, government employees get their jobs done. For that, I am extremely grateful and always mindful of your dedication and commitment to government service. Your work and determination make a difference in the community and to the people we serve. Public service is a calling, and each of you is fulfilling that calling by helping others.

Through it all, the Nevada United States Attorney's Office has once again been extremely successful during 2013 in its mission to prosecute criminal cases, prosecute and defend civil cases, and in collecting debts owed to the federal government. Our criminal, civil, appellate and administrative divisions have worked very hard throughout the year to ensure that we fulfill our responsibilities to the American public and community. This newsletter highlights our achievements and accomplishments during 2013. I want to personally acknowledge and thank our entire staff, law enforcement and community colleagues, and members of the Court family for all their assistance and for contributing to our successes and accomplishments.



Daniel G. Bogden
United States Attorney

2013 NATIONAL DIRECTOR'S AWARD'S

Four Assistant United States Attorneys (AUSA's) from the District of Nevada were selected to receive a National Director's Award for 2013. The Director's Award is one of the highest honors a U.S. Attorney's Office employee can receive. The recipients have made major contributions to the Offices of the United States Attorneys and to the mission of the Department of Justice, and exemplify the best in federal service.

AUSAs Steven Myhre and Jim Keller have been awarded a 2013 Director's Award for Superior Performance by an Assistant United States Attorney in the criminal prosecution of Richard Young and William Willard. Following a lengthy trial, Young, of Lewistown, Montana, was convicted by a jury of conspiracy, wire fraud, securities fraud and money laundering charges for defrauding approximately 1,400 victims of more than \$16 million through an online investment fraud scheme involving the Foreign Currency Exchange Market. Some of the victims included elderly persons who lost almost their entire life savings. Young was sentenced to 25 years in prison and ordered to pay \$13.3 million in restitution. Willard, of Bozeman, Montana, pleaded guilty prior to trial and was sentenced to 15 months in prison and also ordered to pay \$13.3 million in restitution. Multiple items of real and personal property belonging to Young were forfeited, including tractor-trailers, several homes and business properties, bank accounts holding over \$500,000, and multiple cars, tools, furnishings, and business equipment. The proceeds of the forfeitures were restored to the victims.

AUSAs Phillip Smith and Timothy Vasquez have been awarded a 2013 Director's Award for Superior Performance by an Assistant United States Attorney in the criminal prosecution of Nicholas Bickle, Richard Paul, Omar Aguirre, and Andrew Kaufman. From about March 2009 to Nov. 2010, Bickle, a Navy Seal, conspired with his three co-defendants to sell machineguns and other weapons possessed by Bickle when he returned from Iraq. Bickle was convicted by a jury of multiple felony weapons charges, including dealing in stolen firearms, and was sentenced in July 2012 to 17½ years in federal prison. Aguirre, Paul, and Kaufman pleaded guilty prior to trial. The firearms included over 30 AK-47 type machineguns (some of which bore the markings or symbols of the Iraqi military forces) and multiple pistols previously procured by the United States for Iraqi security forces. Bickle transported the majority of the weapons to Nevada and Colorado where his co-conspirators sold them to others, including an undercover law enforcement agent who expressed the intent to smuggle the weapons to Mexico.

In addition to our four Director's Award winners, five other AUSA's from the District of Nevada and a DOJ Trial Attorney were recognized by our office for their superior efforts in 2013: AUSAs Brian Pugh and Sarah Griswold for their efforts in obtaining jury trial convictions and lengthy sentences in a number of mortgage fraud cases related to the prosecution of Las Vegas realtor Eve Mazarella and her ex-husband Steven Grimm; AUSA Cristina Silva for the successful prosecution and conviction of eight members of a methamphetamine drug trafficking ring that supplied the drug in several southwestern states; AUSA Kathryn Newman and DOJ ENRD Trial Attorney Robert Anderson for their outstanding prosecution in Rockwood Lithium, a significant environmental case; and AUSA Andrew Duncan for his outstanding prosecution of De Rong Shang and others who were involved in a complicated and complex fraud that resulted in the loss of millions of dollars to casinos.

NEVADA U.S. ATTORNEY'S OFFICE COLLECTED \$18 MILLION IN 2013

The collection of monetary penalties is a critical aspect of our work that frequently gets overlooked. U.S. Attorneys' Offices, along with the U.S. Department of Justice's litigating divisions, are responsible for enforcing and collecting civil and criminal debts owed to the United States and criminal debts owed to federal crime victims. The law requires defendants to pay restitution to victims of certain federal crimes who have suffered a physical injury or financial loss. While restitution is paid to the victim, criminal fines and monetary assessments are paid to the department's Crime Victims' Fund, which distributes the funds to state victim compensation and victim assistance programs. Forfeited assets are used to restore funds to crime victims and for a variety of law enforcement purposes.

In Fiscal Year 2013, the Nevada U.S. Attorney's Office collected \$18 million in criminal, civil and asset forfeiture actions. These collections exceeded the total appropriated budget for our office by almost three times. These collections are used to help crime victims and for a variety of other law enforcement purposes. Of the \$18 million, \$10.5 million was collected in criminal actions, \$1.6 million was collected in civil actions, and \$5.9 million was collected in criminal and civil forfeitures. We also worked with other U.S. Attorney's Offices and components of the Department of Justice to collect an additional \$1.9 million in civil cases pursued jointly with those offices.

An example of a recent case in which the Nevada U.S. Attorney's Office collected a significant amount of money is the settlement with Las Vegas Urology. In May 2013, Las Vegas Urology, LLP, agreed to pay the United States Department of Justice \$1 million to resolve civil allegations that it improperly billed Medicare, TRICARE, and other federal health care insurance programs between 2005 and 2010. The allegations against Las Vegas Urology included (1) billing for abdominal pressure tests, urethral scopes, and ultrasounds that were more extensive than those actually performed, and (2) billing for consultations that were not properly documented. The allegations arose from a lawsuit against Las Vegas Urology which was a qui tam, or whistleblower, lawsuit filed by a person with knowledge of the violations.



Mountain Blue Bird



OFFICE ORGANIZATIONAL AND STAFF CHANGES

District Organizational Changes

AUSA Elizabeth Olson White was named Appellate Division Chief
AUSA Eric Johnson was named Criminal Division Chief
AUSA Dan Schiess was named Senior Litigation Counsel
AUSA Cristina Silva was named Deputy Chief -Team 1
AUSA Crane Pomerantz was named Deputy Chief -Team 2
AUSA Roger Yang was named ATAC Coordinator /National Security Cyber Specialist
AUSA Roger Wenthe was named Deputy Chief - Civil Division
Angel Beltran was named Information Technology Manager
Kelly Muranaka was named Criminal Chief Secretary
Ellenrose Jarmolowich was named Grand Jury Coordinator/Appellate Legal Assistant

Our Special Emphasis Program Managers

Asian/ Pacific American Program - Roger Yang
Black Affairs Program - Michael Humphreys
Federal Women's Program - Kimberly Frayn
Hispanic Employment Program - Cristina Silva
Lesbian, Gay, Bisexual, Transgender Program (LGBT) - Kate Newman
Native American Indian Program - Sue Fahami
Reasonable Accommodation - Burt Carle
Selective Placement for Persons and Veterans with Disabilities - Steve Myhre

Welcome to Our New Employees

Troy Flake - AUSA; Melissa Hubbard - Legal Assistant; Mayumi Coffman - Contractor; Bobbi Luben - Contractor; Mary Stoltz - Contractor; and Josephine Sommer - Contractor

Farewell to Our Employees Who Departed in 2013

A special thanks to Bert Labrador, Patricia Allen, Carlos Gonzalez, and Kitty Smith, who retired last year with over 120 years of federal service combined! They each served the government, our office, and our communities well, and we wish them the very best in the future. We also said farewell to Paula Thomas, Michael Chu, Rob Eelman, Russ Marsh, Carol Foster, Vandy Fiedler, Edwin Jones and Sharon Stenstadvold.

Bristlecone Pine Tree



THE CRIMINAL DIVISION

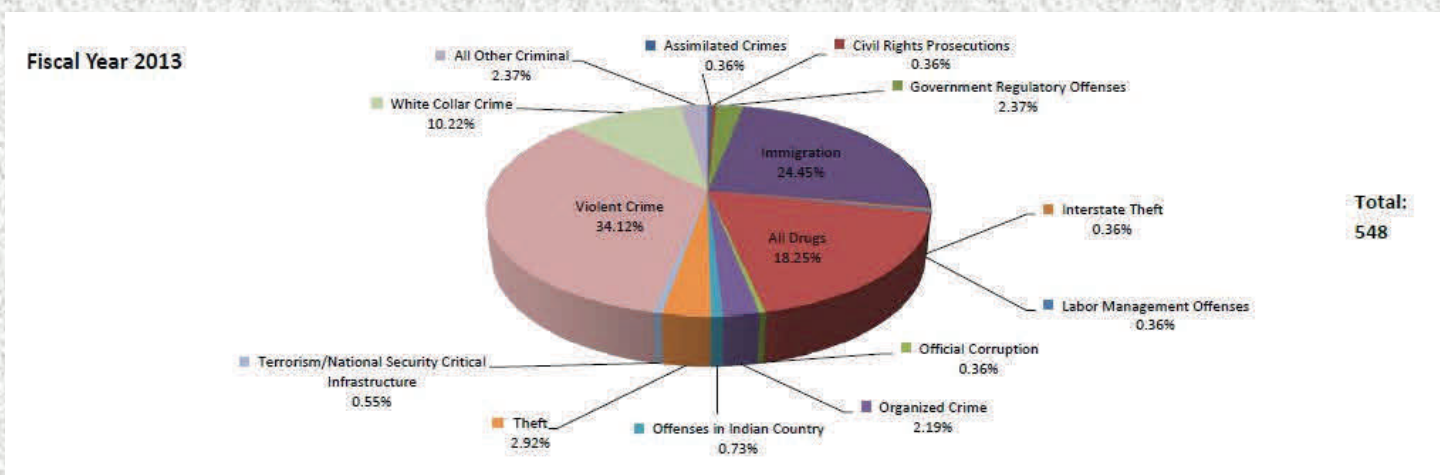
The Criminal Division is the largest division of our office. Three teams prosecute a variety of crimes, including identity fraud, credit card fraud, tax evasion, child pornography, child sex trafficking, bank robbery, unlawful possession and use of firearms, drug trafficking, health care fraud, public corruption, immigration and environmental crime. In addition to national security, our top three prosecution priorities remain financial crime, violent crime, and public corruption.

Our cases are received from a large number of federal agencies which investigate crimes in Nevada, including the FBI, IRS, DEA, Homeland Security Investigations, Secret Service, U.S. Marshals Service, ATF, BLM, U.S. Forest Service, and Bureau of Indian Affairs, and through a large number and variety of federal, state and local task forces, such as the Organized Crime Drug Enforcement Task Force, Joint Terrorism Task Force, Southern Nevada Mortgage Fraud Task Force, Internet Crimes Against Children Task Force, High Intensity Drug Trafficking Area Task Force, Project Safe Childhood program, and Project Safe Neighborhoods Task Force. Some of the Criminal Division’s special program initiatives during 2013 have included financial fraud, violent crime, prescription drug trafficking, human trafficking, identity theft, retail theft, suspicious financial activity reporting, cyber-crime, and Native American programs.

Despite our human resource and budget shortages, the Criminal Division had another very busy and productive year, which resulted in a 2.4% increase in the number of cases filed and the number of defendants charged. In federal fiscal year 2013, 548 criminal cases were filed against 737 defendants. Of these, 638 defendants were convicted by guilty plea or trial, for a conviction rate of 93%. Of the defendants convicted, 524 were sentenced to prison, with the largest percentage (32%) being sentenced to over five years in prison.

As reflected in the below graph, about 34% of the cases filed were violent crime-related; 24% were immigration-related; 18% were drug cases; 10% were white collar crime, and the rest fell into categories such as theft, government regulatory offenses, organized crime, Indian Country offenses, and official corruption.

There were 30 cases disposed of by trial during calendar year 2013, and 28 disposed of by trial during the fiscal year.



CRIMINAL CASES OF SIGNIFICANCE

USA v. Jean Marc Eljwaidi On March 4, 2013, Jean Marc Eljwaidi was sentenced to 21 months in prison and ordered to pay \$1.8 million in restitution for his guilty plea to wire fraud. Eljwaidi enticed persons to give him almost \$2 million for the development of a Las Vegas commercial real estate project that he knew would not be completed. Eljwaidi provided the victim investors with promissory notes stating that he would use their investments to develop the project and that he would return their investments within a few months with an approximately 25 to 75 percent profit. In actuality, Eljwaidi knew that he would use the funds to pay his personal expenses and to maintain his affluent lifestyle, and to pay extension fees to keep the land from foreclosure. As a result, the victim investors were never repaid or repaid nominal sums.

USA v DPL Enterprises - On April 8, 2013, Las Vegas air duct company DPL Enterprises, dba Air Care Indoor Quality Specialists, and its owner/president Richard Papaleo were sentenced to fines and probation for making false statements to federal investigators and for manufacturing and selling thousands of gallons of misbranded and diluted pesticide. A company engineer was also sentenced for his role in the offense. Air Care purchased and sold to its customers a disinfectant pesticide known as Sporidicin. Air Care diluted it with 10 times the amount of water, and sold the fake Sporidicin with a forged label that claimed that it could kill various organisms, including HIV, Avian Flu, Salmonella, Staph and MRSA. The company had been warned by the maker of Sporidicin as far back as 1998 that it must obtain EPA approval for its label and that misbranding was illegal. Air Care admitted to selling approximately 6,312 gallons of the misbranded and diluted pesticide between 2005 and 2010.

USA v. Randolph Goldberg On May 23, 2013, Las Vegas bankruptcy attorney Randolph Goldberg was sentenced to two years in prison, a \$40,000 fine, and three years of supervised release, for his guilty plea to willful tax evasion. Goldberg also paid \$720,719 in restitution at sentencing and agreed to surrender his law license for two years. Goldberg filed tax returns that significantly understated his taxable income and attempted to hide the income through the use of nominee bank accounts.

USA v. Alegria Phankonsky - On May 29, 2013, Alegria Phankonsky, who pleaded guilty to health care fraud and tax evasion, was sentenced to 51 months in prison and ordered to forfeit \$11.1 million. Phankonsky pleaded guilty in November 2012 to one count of health care fraud and one count of tax evasion. Phankonsky operated several medical equipment supply companies in Las Vegas and fraudulently billed Medicare for medical equipment, such as leg prostheses and power wheelchairs. To identify clients, Phankonsky paid “marketers” in southern California to obtain patients for her various companies. The marketers provided these clients with money in exchange for their Medicare information, which was used to bill Medicare for the unnecessary items or items not provided. The scheme resulted in Phankonsky receiving \$11.1 million to which she was not entitled. Phankonsky also prepared and submitted false individual income tax returns by underreporting the income she earned from the Medicare fraud scheme.

Sagebrush



CRIMINAL CASES OF SIGNIFICANCE

USA v. Paul Wagner - On July 23, 2013, Las Vegas-area homebuilder Paul Wagner was sentenced to 14 years in prison for selling houses at inflated prices in order to fraudulently obtain mortgage loans. From about 2007 to 2009, Wagner created a scheme to provide large cash incentives to buyers, real estate agents and others to sell his homes. To pay the incentives, Wagner inflated the value of the homes by causing appraisers to create false appraisals. Wagner concealed the incentives from the lenders, who would not have made the loans had they known about his methods. Using this fraudulent scheme, Wagner sold about 85 houses from March 2007 to mid-2009. Most of the homes went into foreclosure after Wagner stopped making the mortgage payments. The losses to the financial institutions were more than \$18 million.

USA v. Cassandra Little and Susan Hill - On July 23, 2013, Little and Hill were sentenced to 33 months and 18 months in prison, respectively, for their guilty pleas to federal health care fraud and money laundering charges after they defrauded the Nevada Medicaid program of approximately \$1 million. Hill and Little, who has a Ph.D. and was a licensed social worker, formed a company and entered into a contract with Nevada Medicaid to provide health care services to children who were eligible for Medicaid. Over a four-year period, from about January 2007 to January 2011, they fraudulently billed Medicaid for expensive therapy-related services such as psychosocial rehabilitation and basic skills training which were never provided.

USA v. Paul Wommer - On Aug. 22, 2013, Las Vegas attorney Paul Wommer was sentenced to 41 months in federal prison for making structured bank deposits to hide money from the IRS, evading income taxes, and filing a false tax return. Wommer was found guilty in April following a bench trial. Wommer was also ordered to pay a \$7,500 fine and forfeit any proceeds of his crimes. The Court also found at sentencing that his trial testimony was not credible and increased his sentence for obstruction of justice.

USA v. Rocco Lazazzaro and Hope Ippoliti - Lazazzaro and Ippoliti pleaded guilty to conspiracy to commit wire fraud charges for stealing almost \$4 million from Turnberry Associates, the company that owned or developed a number of condominium and shopping center projects in Las Vegas. Ippoliti, the former controller for the company, created false fund transfer requests to bank accounts she controlled and withdrew funds for their personal use. Ippoliti was sentenced in October 2013 to 37 months in prison and ordered to pay \$5.6 million in restitution, and Lazazzaro, who had a lengthy criminal history, was sentenced in August 2013 to 51 months in prison and ordered to pay \$3.7 million in restitution.

USA v. Gerry Zobrist - On Sept. 6, 2013, Las Vegas lawyer Gerry Zobrist was sentenced to 87 months in prison for his guilty plea to conspiracy to commit bank fraud and wire fraud. Using a common mortgage fraud scheme involving straw buyers, fraudulent documents and cash back at closing, Zobrist and unnamed coconspirators fraudulently purchased 144 homes in the Las Vegas area. Part of the sales proceeds went to real estate companies, coconspirators and third party entities controlled by Zobrist under the pretense that the proceeds were for attorney's fees, marketing fees, commissions, and other fees. Zobrist defaulted on most of the mortgage loans causing the homes to go into foreclosure, and caused the financial institutions to suffer more than \$30 million in losses.

Desert Bighorn Sheep



CRIMINAL CASES OF SIGNIFICANCE

USA v. William Aubrey - On Sept. 10, 2013, home builder William Aubrey was sentenced to 51 months in prison for embezzling from a federal housing grant program that was to be used to build affordable housing for the Navajo people near Chilchinbeto, Ariz. Aubrey was convicted by a jury in May 2013 of two counts of taking and converting money and funds belonging to a tribal organization. Aubrey transferred the housing grant funds into his own personal bank account, and misused a substantial portion of the funds to pay his own gambling debts and other personal expenses.

USA v. Casares-Cuevas et al. - On Sept. 12, 2013, Antonio Casares-Cuevas was sentenced to 24 years in prison for his guilty plea to methamphetamine trafficking charges. Casares-Cuevas lived in San Jose, Calif. and made frequent trips to Reno, Nev., where he supplied persons with methamphetamine for distribution. Five co-defendants who distributed methamphetamine for Casares-Cuevas also pleaded guilty to drug trafficking charges and were sentenced to prison terms of between three and 10 years. Over four pounds of pure methamphetamine was recovered during the investigation.

USA v. Alfred Sapse and Ralph Conti - On Sept. 24, 2013, Alfred Sapse was sentenced to 17½ years in prison for convincing over 100 chronically ill persons to give him money to undergo experimental surgery involving the implantation of portions of placental tissue into their abdomens. Sapse claimed to be a retired foreign physician, but he had never been licensed to practice medicine in Nevada or any other state. Sapse hired a Henderson, Nevada pediatrician, Ralph Conti, to perform the procedures. Between about February and November 2006, Conti performed the implant procedure on approximately 34 patients in Las Vegas, knowing that it would not benefit the patients. After the FDA shut them down, Sapse relocated the fraudulent scheme to Mexico. Sapse and Conti were convicted by a jury in November 2012. Conti died several weeks following the conviction.

USA v. Harvey Whittemore - On Sept. 30, 2013, Harvey Whittemore, a prominent Nevada lawyer, former lobbyist and land developer, was sentenced to two years in prison and a \$100,000 fine for making excessive campaign contributions, making contributions in others' names, and causing a materially false statement to be made to the Federal Election Commission (FEC). Whittemore was convicted by a Reno jury in May. Aware of the strict limits on individual federal campaign contributions, Whittemore devised a scheme to unlawfully use about 29 family members, employees and their spouses as conduits to funnel more than \$130,000 of his own money to U.S. Senator Harry Reid's campaign committee. This scheme allowed Whittemore to secretly contribute a significant sum of his own money to the campaign committee in a manner that exceeded the limits established by federal law. Whittemore concealed the scheme from the FEC, the senator, and the senator's campaign committee.

USA v. Michael Rippie - On Nov. 15, 2013, Michael Rippie, a resident of the small town of Goldfield, Nev. was sentenced to two years in prison for unlawful possession of firearms and making false statements to acquire firearms. Rippie, who had previously been adjudicated a mental defective and committed to a mental institution, knowingly made a false written statement to a firearms dealer to purchase a long gun. Rippie also possessed 15 firearms, including two loaded semi-automatic assault-type rifles with extended round clips and a loaded semi-automatic .40 caliber pistol, and over 22,000 rounds of ammunition at his residence.

CRIMINAL CASES OF SIGNIFICANCE

USA v. David Camez - On Dec. 6, 2013, David Ray Camez, was convicted by a jury of participating in a racketeer influenced corrupt organization and conspiracy to participate in a racketeer influenced corrupt organization. Camez was the first defendant to go to trial in “Operation Open Market,” an investigation of a sophisticated cybercrime organization that operated a world-wide online market place for stolen personal and financial information. Over 50 defendants were charged in the scheme in multiple indictments. About 10 other defendants have pleaded guilty, and a number are pending trial in April 2014.

USA v. Victor Bruce M.D. - On Dec. 11, 2013, Las Vegas physician Victor Bruce was indicted on federal drug charges for unlawfully prescribing large quantities of Oxycodone and other highly addictive prescription drugs. The indictment alleges that beginning at a date unknown and continuing to around November 2013, Bruce prescribed large quantities of oxycodone and other highly prescription drugs without medical necessity and knowing that they were going to be illegally diverted. Bruce allegedly conspired with local drug dealers to distribute the drugs in and around Las Vegas to customers who abused them.

USA v. Balwinder Singh - On Dec. 18, 2013, Reno resident Balwinder Singh was charged with one count of conspiracy to murder, kidnap, and maim persons in a foreign country, one count of conspiracy to provide material support to terrorists, one count of making a false statement on an immigration document, two counts of use of an immigration document procured by fraud, and one count of unlawful production of an identification document. The indictment alleges that Singh is a member of two terrorist organizations, Babbar Khalsa International (BKI) and Khalistan Zindabad Force (KZF), whose members aim to establish an independent Sikh state in part of the Punjab region of India known as Khalistan.

USA v. Nicholas Lindsey - On Dec. 19, 2013, Nicholas Lindsey was sentenced to 11 years in prison and ordered to pay more than \$2.2 million in restitution for his convictions on wire fraud and aggravated identity theft charges. Lindsey, a loan officer in Las Vegas, secured over \$3 million in mortgage loans using straw buyers and false and fraudulent loan applications. Lindsey also stole the identities of two straw buyers and used their personal information to purchase properties in their names. After collecting profits, Lindsey stopped making the mortgage payments on the properties and allowed the homes to default.

USA v. Lloyd Gardley et al. - On Dec. 20, 2013, Lloyd Gardley, the mastermind of a Las Vegas mortgage fraud scheme, was sentenced to just over 11 years in federal prison for his guilty pleas to conspiracy and fraud charges. Ten persons were charged and convicted in the scheme, which involved at least 30 homes and caused approximately \$15 million in losses to the financial institution lenders. Gardley was considered to be the leader of the conspiracy and recruited others into the scheme, including loan officers, real estate agents, an escrow agent, and an accountant.

Desert Tortoise



OTHER CRIMINAL CASE INFORMATION

The number of lawyers prosecuted for federal crimes has increased at an alarming rate over the years. Eight attorneys were convicted and sentenced during 2013 for federal felony crimes. Since 2008, 22 lawyers have been convicted.

2008

Michael Pietrzak - Pleaded guilty to tax evasion

Mark Lobello - Pleaded guilty to attempt to evade or defeat federal income taxes

2009

Edmund Botha - Found guilty of willful evasion of income tax

2010

Noel Gage - Pleaded guilty to obstruction of justice

2011

Ken McKenna - Pleaded guilty to misdemeanor willful failure to pay income tax

Valner Johnson - Pleaded guilty to making a false statement

David Amesbury - Pleaded guilty to conspiracy to commit mail fraud and bank fraud

2012

Davide Golia - Pleaded guilty to conspiracy to commit bank fraud

Jeanne Winkler - Pleaded guilty to conspiracy to commit wire fraud and mail fraud

Lawrence J. Davidson - Pleaded guilty to mail fraud, money laundering, and multiple other charges

Douglas Allen - Pleaded guilty to tax evasion

Ian Christopherson - Found guilty of income tax and employment tax evasion

2013

Charles Lobello - Pleaded guilty to tax evasion

Randolph Goldberg - Pleaded guilty to tax evasion

Paul Wommer - Found guilty of structuring financial transactions, tax evasion, and making a false return

Gerry Zobrist - Pleaded guilty to conspiracy to commit bank fraud and wire fraud

Harvey Whittemore - Found guilty of making unlawful campaign contributions, causing a false statement

Stanley Walton - Pleaded guilty to conspiracy to commit bank fraud, mail fraud, and wire fraud

David Mark - Found guilty of conspiracy to commit bank fraud, mail fraud, and wire fraud

Robert Fry - Pleaded guilty to harboring an alien

2014

R. Christopher Reade - Pleaded guilty to accessory after the fact to laundering of monetary instruments

Barry Levinson - Pleaded guilty to conspiracy to commit wire fraud and mail fraud and tax evasion

IN THE NEWS.....

The Big Story

Developer guilty of illegal contributions to Reid

By SCOTT SONNER

— May 29 8:13 PM EDT

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FILE - In this June 7, 2012 file photo, former developer and lobbyist Harvey Whittemore, right, and his attorney John Arrascada speak to the media after Whittemore's arraignment in federal court. Whittemore, a Nevada powerbroker who headed a billion-dollar real estate company and pulled the strings of state politics as a prominent lobbyist for more than a decade, was convicted Wednesday, May 29, 2013 of making illegal campaign contributions to U.S. Sen. Harry Reid. Jurors said they were deadlocked on another count of lying to the FBI, and the judge asked them to continue deliberating. (AP Photo/The Reno Gazette-Journal, Tim Dunn, File)

Posted May 23, 2013 - 12:05pm Updated May 23, 2013 - 3:41pm

Las Vegas bankruptcy lawyer Goldberg sent to prison



PHOTO FROM TWITTER

Las Vegas bankruptcy lawyer Randolph Goldberg was sentenced to prison Thursday. He pleaded guilty in March to a tax evasion charge.

IN THE NEWS.....

Doctors Guilty in Stem Cell Fraud Case

Posted: Nov 28, 2012 12:44 PMPST
Updated: Nov 28, 2012 1:58 PMPST



Alfred Sapse (left) and Dr. Ralph Conti were found guilty of defrauding investors.

LAS VEGAS – Dr. Ralph Conti and Alfred Sapse were found guilty on all counts in federal court Wednesday of defrauding patients out of more than \$1 million in promising bogus experimental stem cell treatments.

They faced charges for an alleged scheme to defraud people with incurable diseases with a so-called miracle stem cell cure that involved injections of placentas.

Man gets 17½ years in prison for phony stem cell case

Published: 9/24/2013 1:55 pm

Updated: 9/24/2013 1:58 pm

LAS VEGAS – A man who conspired with a now-deceased Henderson pediatrician to take thousands of dollars from chronically ill patients for fraudulent stem cell implant procedures was sentenced today to 17½ years in federal prison and ordered to pay approximately \$1 million in restitution.

Alfred T. Sapse, 87, of Las Vegas was sentenced by Senior U.S. District Judge Kent J. Dawson, and was immediately remanded to federal custody. Sapse was convicted by a jury in November of conspiracy to commit mail fraud and wire fraud, seven counts of mail fraud, and 11 counts of wire fraud. The co-defendant, Dr. Ralph M. Conti of Henderson died several weeks after the conviction.

Two Nevada women sentenced to prison for Medicaid fraud

By JEFF GERMAN LAS VEGAS REVIEW-JOURNAL July 23, 2013 - 4:19pm

Two Nevada women received federal prison terms Tuesday for defrauding the Nevada Medicaid program out of roughly \$1 million.

Susan Hill, 66, of Las Vegas was sentenced to 18 months in prison and three years of supervised release. She pleaded guilty earlier this year to one count of health care fraud and one count of money laundering.

Cassandra Little, 49, of Reno was sentenced to 33 months in prison and three years of supervised release. She pleaded guilty to 28 counts of health care fraud and 10 counts of money laundering.

In Reno, Senior U.S. District Judge Howard D. McKibben also ordered both women to pay \$81,400 in restitution.

"As this case demonstrates, health care fraud is a serious criminal offense with serious consequences that can land you in federal prison," Nevada U.S. Attorney Daniel Bogden said in a news release.

Nevada Attorney General Catherine Cortez Masto added, "We hope today's prison sentence and combined restitution of approximately \$81,000 sends a strong message to others who may consider stealing from taxpayers. We will not tolerate those that take advantage of the system."

LAS VEGAS SUN

Crime:

Drug trafficking charges land North Las Vegas man in prison for 35 years

By [Brian Nordli \(contact\)](#)

Tuesday, Nov. 19, 2013 | 1:55 p.m.

A North Las Vegas man convicted of drug trafficking and firearm charges was sentenced Monday to 35 years in prison and eight years of supervised release.

Lomando Mark Scott, 46, was convicted in May on two counts of possession of crack cocaine with intent to distribute, felon in possession of a firearm, and possession of a firearm during and in relation to a drug-trafficking crime, said Daniel Bogden, U.S. Attorney for the District of Nevada.

Scott previously served a 15-year sentence for a nearly identical conviction in 1994. He was then arrested by Metro in May 2009, when they allegedly found 7 grams of crack cocaine on him, Bogden said. North Las Vegas Police arrested Scott again in August 2010 after he failed to report a change in address. Police discovered 250 grams of crack cocaine and a loaded stolen semi-automatic handgun in his vehicle. He also had \$10,803 in his pant pockets, Bogden said.

He received the mandatory sentence under federal law.

IN THE NEWS.....

Bankrupt developer sentenced for wire fraud

BY JEFF GERMAN
LAS VEGAS REVIEW-JOURNAL

Posted: Mar. 4, 2013 | 3:41 p.m.
Updated: Mar. 4, 2013 | 4:08 p.m.

A bankrupt Las Vegas developer was sentenced to 21 months in federal prison Monday in a commercial real estate scheme that authorities say cost investors roughly \$1.8 million.

Jean Marc Eljwaidi, 44, who pleaded guilty to one count of wire fraud last August, also was ordered to pay \$1.8 million in restitution to his victims. He has until June 3 to surrender to prison authorities.

U.S. District Judge James Mahan told Eljwaidi that he would have placed him on probation had he come up with the restitution prior to the sentencing.

The sentencing was continued several times because Eljwaidi promised he was working to bring in the money from Europe.

His lawyers, David Chesnoff and Richard Schonfeld, had persuaded prosecutors not to object to probation if Eljwaidi produced the \$1.8 million.

On Monday, Eljwaidi apologized for his conduct, but asked Mahan for one more week to get the money. The judge, however, ignored his request, saying the developer had committed a "serious crime" and had hurt a lot of people.

Eljwaidi is a former executive at Triple Five Development, a company that specializes in building shopping malls.

His fraud scheme, which unfolded between November 2008 and June 2009, was investigated by the FBI. It involved a commercial project at Interstate 215 and Russell Road, according to prosecutors. The project was not related to Triple Five Development.

LAS VEGAS SUN

Breaking News: [Police report offers details into officer-involved shooting outside Dotty's](#)

Federal jury convicts men of Las Vegas home invasion robbery

By [Ana Lev](#) (contact)

Friday, Sept. 20, 2013 | 5:05 p.m.

Two Phoenix men have been convicted of breaking into a home in North Las Vegas last summer while brandishing guns and threatening to kill a group of people inside, Nevada's U.S. Attorney Daniel G. Bogden announced today.

Joseph Andrade, 19, and Julian Gaytan, 20, were convicted Friday afternoon by a federal jury. They are scheduled to be sentenced on Dec. 19 and face up to 32 years in prison on the more serious charge, brandishing a firearm to commit a crime of violence. They also face up to \$1 million in fines.

Accompanied by two others, Andrade and Gaytan drove from Phoenix to a home in North Las Vegas in May 2012 and asked someone inside to open the front door, according to a statement issued by the U.S. Department of Justice.

The group went inside brandishing guns and ordered seven people inside to get on the floor, threatening to kill them if they didn't give up their money and valuables. A girl inside the home ran away after the assailants left and called police from a neighbor's house.

Gaytan was arrested in Phoenix about six weeks following the robbery, and Duran, who fled the scene, has not yet been arrested and is a fugitive. The other two thieves were arrested outside the residence shortly after the robbery.

LAS VEGAS SUN

Man gets 11 years in \$15 million mortgage fraud scheme

By [Tovin Lapan](#) (contact)

Friday, Dec. 20, 2013 | 1:46 p.m.

A man who pleaded guilty in a \$15 million mortgage fraud scheme was sentenced this week to 11 years in federal prison.

U.S. District Judge Gloria Navarro on Wednesday sentenced Lloyd Gardley, 60, who is in federal custody in Pahrump, after he pleaded guilty to one count of conspiracy to commit bank fraud, mail fraud and wire fraud, one count of bank fraud, and two counts of mail fraud.

In addition to the prison term, Gardley must pay \$1.4 million in restitution and will be under supervision for five years after his release.

In all, 10 people were charged and convicted in the scheme involving straw buyers and the submission of fraudulent paperwork to obtain mortgage loans, according to a news release from the U.S. Department of Justice.

The scheme involved the purchase of 30 homes in the Las Vegas area between 2005 and 2007, officials said. Gardley was considered to be the leader of the conspiracy and recruited others into the scheme, officials said.

Once mortgage loans were approved, the defendants disbursed money from the loan transactions for their own use, officials said.

The defendants typically would rent the homes and resold them for a profit, using the same scheme, officials said.

They then defaulted on the loans, leading to approximately \$15 million in losses for the lenders, officials said.

"Gardley is one of two individuals who were sentenced to prison this week for committing mortgage fraud in Nevada," U.S. Attorney for Nevada Daniel Bogden said in a statement. "Unfortunately, these crimes are not victimless and the damage to the community is lasting. The mortgage fraud scheme artificially inflated home values that, in turn, raised purchase prices of comparable homes, forcing innocent homebuyers to pay well above true market value for their homes."

8 NEWSNOW.com

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Woman Gets Prison Term for Defrauding Medicare

Posted: May 29, 2013 3:34 PM PDT
Updated: May 29, 2013 3:43 PM PDT

By Steve Kanigher, I-Team Reporter - e-mail

LAS VEGAS -- A federal judge on Wednesday handed a 51-month prison sentence to a woman who defrauded the Medicare program of \$11.1 million in a medical equipment billing scheme, Nevada's U.S. Attorney Daniel Bogden said.

Alegria Phankonsy, 43, formerly of Orange County, Calif., but currently in custody, was also ordered by U.S. District Judge Kent Dawson to forfeit \$11.1 million in assets. Phankonsy pleaded guilty in November to one count of health care fraud and one count of tax evasion.

According to the indictment and facts supporting the guilty plea, Phankonsy from March 2005 to February 2010 operated several medical equipment supply companies in Las Vegas. These included Proforma Medical Source, Divine Health and Freemotion Plus Medical Supply.

Phankonsy operated the first two companies using the aliases Marie Villanueva and Marie Phan respectively, and ran Freemotion using the name Phankonsy. She fraudulently billed Medicare for medical equipment such as leg prostheses and power wheelchairs that had not been ordered by a physician, were not needed by clients or were not provided to clients at all.

To identify clients, Phankonsy paid "marketers" in southern California to obtain patients for her various companies. The marketers provided these clients with money in exchange for their Medicare information, which was used to bill Medicare for the unnecessary items or items not provided.

For the tax years 2006, 2007 and 2008, Phankonsy prepared and submitted false individual tax returns by underreporting the income she earned from the Medicare fraud scheme. She underreported roughly \$7.8 million in gross receipts, resulting in a total tax loss of \$2.4 million. Phankonsy also attached fraudulent W-2 forms to her returns and falsely represented that she made significant estimated tax payments, when she had not.

The case was investigated by the Office of the Inspector General for Health and Human Services and IRS Criminal Investigation and prosecuted by Assistant U.S. Attorney Crane Pomerantz.

IN THE NEWS.....

Embezzlement Scheme Sends Ex-Turnberry Controller to Prison

Posted: Oct 18, 2013 2:39 PM PDT
Updated: Oct 18, 2013 2:51 PM PDT

By Steve Karger, I-Team Reporter - [email](#)

LAS VEGAS – The former controller of Las Vegas developer Turnberry Associates received a 37-month prison sentence Friday for her role in an embezzlement scheme against the company, Nevada's U.S. Attorney Daniel Bogden said.

Hope Ippoliti, 52, of Las Vegas, who pleaded guilty in March to conspiracy to commit wire fraud, also was ordered by U.S. District Judge Gloria Navarro to pay \$5.6 million in restitution. Ippoliti was permitted to self-report to federal prison by Jan. 14.

"This was a significant amount of money that was embezzled over an almost five-year period," Bogden said. "Ms. Ippoliti victimized not only Turnberry Associates in the amount of \$5.6 million, but caused irreparable harm and financial damage to the many victims and business entities employed and supported by Turnberry Associates."

Ippoliti worked as the western regional controller for Turnberry West Realty, a subsidiary of Turnberry Associates. She had signatory authority and access to certain Turnberry bank accounts.

From May 17, 2007, to Jan. 12, 2012, Ippoliti and co-defendant Rocco Lazazzaro conspired to steal from Turnberry Associates and its affiliates. Ippoliti created fund transfer requests containing false information that the funds were intended for business-related purposes when she and Lazazzaro actually intended to withdraw the money for personal use.

Ippoliti faxed or emailed the fund transfer requests from Nevada to Turnberry Associates in Florida to cause the transfer of money into Bank of America accounts over which she had signatory authority. Ippoliti and Lazazzaro deposited and cashed checks drawn on Bank of America bank accounts belonging to Turnberry Associates and its affiliates.

Lazazzaro, who has a lengthy criminal record, was sentenced on Aug. 22 to 51 months in prison.

Mortgage fraud scheme nets Las Vegas home builder 14-year sentence

By JEFF GERMAN LAS VEGAS REVIEW-JOURNAL

July 22, 2013 - 7:32pm

Las Vegas homebuilder Paul Wagner was sentenced to 14 years in prison Monday in an \$18.4 million mortgage fraud scheme, one of the largest in Nevada.

After a 12-day trial in October, a jury found Wagner, 59, guilty of a dozen conspiracy, bank fraud and wire fraud charges.

Before U.S. marshals could take him into custody after his conviction, Wagner tried to flee the courtroom. He jumped over a couple of rows of seats but was caught before he made it to the doors.

Nevada U.S. Attorney Daniel Bogden said at the time that Wagner was the first homebuilder to be prosecuted and convicted of mortgage fraud offenses.

On Monday, U.S. District Judge Miranda Du also ordered Wagner, a self-styled Christian minister, to pay \$4.4 million in restitution with other defendants in the scheme and serve five years of supervised release after he gets out of prison.

Du said Wagner, who has been in federal custody since his courtroom escape attempt, and his co-conspirators in the mortgage industry had harmed the Las Vegas community with the scheme, which occurred between 2007 and 2009.

Wagner, who described himself as a born-again Christian, begged the judge for mercy and forgiveness but did not show remorse or accept responsibility for his actions.

LAS VEGAS SUN

Autism center arsonist sentenced to 10 years in prison, ordered to pay restitution

By [Sun Staff](#) ([contact](#))

Friday, Nov. 1, 2013 | 1:22 p.m.

The arsonist who earlier this year used Molotov cocktails and gasoline to set fire to a Las Vegas children's autism learning facility, was sentenced today to 10 years in federal prison, authorities said.

Samuel Powers, 24, also was sentenced to three years of supervised release and ordered to pay approximately \$80,000 in restitution, Daniel G. Bogden, Nevada's U.S. attorney, announced in a news release.

Powers pleaded guilty in July to one count of arson of property affecting interstate commerce and one count of possession of unregistered firearms – the Molotov cocktails.

"This was deliberate conduct that could have resulted in serious injury or loss of life, but for the very effective sprinkler systems in the building," Bogden said. "Several buildings were damaged; sophisticated planning and means were used by the defendant to carry out his acts and we are very fortunate this did not result in serious injury or fatalities. Committing arson is never an appropriate way to resolve anger and conflict."

According to court documents, on April 15, Powers broke into Sport-Social, 7055 Windy St., with three Molotov cocktails and a gasoline container, and poured gasoline and set multiple fires inside the business, which provides services to autistic children.

The fires caused at least \$80,000 in damage.

According to an arrest report, Metro Police caught Powers leaving the broken front door with a five-gallon fuel container and second-degree burns on his hand.

Powers also possessed two additional unignited Molotov cocktails inside his vehicle at the scene of the fire, along with plastic gloves, a mask, and handwritten directions to the business.

Three Northern Nevada men sent to prison on child pornography charges

Written by Steve Timko
Dec. 10, 2013 |

[rgj.com](#)

Three Northern Nevada men received federal prison sentences this week for child pornography convictions, the U.S. Attorney's Office announced.

On Monday, Matthew Kevin Cowee, 41, of Sparks was sentenced to 97 months in prison and Jarrod Allen Pounds, 28, of Gardnerville received a 110-month prison sentence, the office said in a statement.

On Tuesday, Byron Trent Davis, 48, of Reno received a 63-month sentence.

All three were prosecuted under the Project Safe Childhood initiative, launched by the Department of Justice in 2006. They will be required to register as sex offenders when they are released from prison.

Home builder sentenced to prison for embezzling Navajo Nation money

By JEFF GERMAN LAS VEGAS REVIEW-JOURNAL

September 10, 2013 - 4:49pm

A Mesquite home builder was sentenced to 51 months in prison Tuesday for embezzling money from a federal housing grant program for the Navajo Nation, Nevada U.S. Attorney Daniel G. Bogden announced.

William Aubrey, 71, also was ordered to serve three years of supervised release after he gets out of prison.

A Las Vegas federal jury convicted Aubrey in May of two counts of taking and converting money and funds belonging to a tribal organization. The federal grant was earmarked for affordable housing for the Navajo people in Arizona.

A hearing to decide the amount of restitution Aubrey must pay will be held on Oct. 15 before Senior U.S. District Judge Kent Dawson.

Aubrey is to report to federal prison on Jan. 3.

"Persons who steal from federal programs cheat the recipients of those programs as well as the American taxpayer," Bogden said in a news release. "As the prosecution of this case demonstrates, persons who steal from federal programs, such as HUD or Medicare, will be prosecuted and when convicted face severe penalties."

The Navajo Nation is a recognized sovereign Indian territory that covers a large portion of Arizona and extends into New Mexico and Utah.

United States Attorneys serve as the nation’s principal litigators. In response to the mandates of the Constitution that required establishment of a system of federal courts, Congress enacted the Judiciary Act of 1789 directing the President to appoint, in each federal district, “a person learned in the law to act as an attorney for the United States.”

There are 94 United States Attorneys’ Offices (USAOs) located throughout the United States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands. The 93 United States Attorneys are appointed by, and serve at the discretion of, the President, with the advice and consent of the United States Senate.

U.S. ATTORNEYS' OFFICES



PROGRAM DEVELOPMENTS & HIGHLIGHTS

Immigration/Southwest Border - In Fiscal Year 2013, 131 individuals were charged and 134 individuals were convicted of immigration crimes, which includes unlawful reentry by a previously removed alien, harboring aliens, and marriage fraud for the purpose of evading immigration laws. Most (108) of the individuals sentenced for immigration crimes during Fiscal Year 2013, were sentenced to a period of imprisonment, and 30 individuals were sentenced to over three years in prison. In Fiscal Year 2013, the District of Nevada opened 135 new criminal immigration investigations.

Health Care Fraud - In Fiscal Year 2013, three individuals were charged and five individuals were convicted of criminal health care fraud crimes. Four individuals were sentenced to a period of imprisonment. In Fiscal Year 2013, the District of Nevada opened six new criminal health care fraud investigations.

Drug Trafficking - In Fiscal Year 2013, 202 individuals were charged and 156 individuals were convicted of federal drug crimes in Nevada, including drug trafficking and possession with the intent to distribute drugs. Most of the individuals convicted of drug crimes were sentenced to a period of imprisonment. In Fiscal Year 2013, the District of Nevada opened 156 new drug crime investigations.

Many of the drug cases we prosecute are referred to the office through the Nevada High Intensity Drug Trafficking Area (HIDTA) program, which became operational in 2001. Federal, state and local law enforcement agencies collaborate in the HIDTA program, which operates throughout the state of Nevada. During the last fiscal year, the Office of National Drug Control Policy awarded the Nevada HIDTA \$3.6 million for its operations in Nevada.

Currently, there are 12 Nevada HIDTA law enforcement initiatives: the Southern Nevada Joint Methamphetamine Task Force, the Clark County Gang Task Force, the Southern Nevada Drug Task Force, the Interdiction Task Force, the Major Drug Trafficking Organization Task Force, the Money Laundering and Asset Removal Task Force, the Nevada Fugitive Investigative Strike Team, the Northern Nevada Drug Task Force, the Pharmaceutical Narcotics Enforcement Task Force, the Special Investigations Unit Task Force, the Western Nevada Safe Trails Task Force, and the Safe Streets Gang Task Force. During the 2013 calendar year, the Nevada HIDTA disrupted 46 drug trafficking organizations. It also seized over 3,000 kilograms of finished product marijuana, about 2,000 outdoor marijuana grow plants and 13,200 indoor marijuana grow plants, 165 kilograms of powder cocaine, 262 kilograms of methamphetamine, and over 40 kilograms of heroin. The Nevada HIDTA's training initiative also provided training to over 2,300 persons.



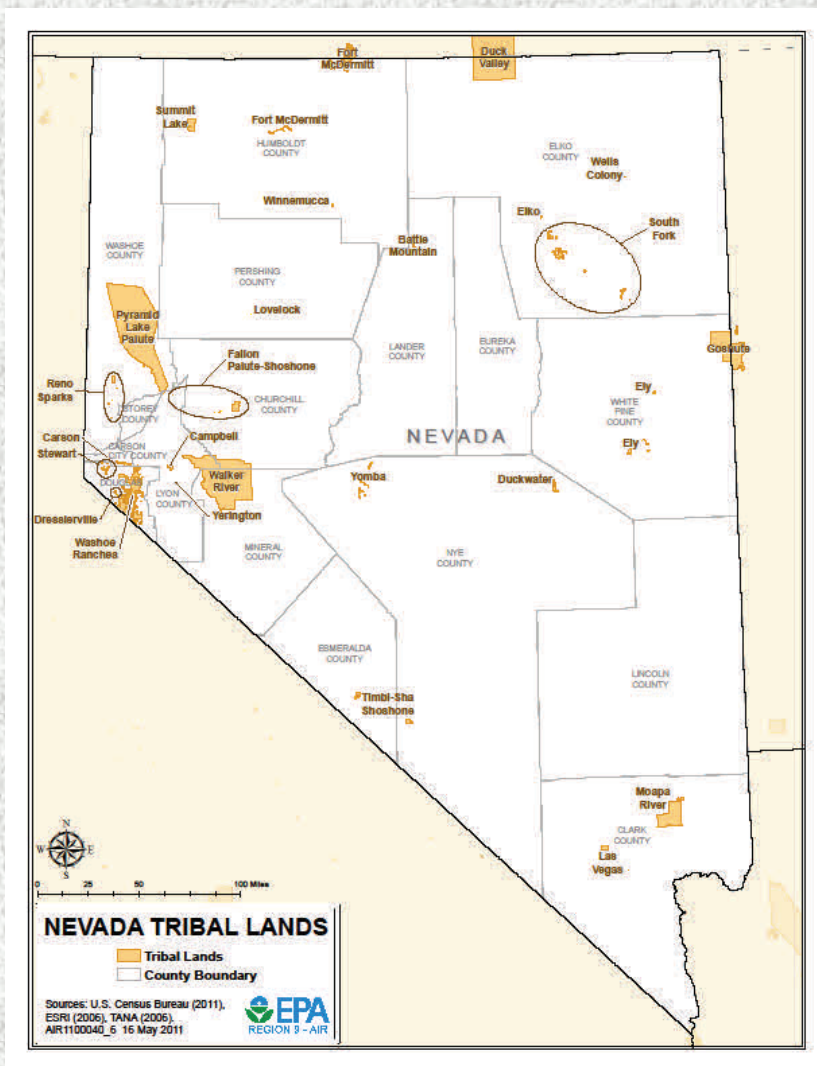
PROGRAM DEVELOPMENTS & HIGHLIGHTS

Native American/Violent Crime in Indian Country - Nevada has 26 federally recognized Indian tribes and 31 reservations and colonies. Most are located in the northern part of the state. (See map below.)

Jurisdiction in Indian Country is based upon the unique sovereign relationship between the federal government and Indian tribes. Congress has criminalized certain acts that take place in Indian Country. The Nevada United States Attorney’s Office prosecutes all readily provable felony and misdemeanor cases arising in Indian Country that are within the jurisdiction of our office. Federal courts have criminal jurisdiction over felony cases arising in Indian Country and over misdemeanors where the defendant is non-Indian. Tribal courts have, with few exceptions, criminal jurisdiction over misdemeanors where both the defendant and the victim are Indian.

In 2013, Congress passed the Violence Against Women Reauthorization Act of 2013 which includes significant provisions addressing tribal jurisdiction over non-Indian perpetrators of domestic violence. Tribes will be able to exercise their sovereign power to investigate, prosecute, convict, and sentence both Indians and non-Indians who assault Indian spouses or dating partners or violate a protection order in Indian country. The Act also clarifies tribes’ sovereign power to issue and enforce civil protection orders against Indians and non-Indians. Although tribes can issue and enforce civil protection orders now, generally tribes will not be able to criminally prosecute non-Indian abusers until at least March 7, 2015.

In Fiscal Year 2013, 14 individuals were charged and 10 convicted of violent crimes on Indian Country lands, including murder and assault. Six of the individuals sentenced for these crimes during Fiscal Year 2013 were sentenced to a period of imprisonment, and, of these, two were sentenced to over five years in prison. In Fiscal Year 2013, the District of Nevada opened 22 new criminal investigations of violent crimes committed on Nevada Indian Lands.



CIVIL CASES OF SIGNIFICANCE

United States v. Davis, 706 F.3d 1081 (9th Cir. 2013) - During 2013, the Civil Division obtained some of its most significant results in forfeiture cases. In a published decision of the criminal sentence appeal of defendant Samuel Davis, the 9th Circuit Court of Appeals held that forfeiture and restitution could never be a double recovery even if the forfeiture and restitution went to the same federal agency. Davis pleaded guilty to conspiracy and money laundering charges and was sentenced to almost five years in prison. Davis was also ordered to forfeit \$1.29 million and to pay about \$95,000 in restitution to the FBI. On appeal, Davis argued that the forfeiture amount should be offset by the restitution amount to avoid a double recovery by the government. The 9th Circuit disagreed with Davis and affirmed the District Court's finding that even if the same government entity will receive both forfeiture and restitution, there simply is no double recovery because the two payments represent different types of funds and are different in nature, kind, and purpose.

Stake Center Locating, Inc. v. United States District Court for the District of Nevada, 717 F.3d 1089 (9th Cir. 2013) - The Civil Division's forfeiture unit was instrumental in obtaining a favorable appellate decision in this case involving crime victim Stake Center Locating, Inc. In the underlying criminal action, Deborah DiFrancesco, a former employee of Stake Center, was charged with crimes stemming from her embezzlement of funds from Stake Center and other victims, and pleaded guilty to one count of tax evasion and three counts of wire fraud. Pursuant to her plea agreement, DiFrancesco agreed to make restitution to Stake Center in the amount of \$763,846. Stake Center moved the district court to compel the government to institute criminal forfeiture proceedings and to obtain property allegedly traceable to DiFrancesco's crimes. The district court denied this motion and Stake Center appealed to the 9th Circuit Court of Appeals for a reversal of the lower court's order. The 9th Circuit held that the Crime Victims' Rights Act and the Mandatory Victim Restitution Act guarantee victims the right to restitution, not the right to criminal forfeiture. The court observed that criminal forfeiture and restitution serve different purposes and that third parties are not subject to restitution.

Martinez v. Shinseki, 12-15477, 2013 WL 6659164, (9th Cir. Dec. 18, 2013) - The 9th Circuit Court of Appeals affirmed the District Court's dismissal of a discrimination case filed by Martinez against the Veteran's Administration. The 9th Circuit found that the record conclusively demonstrated that Martinez was terminated not because of her disability, but because she refused to respond to multiple appropriate requests by the VA as to why she could not perform her duties. The 9th Circuit also stated in its opinion that Martinez's assertions of retaliation were also equally devoid of any factual support.

Regatta Bay Ltd. v. United States, 506 F. Appx. 617 (9th Cir. 2013) - In January 2013, the 9th Circuit Court of Appeals held that the Department of Housing and Urban Development (HUD) was not liable to an apartment complex owner which had claimed that HUD had wrongfully foreclosed on the borrower's \$3.7 million loan after the borrower had gone into default. The borrower claimed that HUD owed it a fiduciary duty and a duty of good faith and fair dealing under Nevada law, and that HUD had breached those duties by failing to give the borrower further extensions of time to make its payments. The 9th Circuit held that HUD does not stand in a "special relationship" with borrowers whose loans it guarantees, as required by Nevada law for liability to exist. We believe this is the first opinion of its kind in the United States addressing the question of whether HUD owes fiduciary duties to borrowers whose loans it has guaranteed.

THE APPELLATE DIVISION

Ninth Circuit Court of Appeals Statistics

Ninth Circuit Briefs Filed:	72
Ninth Circuit Dispositions:	74 (70 favorable; 4 adverse)
Published Decisions:	7 (All favorable)
Cases Argued in Ninth Circuit:	22

U.S. District Court Statistics

Responses to Court-Ordered Motions To Vacate, Set Aside or Correct Sentence:	50
U.S. District Court Decisions on Motions To Vacate, Set Aside or Correct Sentence:	42 (1 adverse)

APPELLATE DECISIONS OF SIGNIFICANCE

As indicated by the above numbers, it was a busy year for our appellate division and the Ninth Circuit Court of Appeals handed the office a number of significant appellate victories.

U.S. v. Clifton Jackson, 12-10629, 2013 WL 6017859, (9th Cir. Nov. 14, 2013) - Jackson is a felon who carried a loaded gun into a Reno casino, and was convicted by a jury of felon in possession of a firearm and sentenced to 15 years in prison. In this memorandum decision, the 9th Circuit affirmed the jury trial conviction and sentence, holding that the record was not sufficiently developed to decide an ineffective assistance of counsel claim on direct appeal and that the trial evidence was sufficient to sustain the verdict notwithstanding the absence of a witness who would have testified differently regarding the discovery of the firearm. The 9th Circuit also held that Jackson's prior state conviction for distributing cocaine was a predicate "serious drug offense" for an armed career criminal enhancement to the mandatory minimum sentence.

U.S. v. David Erickson, 12-10489, 2013 WL 5764662, (9th Cir. Oct. 25, 2013) - Erickson was convicted by a jury of attempted coercion and enticement of a minor for sex and sentenced to a minimum mandatory 10 years in prison. Erickson argued on appeal that the jury's general verdict must be overturned because the prosecutor in closing argument misstated that certain acts by Erickson, when taken alone, could fulfill the "substantial step" element of an attempt conviction. In this memorandum decision, the 9th Circuit affirmed the conviction and sentence holding that while the prosecutor's statements may have been incorrect, the resulting prejudice did not materially affect the verdict or result in a miscarriage of justice, and thus there was no plain error warranting reversal. The 9th Circuit also held that the 10-year mandatory minimum sentence, although undoubtedly harsh, was not grossly disproportionate to the crime under the Eighth Amendment.



APPELLATE DECISIONS OF SIGNIFICANCE

***U.S. v. Cameron Reed*, 734 F.3d 881 (9th Cir. 2013)** In this published decision, the 9th Circuit affirmed Reed’s guilty plea conviction for driving with marijuana in his blood on a federal road in the Lake Mead National Recreation Area. Reed was charged under state laws which were assimilated into federal law under the Assimilative Crimes Act. The 9th Circuit held that assimilation was proper because although Reed’s conduct was punishable under a federal DUI regulation, there was a gap in federal law with respect to punishing operators of vehicles who exceed a per se drug limit regardless of impairment, and assimilating the Nevada law would not conflict with federal policy or effectively rewrite a federal offense definition.

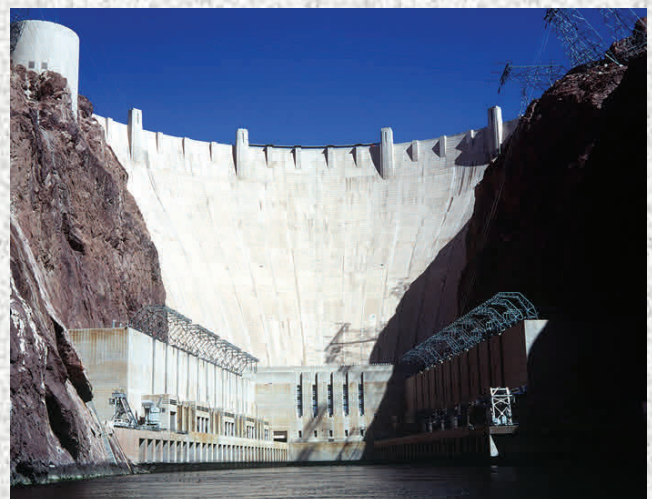
***U.S. v. Richard Young*, 537 Fed. Appx. 777, (9th Cir. Aug. 19, 2013) (No. 11-10649)** Richard Young stole more than \$16 million from approximately 1,400 victims through an online investment fraud scheme, and was convicted by a jury of conspiracy, wire fraud, money laundering and securities fraud charges and sentenced to 25 years in prison. In a memorandum decision, the 9th Circuit affirmed the convictions and sentence. The 9th Circuit held among other things that the trial evidence did not constructively amend the second superseding indictment and that there was sufficient evidence to support the money laundering count, and that the district court properly rejected the proposed jury instruction which would have required proof that funds were transferred with the “intent to conceal,” which is not an element of the charge. The 9th Circuit also found that the district court did not abuse its discretion in applying sentencing enhancements for Young’s role as an “investment advisor,” for using “sophisticated means” to commit the crimes, and for being a leader or organizer of the crime involving five or more participants or is otherwise extensive.

***U.S. v. Vernon Newson*, 534 Fed. Appx. 604 (9th Cir. July 23, 2013) (No. 12-10224)** Newson was convicted by a jury of preparation of false tax returns, obstruction of the enforcement of the tax laws, and presenting a false tax return to the government and sentenced to 33 months in prison. In a memorandum decision, the 9th Circuit affirmed the conviction holding that to reach a unanimous verdict, jurors need not agree on all preliminary factual issues which underlie the verdict. The fact that the jury may agree a crime was committed while not agreeing on specific underlying facts is not sufficient to require a specific unanimity instruction unless the presentation of the case led to juror confusion, which must then be eliminated. The 9th Circuit held that Newson’s conduct was crystal clear.

Mt. Charleston-Griffith Peak Ridge



Hoover Dam



USAO STAFF 2013

Below is a list of USAO staff that made all of our significant achievements a reality in 2013.

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Angel Beltran	Estevan Enriquez	Melissa Hubbard	Sarah Lauer-Overby
Aylin Alexander	Eunice Jones	Michael Chu	Seth Mecum
Bert Labrador	Glenda Newby	Michael Humphreys	Sharon Stenstadvoid
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Edwin Jones	Mary Stoltz	Roger Yang	

IN CLOSING....

These individuals work to protect the rights of every citizen of our great country, and we applaud each of them for his or her commitment to excellence and unselfish dedication in their efforts to achieve justice.



Current home of the United States Attorney's Headquarters Office in Las Vegas—the Lloyd George United States Courthouse



Future home of the United States Attorney's Office in Las Vegas—the Federal Justice Tower



United States Attorney's Office, Reno

United States Attorney's Office

District of Nevada

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