

March 4, 2006

H. Marshall Jarrett, Counsel  
Office of Professional Responsibility  
950 Pennsylvania Avenue, N.W., Suite 3266  
Washington, D.C. 20530

Dear Mr. Jarrett:

The purpose of this letter is to request that the Office of Public Integrity, Department of Justice, review the actions set forth below by the United States Attorneys Office for the Eastern District of Virginia, Norfolk Division, and Special Agents of the Norfolk Field Division of the FBI related to the investigation, prosecution and conviction of myself and my husband, Michael Agnew.

The violations outlined more completely below began at the outset of the government's investigation in August of 1999 and continued throughout the trial process, ultimately ending with our wrongful convictions. Suffice it to say that your investigation should reveal that, rather than honestly and impartially investigating the allegations against us, the governmental agencies involved turned us into scapegoats to protect the reputation and financial solvency of Resource Bank, the federally chartered bank that was the alleged victim in this case. In short, your investigation should reveal that various Justice Department officials ignored evidence of our innocence while simultaneously turning a blind eye to extensive documentary evidence of illegal activities by Resource Bank, as well as to perjury by its officers and employees. As a result of the government's actions in our case, we have been convicted of crimes we could not have committed and witnessed the destruction of our livelihood and reputation, while providing a cloak of protection to Resource Banks and its officers.

In the interests of brevity, I will refrain from a detailed background statement regarding the events leading up to August 6, 1999, instead providing the attached copies of a motion filed with the 4<sup>Th</sup> Circuit Court of Appeals on November 18, 2004, by our appellate attorney, Mr. Paul F. Enzinna, Baker Botts L.L.P, 1299 Pennsylvania Avenue, N.W. Washington, D.C. (who handled our appeal pro bono because he was and remains convinced that we are innocent of all charges and that injustice occurred in our prosecution and convictions), and a memorandum filed in Support of Defendant's Motion of Judgement of Acquittal filed in the District Court. The events outlined below deal specifically with the actions of Justice Department personnel and officers of the Court which resulted in our wrongful convictions.

Specifically we contend the following actions require investigation:

A. Department of Justice personnel failed to secure 180+ boxes of documents, computer hard drives and computer data that were necessary to effectively defend ourselves against the allegations raised by Resource Bank.

The documents in question were left in the possession of Resource Bank, thus allowing Resource Bank officials to remove documents proving our innocence, destroy evidence critical to our defense and effectively hobble the ability of our attorneys to effectively cross examine the key witnesses against us. Specifically, Resource Bank officials were able to:

Remove documents suggesting illegal activity by a company which was managed by a Board Member of Resource Bank, and related directly to an investigation conducted by the Norfolk office of the FBI;  
Place at least one document in these files which could not have been there on August 7, 1999 when the bank took possession of them; and  
Give false testimony in depositions in a related case regarding these records without fear of confrontation.

Despite our notification to the U.S. Attorney's office that the files and computer data had been tampered with and that no chain of custody existed, Justice Department personnel took no steps to investigate the actions of Resource Bank. Further, when FBI personnel finally took possession of these documents from Resource Bank, they failed to catalog and adequately examine the remaining documents. This failure resulted in government witnesses testifying untruthfully at trial in direct contradiction to documents in the FBI's possession.

B. Department of Justice personnel failed to interview potentially exculpatory witnesses; encouraged witnesses to omit exculpatory information; and failed to keep records of statements given by witnesses.

Despite our repeated requests, no effort was made by any Justice Department personnel to interview myself or my husband. Indeed, not until February 2001, some 18 months after the FBI's investigation began, was I given an opportunity to talk to the FBI. This meeting occurred only after repeated requests from our attorney. No questions were asked of me at this meeting and no notes were taken. Information I provided regarding the actions of Resource Bank was ignored by the Justice Department.

Justice Department personnel also failed to impartially and professionally interview witnesses who could establish our innocence. Indeed,

Justice Department personnel refused to record statements given by certain witnesses, refused to interview witnesses with potentially exculpatory information, and encouraged witnesses to omit information favorable to us.

C. The actions of Justice Department personnel at trial show bias and a desire to obtain a conviction at all costs.

At our trial, Department of Justice personnel allowed key government witnesses to testify untruthfully and to fabricate and change testimony when caught in their lies despite possessing documents which directly contradicted their testimony. Justice Department personnel also ignored testimony and documents which showed violations of Federal Laws by Resource Bank and its personnel. As a result, bank employees and agents were allowed to testify untruthfully and to recant prior statements.

The FBI Agent who initiated contact with Resource Bank and initiated the investigation was present in the courtroom when testimony was given and then communicated with bank personnel during breaks about that testimony. This contact was highly improper in light of the fact that witnesses were excluded from the courtroom during trial.

Justice Department personnel also had improper contact with a defense witness after his testimony and threatened to have the U.S. Marshals remove the witness from the courthouse. During his testimony this witness had stated that he thought the Justice Department was a shield for a "dishonest" bank.

During a conference call with Federal Reserve personnel regarding our contention that Resource Bank had violated federal banking laws, the AUSA became extremely angry, cursed at our defense attorney and had to be restrained.

Testimony and evidence indicating violations of federal banking regulations designed to protect the public were dismissed outright by government personnel. No effort was made to investigate any of these violations which included perjury, destruction of documents, illegal disposition of collateral, violations of legal lending limits, and creating false entries in the records of a federally insured bank.

Information we discovered subsequent to trial further proves bias and misconduct which prejudiced us at trial.

Information provided to my husband after our conviction suggested that the guilty verdicts we received were the result of a connection between officers and directors of Resource Bank and Judge Friedman who presided over our bench trial. This led us to discover that the Judge had, in fact, a long-term, multi-million dollar business relationship with a Board Member of Resource

bank. Forty-four days after the verdict was delivered, Resource Bank announced a merger which resulted in significant profits to the board members and stockholders of the bank. Judge Friedman's former business partner's profit from this merger was approximately \$3.8 million.

During the course of our investigation into the people involved in our conviction, we also discovered that the FBI Agent who testified against us at trial had a significant mortgage relationship with Resource Bank. Documents related to this loan suggest an improper relationship which was not disclosed to us prior to trial. This agent conducted the witness interviews, including at least one for which no FD 302 was prepared.

Thirty-three days after our conviction, another key government witness also obtained a significant mortgage from Resource Bank. Although we have no evidence that this mortgage alone is illegal, its timing coupled with the apparent conflicts of the FBI Agent and trial judge certainly appear to be inappropriate at best.

The information provided above is but a portion of that gathered by us over the last 2 ½ years. The documents supporting this information were all obtained from public records, trial records, and documents produced under subpoena in other court cases. Had the Justice Department conducted a fair, impartial investigation into this matter, my husband and I are confident that they would have uncovered substantially more information regarding the conduct of Resource Bank and its associates. My husband and I hereby respectfully and formally request that an investigation begin into the actions of Justice Department personnel; the evident violation of banking laws and regulations by personnel of Resource Bank and the perjured testimony of government witnesses.

Sincerely yours,

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