

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

PAUL MANCUSO, et al.

08-CR-611 (FJS)

Defendants.

DEFENDANT PAUL MANCUSO'S TRIAL BRIEF

Defendant Paul Mancuso has pleaded not guilty to all seven counts of the Indictment. It is Paul Mancuso's position that the Government must prove beyond a reasonable doubt each and every element of all seven counts. Paul Mancuso has no burden of proof and no obligation to present a defense.

The charges in the Indictment

With respect to Count 1 (alleged conspiracy), Paul Mancuso denies the existence of any alleged conspiracy. He did not knowingly and willfully join any conspiracy. He did not know of any conspiracy or join it and he did not act with intent to commit the alleged objectives of the conspiracy, i.e., defraud the United States, to violate the Clean Air Act and the Superfund Act and/or to commit mail fraud. He did not have intent to make any alleged conspiracy succeed. At all times, Paul Mancuso acted in good faith. If any criminal wrongdoing occurred, it was perpetrated by others.

With respect to Counts 2-5 (alleged Clean Air Act violations), Paul Mancuso was not the owner or operator of any demolition or renovation activity, nor did he aid and abet any such owner or operator, with respect to any project subject to the jurisdiction of the Clean Air Act or the NESHAP work practice standards. He did not knowingly fail or knowingly cause another person to fail to comply with any applicable NESHAP work practice standard. At all times, Paul Mancuso acted in

good faith. If any criminal wrongdoing occurred, it was perpetrated by others.

With respect to Counts 6-7 (alleged Superfund Act violations), Paul Mancuso was not a person in charge of a facility. Paul Mancuso did not knowingly fail to provide a notification required by 42 USC 9603(a). At all times, Paul Mancuso acted in good faith. If any criminal wrongdoing occurred, it was perpetrated by others.

Objection to testimony by victims

Defendant Paul Mancuso objects to the stated intention of the Government at page 20 of its trial brief to elicit testimony from property owners to the effect that those property owners would not have "hired and paid defendants had they known that the services provided would be in violation of, rather than in compliance with, applicable law." The ultimate question of whether defendants violated the law is within the sole province of the jury as fact-finder. Such self-serving testimony would be unduly prejudicial and is a round-about way of eliciting an opinion or factual assertion by the property owners that defendants violated the law (an ultimate question for the jury). The state of mind of the property owners is irrelevant to any element of the crimes charged. The defendants are not charged with false statement counts in which materiality might be an issue. Nor is such testimony probative of the intent of any defendant.

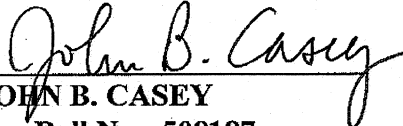
Cross examination of co-conspirators granted immunity

The Sixth Amendment confers the right to confront and cross examine witnesses against the accused. It is respectfully submitted that defendant is entitled to cross examine any witness against him with questions about any immunity, formal or informal, granted to the witness by the Government. This includes questions about immunity letters and the expectations of each witness regarding repercussions of his conduct or testimony. Upon information and belief, most, if not all the witnesses to be granted immunity did not give written or recorded statements before being

offered immunity or were offered immunity in exchange for implicating defendant. As such, defendant's right to cross examine witness about immunity cannot be unduly restricted without violation the Sixth Amendment.

Dated: October 14, 2009

DREYER BOYAJIAN LLP


JOHN B. CASEY

Bar Roll No.: 508187

Attorneys for Defendant

Paul Mancuso

75 Columbia Street

Albany, New York 12210

Telephone No.: (518) 463-7784