

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	
	:	Criminal No. 08-
v.	:	
	:	18 U.S.C. §§ 1341, 1346,
DENNIS J. OURY and	:	1349 & § 2
JOSEPH A. FERRIERO	:	

I N D I C T M E N T

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

COUNT 1

(Conspiracy to Defraud the Public of Defendant Oury's Honest
Services By Use of the United States Mails)

The Defendants and Other Individuals

1. At all times relevant to Count 1 of this Indictment:
 - A. defendant DENNIS J. OURY was an attorney licensed in New Jersey with a law practice in Hackensack, New Jersey. From in or about January 2002 to in or about December 2002, and again from in or about January 2006 to in or about December 2007, defendant OURY served as the Borough Attorney for the Borough of Bergenfield, New Jersey. Defendant OURY's responsibilities as the Borough Attorney included reviewing and drafting municipal contracts and resolutions, attending meetings of the Borough Council, and providing legal counsel to the Mayor and Council on Borough matters. Defendant OURY also held the following additional public positions in or about the time

periods indicated: (1) Township of Woodbridge Special Counsel (2002); (2) City of Englewood Board of Adjustment Attorney (2002 to 2005); (3) Borough of Fort Lee Special Counsel (2002 to 2007); (4) Borough of Paramus Borough Attorney (2002 to 2007); (5) Fairview Board of Education Attorney (2002 to 2007); (6) New Milford Planning Board Attorney (2002 to 2007); (7) Special Counsel to the Bergen County Improvement Authority ("BCIA") (2003); (8) City of East Newark Board of Education Attorney (2003, 2004); (9) City of Garfield Special Counsel (2003 to 2007); (10) Borough of Edgewater Board of Adjustment Attorney (2004 to 2007); (11) Chief Counsel to the BCIA (2004 to 2007); (12) Borough of Ridgely Special Counsel (2005 to 2007); (13) City of Union City Special Counsel, Redevelopment (2005 to 2007); (14) Borough of Fort Lee Board of Adjustment Attorney (2006, 2007); and (15) Borough of Fort Lee Planning Board Attorney (2006, 2007). Additionally, defendant OURY served as counsel to the Bergen County Democratic Organization ("BCDO").

B. defendant JOSEPH A. FERRIERO was an attorney licensed in New Jersey and a partner in a West Orange, New Jersey law firm from in or about 2000 to in or about 2002, and then in a Lyndhurst, New Jersey law firm from in or about 2002 to present. In or about 1998, defendant FERRIERO was elected Chairman of the BCDO, which controlled fundraising and campaign spending for Democratic candidates across Bergen County. As the Chairman of

the BCDO, defendant FERRIERO was in a position to influence state and local government official action and state and local political activities. He was subsequently re-elected to this position in or about 2000, 2002, 2004, 2006, and 2008. Defendant FERRIERO also held the following public positions in or about the time periods indicated: (1) Dumont Borough Councilman (1977 to 1979); and (2) Dumont Borough Attorney (1984 to 1986; 1990 to 1991).

C. an individual ("Individual 1") was the Mayor of the Borough of North Arlington, a municipality in Bergen County, from in or about 1983 to in or about 2002. Individual 1 also held the following additional public positions, among others, in or about the time periods indicated: (1) Assistant to the Bergen County Executive (1999 to 2004); (2) Commissioner of the New Jersey Meadowlands Commission (2002 to present); and (3) Executive Director of the Bergen County Utilities Authority (2004 to present).

D. an individual ("Individual 2") was a licensed community planner who operated a business in Fort Lee, New Jersey.

E. an individual ("Individual 3") was the long-time office assistant and secretary to defendant FERRIERO, whose duties included answering telephones, speaking with clients, typing, filing, and billing.

F. two individuals ("Individuals 4 & 5") operated a public relations consulting business in Nutley, New Jersey, that specialized in mailed advertising for political candidates and public and private entities.

Defendant Dennis J. Oury's Duty of Honest Services

2. At all times relevant to Count 1 of this Indictment, the Borough of Bergenfield and its citizens had an intangible right to the honest services of their public officials, who stood in fiduciary relationships to the citizens whom they served. As the Borough Attorney for the Borough of Bergenfield, and a fiduciary and trustee for the public, pursuant to New Jersey and common law, defendant DENNIS J. OURY, therefore, owed the Borough of Bergenfield and its citizens a duty to render honest services free from deceit, favoritism, and self-dealing. This duty included the duty to disclose to the Borough of Bergenfield material information, including personal financial conflicts of interests, in matters over which he exercised and attempted to exercise official authority and discretion in favor of those interests.

Conspiracy to Defraud the Borough of Bergenfield

3. From in or about December 2001 to in or about April 2005, in Bergen County, in the District of New Jersey, and elsewhere, defendants

DENNIS J. OURY and
JOSEPH A. FERRIERO

and others did knowingly and willfully conspire, combine, confederate and agree to commit an offense against the United States that is, using the United States mails for the purpose of executing a scheme and artifice to defraud the Borough of Bergenfield and its citizens of money and property and the right to defendant DENNIS J. OURY's honest services in the affairs of the Borough of Bergenfield, by means of materially false and fraudulent pretenses, representations, and promises, contrary to Title 18, United States Code, Sections 1341 and 1346.

4. The object of this conspiracy was for defendant DENNIS J. OURY, with the facilitation and assistance of defendant JOSEPH A. FERRIERO and others, to intentionally fail to disclose to, and conceal from, the Borough of Bergenfield, defendant OURY's material financial interest in a company who contracted with the Borough of Bergenfield and in whose favor defendant OURY exercised and attempted to exercise official authority and discretion, and to exploit this undisclosed conflict of interest by receiving money from the Borough of Bergenfield through the company in connection with Borough matters involving the company.

Manners, Means and Acts of the Conspiracy

5. Among the manners, means and acts conducted by defendants DENNIS J. OURY and JOSEPH A. FERRIERO, and others to carry out the conspiracy and effect its unlawful object were the following:

A. In or about late December 2001, defendants OURY and FERRIERO, and Individual 1 discussed the formation of a company, Governmental Grants Consulting, Inc. ("Governmental Grants"), that would capitalize on defendants OURY's and FERRIERO's access to State and local leadership by assisting municipalities in obtaining State and local funding and then receiving compensation in the form of a percentage of any such award. On or about December 27, 2001, defendant OURY sent a fax to defendant FERRIERO containing sample copies of agreements previously entered into between another grant-writing company and the Boroughs of New Milford and Palisades Park, New Jersey.

B. Beginning on or about December 31, 2001, defendant FERRIERO sent faxes to select officials in several Bergen County municipalities. The faxes enclosed proposed resolutions appointing Governmental Grants as the municipality's "grant person" or "grantsman," as well as proposed contracts between the municipality and Governmental Grants. Both the proposed resolutions and contracts provided for a retainer fee for Governmental Grants as well as a "Consulting Grant Fulfillment Fee" calculated as a percentage of any grant award or loan received by the municipality. The contracts gave the Nutley address of Individuals 4 & 5's company as the address for Governmental Grants, and contained signature blanks for Individual 4, as Governmental Grants' "President," and Individual

5, as Governmental Grants' "Secretary." There was no mention in any of the documents of defendants OURY's or FERRIERO's involvement in Governmental Grants.

C. In addition, defendant FERRIERO sent the proposed resolutions and contracts to the municipal officials prior to Governmental Grants being officially formed. Furthermore, Governmental Grants was misleadingly represented to be an established corporation. In fact, Governmental Grants did not exist then or any time as a legal business entity, which in New Jersey required a public record filing and disclosure of a corporation's Board of Directors.

D. Defendant FERRIERO subsequently prepared a January 2002 draft shareholders agreement, giving defendant OURY, Individual 1, Individuals 4 & 5 (together), and himself each 25 percent of the company's shares. In the document, defendant FERRIERO also assigned officer positions to Individuals 4 & 5, who were designated the President and Secretary, respectively, despite having never agreed to assume such roles. Although defendants OURY and FERRIERO, along with Individual 1, would hold the largest individual ownership stakes in Governmental Grants, and despite the fact that defendants OURY and FERRIERO conceived of the idea of forming the company, none of the three were assigned officer positions.

E. On or about January 1, 2002, while present at a reorganization meeting of the Borough of Bergenfield government in Bergenfield - during which the Borough Council passed resolutions appointing defendant OURY as its Borough Attorney and Governmental Grants as its municipal grantsman - defendant OURY intentionally failed to disclose his significant ownership interest in Governmental Grants. Like the proposed resolutions faxed by defendant FERRIERO to other municipalities, the Bergenfield resolution appointing Governmental Grants made no mention of defendants OURY's or FERRIERO's involvement in the company. Because the resolution appointing Governmental Grants was added to the meeting's agenda shortly before the meeting, the Borough Council and the citizens of the Borough had little opportunity to discuss the appointment prior to the vote.

F. According to the resolution appointing Governmental Grants as Bergenfield's grantsman, Governmental Grants purported to be "in the business of assisting municipalities in making . . . grant applications and ha[d] a special expertise, training, and reputation in acquiring government grants, low-interest loans, and passive economic benefits for municipalities." Defendants OURY and FERRIERO caused this misleading information to be included in the resolution despite the facts that Governmental Grants at the time (i) had not yet even been officially formed, (ii) had never

served any other clients, and (iii) did not have any such "expertise," "training," or, particularly, "reputation." In fact, Governmental Grants had not even secured an employee to perform the grant-writing services that it was engaged to perform. Defendant OURY did not correct this misleading information despite the fact that he, as Borough Attorney, was present at the Borough Council's reorganization meeting.

G. Subsequently, after defendant OURY had initially solicited by telephone Individual 2 about serving as Governmental Grants' grant-writer, defendants OURY and FERRIERO and others met Individual 2 at a diner in Bergen County to engage Individual 2's services as a grant writer. On or about February 8, 2002, defendant FERRIERO faxed to defendant OURY and Individual 2, among others, an updated draft of a shareholders agreement for Governmental Grants, as well as a draft employment agreement for Individual 2's employment as grant-writer. The February draft of the shareholders agreement added Individual 2 as a shareholder and revised the percentages of shares owned so that the shares were no longer equally divided. Pursuant to this draft, defendant FERRIERO was to hold 25 percent of the company's shares; defendant OURY and Individual 1 were each to hold 22.5 percent; and Individuals 2, 4 and 5 were each to hold 10 percent.

H. On or about February 7, 2002, Individual 2, upon instructions from defendants OURY and FERRIERO, met with

Bergenfield officials to discuss the services that Governmental Grants would provide to the Borough. In response to a February 8, 2002 e-mail from Individual 2 to defendant FERRIERO in which Individual 2 reported that he "had a nice meeting yesterday with [the Bergenfield Mayor] and [the Bergenfield Borough Administrator] regarding their grants program" and that "[t]heir engineer does DOT and infrastructure grants and they want to keep that separate from our work," defendant FERRIERO wrote in an e-mail of the same date, "I think you sould [sic] convince them that we also do the transportation and other work. Indicated [sic] that we have influence to get a better result."

I. In or about March 2002, defendants OURY and FERRIERO and Individuals 1, 2, 4 and 5 signed a shareholders agreement substantially identical to the February draft and containing the same percentages of shares owned. According to the executed shareholders agreement, the duties and responsibilities of defendants OURY and FERRIERO and Individuals 1 and 2 were "to serve in public relations making contact with various prospective clients and governmental agencies." Individual 2's duties and responsibilities further included "[t]o oversee grants writing and administration for [Governmental Grants]. Also, to meet with clients and make public appearances."

J. After Individuals 4 & 5 notified others involved in Governmental Grants in or about March or April 2002 that they were not interested in participating further in Governmental Grants and ceased their involvement with the company, to further conceal defendants OURY's and FERRIERO's participation in Governmental Grants' affairs, defendant FERRIERO caused Individual 2 to sign official documents as Governmental Grants' President, and Individual 3, defendant FERRIERO's office assistant, to sign as Governmental Grants' Secretary. Defendants OURY and FERRIERO and Individual 1 never assumed any public role with Governmental Grants notwithstanding that together they owned approximately 70 percent of the company's shares.

K. On or about March 15, 2002, defendant FERRIERO opened a bank account at a bank in Englewood Cliffs, New Jersey, in the name of Governmental Grants. Defendants OURY and FERRIERO caused the signature card filed with the bank to indicate that the authorized signers for the Governmental Grants bank account were defendants OURY and FERRIERO and another individual, who, at that time, was the Executive Director of the BCDO and reported to defendant FERRIERO, the BCDO Chairman.

L. On or about March 26, 2002, Individual 2 sent by United States mail to the Borough of Bergenfield an invoice for \$6,000, representing Governmental Grants' monthly retainer for all 12 months of 2002. The Borough paid this amount on or about

June 20, 2002, and Individual 3 deposited the proceeds in Governmental Grants' bank account.

M. On or about April 8, 2002, Individual 2 met with an individual whose family owned a piece of property (the "Estate") in Bergenfield. The Borough of Bergenfield was interested in acquiring the Estate as an historic site.

N. On or about April 11, 2002, Individual 2 wrote a memorandum using Governmental Grants letterhead to the Bergenfield Borough Administrator regarding the purchase of the Estate. Individual 2 indicated that the seller wanted \$1.2 million for the property and suggested various grant opportunities that Governmental Grants could pursue on Bergenfield's behalf, including grants from the Bergen County Open Space, Recreation, Farmland & Historic Preservation Trust Fund (the "Trust Fund") and the State of New Jersey Department of Environmental Protection ("DEP") Green Acres Program ("Green Acres"). On or about April 16, 2002, Individual 2 wrote to the Borough Administrator again and informed him that the Borough would need to hold a public hearing and adopt an enabling resolution before a grant application could be submitted.

O. On or about April 20, 2002, defendant FERRIERO wrote a memorandum to Individual 2 in which he stated: "Please make applications to the entities for the purchase of [the Estate] and give me copies at which time I will push

representatives of the State to fund these grants."

P. On or about May 7, 2002, and again on or about July 16, 2002, at meetings of the Borough of Bergenfield Mayor and Council in Bergenfield, while the Borough Council passed resolutions authorizing applications to the Trust Fund and Green Acres, respectively, for a total of \$1.2 million in grant funding for the acquisition of the Estate, defendant OURY, who was present at those meetings and supported and approved the resolutions, again intentionally failed to disclose his significant ownership interest in Governmental Grants.

Q. In or about early August 2002, defendant OURY, as Bergenfield's Borough Attorney, billed the Borough of Bergenfield for time spent on the Estate transaction. As set forth in defendant OURY's billing records, on or about August 5, 2002, defendant OURY conducted a conference regarding the Estate for which he then billed the Borough. Despite the fact that defendant OURY stood to gain as a principal of Governmental Grants from the grant-aided purchase of the Estate, defendant OURY continued to cause his law firm to bill the Borough of Bergenfield for time spent on the Estate acquisition throughout the next several months, including for time spent conducting telephone conferences with Individual 2, defendant OURY's fellow shareholder and employee at Governmental Grants.

R. On or about August 14, 2002, Governmental Grants, through Individual 2, applied on the Borough of Bergenfield's behalf for a Green Acres grant. On or about August 27, 2002, defendant FERRIERO sent a copy of the application directly to the DEP Commissioner via interstate private carrier, with a cover letter stating that it was "extremely important to [defendant FERRIERO] personally that this application receive favorable review by the Department." Defendant FERRIERO's letter was sent using law firm letterhead and the law firm's corporate account with the carrier, concealing any connection between defendant FERRIERO and Governmental Grants. Defendant FERRIERO did not disclose in the letter to the Commissioner that he stood to gain financially from the receipt of the grant.

S. On or about September 3, 2002, defendant OURY, acting in his capacity as Bergenfield's Borough Attorney, wrote a letter using his law firm letterhead to a real estate appraisal firm, which was sent by United States mail on or about that date. In the letter, defendant OURY informed the firm that the Borough of Bergenfield was seeking to acquire the Estate and referred to the Borough's pending Green Acres application. Defendant OURY requested that the firm provide him with a proposal for their services as an appraiser so that the Borough could proceed to schedule a meeting with the Green Acres staff.

T. At no time did defendant OURY disclose to the Borough of Bergenfield that defendant OURY had an ownership interest in Governmental Grants and therefore a substantial financial interest in the success of the Estate acquisition, by virtue of Governmental Grants' entitlement to a percentage of any grant monies successfully obtained on the Borough's behalf.

U. On or about November 30, 2002, defendant FERRIERO e-mailed Individual 2 the following message: "the county approved bergenfield's open space grant \$800,000 be patient we also are getting a few new towns." On or about December 2, 2002, Individual 2 responded, also via e-mail, "Joe, Thanks for the note, I was really pleased to hear that the Bergenfield grant was approved; this should help us get the remaining funds through our application to Green Acres." Defendant FERRIERO replied on the same date, "I got a favorable response from the commissioner of dep I'll keep you posted." By letter dated December 19, 2002, the Bergen County Executive officially notified the Borough of Bergenfield that it had been awarded the Trust Fund grant in the amount of \$800,000, and by letter dated November 14, 2003, the DEP Commissioner officially notified the Borough that it had been awarded a Green Acres grant and loan package in the amount of \$600,000. Both letters were sent by United States mails.

V. On or about May 26, 2004, based on these successful grant applications, the Borough of Bergenfield issued

a check for approximately \$128,625 payable to Governmental Grants, representing its "Consulting Grant Fulfillment Fees" for the Trust Fund grant and Green Acres grant and loan. Pursuant to discussions with defendant FERRIERO, on or about June 11, 2004, Individual 2, using the United States mails, sent the check to defendant FERRIERO. On or about June 16, 2004, pursuant to defendant FERRIERO's instructions, Individual 3 deposited the check into Governmental Grants' bank account - by far the largest deposit into the Governmental Grants bank account. The same day, defendant OURY received an e-mail from Individual 3, informing him of the incoming deposit and the new balance in the account. Individual 3 subsequently disbursed those proceeds, along with a smaller amount of proceeds from other matters, by checks, all signed by defendant FERRIERO, in the following approximate amounts: \$27,538.04 to defendant FERRIERO; \$25,016.97 each to defendant OURY and Individual 1; and two separate checks to Individual 2 for \$19,393 and \$49,000, representing his ownership interest in Governmental Grants and salary, respectively. Individual 3 received a check for \$1,000. Defendant OURY, in turn, deposited his \$25,016.97 check into his personal bank account at a bank in Saddle Brook, New Jersey.

W. In state-required filings, defendant OURY concealed his income from, and ownership stake in, Governmental Grants. The New Jersey Local Government Ethics Law, N.J. Stat.

Ann. §§ 40A:9-22.1, et seq., provided that all local government officials must, on an annual basis, complete and file a Financial Disclosure form promulgated by the New Jersey Department of Community Affairs, Local Government Services Division, Local Finance Board. Among other things, the completed Financial Disclosure Form required the official to list, for the year preceding the one in which the form was filed, all sources of income, earned or unearned, exceeding \$2,000, and the name of all business organizations in which an "interest" was held. By statute, "interest" was defined as "the ownership or control of more than 10% of the profits, assets or stock of a business organization." § 40A:9-22.3(d). The local government official was required to list such income or interests whether held by the official him- or herself or by the official's spouse. Defendant Oury failed to report his interest in Governmental Grants and his income from Governmental Grants on relevant disclosure forms filed with the New Jersey Department of Community Affairs.

X. From in or about 2002 to in or about 2005, defendant DENNIS J. OURY placed and caused to be placed in a post office and authorized depository for mail matter to be sent and delivered by the Postal Service, the following Financial Disclosure forms filed with the New Jersey Department of Community Affairs in Trenton, New Jersey, which (1) failed to disclose defendant OURY's ownership interest in Governmental

Grants, and (2) with respect to the 2005 filings, failed to disclose approximately \$25,016.97 that defendant OURY received in 2004 from Governmental Grants:

Municipality	Year of Filing	Year to Which Disclosure Forms Pertained	Approximate Date of Mailing
Bergenfield	2002	2001	February 25, 2002
Fort Lee	2003	2002	April 4, 2003
Fort Lee	2004	2003	March 29, 2004
Edgewater	2004	2003	April 7, 2004
Fort Lee	2005	2004	March 24, 2005
Edgewater	2005	2004	April 28, 2005
New Milford	2005	2004	April 28, 2005

In violation of Title 18, United States Code, Section 1349.

COUNTS 2-8
(Mail Fraud)

1. Paragraphs 1, 2 and 5 of Count 1 of this Indictment are hereby realleged and incorporated as if set forth in full herein.

2. From in or about December 2001 to in or about April 2005, in Bergen County, in the District of New Jersey and elsewhere, defendants

DENNIS J. OURY and
JOSEPH A. FERRIERO

and others knowingly and willfully did devise and intend to devise a scheme and artifice to defraud the Borough of Bergenfield and its citizens of money and property and the right to defendant DENNIS J. OURY's honest services in the affairs of the Borough of Bergenfield, by means of materially false and fraudulent pretenses, representations, and promises.

3. The object of this scheme and artifice to defraud was for defendant DENNIS J. OURY, with the facilitation and assistance of defendant JOSEPH A. FERRIERO and others, to intentionally fail to disclose to, and conceal from, the Borough of Bergenfield, defendant OURY's material financial interest in Governmental Grants and in whose favor defendant OURY exercised and attempted to exercise official authority and discretion, and to exploit this undisclosed conflict of interest by receiving money from the Borough of Bergenfield through Governmental Grants in connection with Borough matters involving Governmental Grants.

4. On or about the dates set forth below, in Bergen County, in the District of New Jersey and elsewhere, for the purpose of executing and attempting to execute this scheme and artifice to defraud, defendants

DENNIS J. OURY and
JOSEPH A. FERRIERO

and others knowingly and willfully placed and caused to be placed in a post office and authorized depository for mail matter, and deposited and caused to be deposited matters and things to be sent and delivered by private and commercial interstate carrier, and took and received therefrom, and caused to be delivered thereon, certain mail to be sent and delivered by the United States Postal Service and certain matters and things to be delivered by private and commercial interstate common carrier, as described below:

COUNT	DATE OF MAILING/DELIVERY	MAILING/DELIVERY
2	November 14, 2003	Letter from DEP Commissioner to Mayor of the Borough of Bergenfield informing the Borough of the \$600,000 Green Acres grant/loan award
3	March 29, 2004	Financial Disclosure Form for defendant OURY (Fort Lee)
4	April 7, 2004	Financial Disclosure Form for defendant OURY (Edgewater)

5	June 11, 2004	Letter from Individual 2 to defendant FERRIERO enclosing Borough of Bergenfield check for approximately \$128,625 payable to Governmental Grants
6	March 24, 2005	Financial Disclosure Form for defendant OURY (Fort Lee)
7	April 28, 2005	Financial Disclosure Form for defendant OURY (Edgewater)
8	April 28, 2005	Financial Disclosure Form for defendant OURY (New Milford)

In violation of Title 18, United States Code, Sections 1341, 1346 and Section 2.

A TRUE BILL

FOREPERSON

CHRISTOPHER J. CHRISTIE
UNITED STATES ATTORNEY