RELEASE:

From Andrew Bennett Spark, Assistant Attorney General, Tampa Economic Crimes

August 8, 2011

Cell: 941.321.5927

I. Introduction

By way of introduction, I have served as an Assistant Attorney General in the Economic Crimes Division of the Florida Attorney General's Office since March of 2004, first in Orlando, and the last 6 ½ years in Tampa. I have been reading articles concerning the controversies swirling around the Attorney General's Office with respect to the forced resignations of June Clarkson and Theresa Edwards (from whom I took over day-to-day handling of the ProVest investigation), and the employment of Joe Jacquot with Lender Processing Services, one of the companies at the heart of the foreclosure robo-signing issues. While I have a significantly different philosophy concerning these cases than Clarkson, Edwards, and most other homeowner advocates, the people of the State of Florida are entitled to fair and honest government, independent of personal connections and powerful interests, and I have decided to speak out.

As an important caveat, please note that the below contains various factual statements, and asks questions. If I ask a question, it is because I truly do not know the answer, not because I am implying any particular answer to the question.

II. Former Director of Economic Crimes Mary Leontakianakos now works for foreclosure law firm Marshall Watson

Joe Jacquot is not the only high-ranking recent member of the Attorney General's Office to now be working with a company which has been the subject of one of our foreclosure investigations. Mary Leontakianakos, who was Director of Economic Crimes until approximately January 3 of this year has, according to The Florida Bar, taken a job at foreclosure firm Marshall Watson. http://www.floridabar.org/names.nsf/0/C1D818F4CF8FA1EE85256A8400081E2D?OpenDocument Leontakianakos was centrally involved in the foreclosure investigations while leading our Division, including the investigation of Marshall Watson: http://www.abc-7.com/Global/story.asp?S=12968488

It appears that Watson and/or Leontakianakos have been secreting her employment from the public. By using a personal email address as her contact email address rather than the Marshall Watson email address suffix MarshallWatson.com, Leontakianakos has been able to avoid search functions which would reveal her affiliation. It is through the use of email suffixes that one may search the Florida Bar's database for former employees of the foreclosure firms under investigation. In addition, Watson has taken down the portion of his website showing the attorneys in the firm; it appears to be the only portion

of his website that is inaccessible from elsewhere on the firm's website (interestingly enough, Watson's own attorney profile on that portion of the website is easily found directly from a Google search, and so does Caryn Graham's, but there's none for Leontakianakos)..

As has been widely reported, the Attorney General's Office entered into a settlement with Marshall Watson in March of this year. A copy of the settlement agreement with Marshall Watson is found here: http://myfloridalegal.com/webfiles.nsf/WF/SKNS-8FAHED/$file/WatsonAVC.pdf Note that Paragraph 4.1 of the agreement requires Marshall Watson to name a liaison to the Attorney General's Office. Is Mary Leontakianakos that liaison? I do not know. However, Leontakianakos' address on The Florida Bar website is listed as Fort Lauderdale, and yet a search of the website of the Broward County Clerk of Court reveals that she has not appeared as an attorney in a lawsuit in Broward County – ever.

If Leontakianakos is that liaison, would she have been switching sides during the course of a controversy, Rule 4-1.9 of The Florida Bar states,

"[a] lawyer who has formerly represented a client in a matter shall not thereafter:

(a) represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent;"

Of course, the Economic Crimes Division acts in a *parens patriae* role as a representative of the people of the State of Florida. Consent of the people of the state cannot meaningfully be given in such a situation – and judging by the reaction of so many of people in the state the past few weeks since the Clarkson/Edwards/Jacquot story broke, it is safe to say such consent by the people *would* not be given even if it meaningfully *could* be given.

The Case Report for the investigation indicates that attorney Caryn Graham is the "point person" to contact at Watson for concerns about the AVC. According to The Florida Bar website, Graham is still with the Watson firm. Watson recently hired former Broward Chief Judge Tobin in a supervisory capacity. Indeed, the Miami Herald reported that Tobin said he would not spend much time in the courtroom. http://www.miamiherald.com/2011/05/18/2222892/browards-chief-judge-resigns.html If Leontakianakos is not actually the liaison, despite the entry about Graham in the Case Report, this begs a few questions, one of which is what, if anything, Leontakianakos is doing there?

The other question that arises is whether Leontakianakos' hiring by Watson is connected to the settlement. The settlement agreement does not specify as such; however, I have been told by someone in my office that in another case some years back, another high-ranking individual with Economic Crimes received a job with a subsequent employer out of settlement proceeds from a case – and the connection between the settlement and the

job was not disclosed. Perhaps tellingly, the Attorney Geneal's press release concerning the Watson settlement states, "The Marshall Watson firm fully cooperated with the investigation since its inception." http://myfloridalegal.com/__852562220065EE67.nsf/0/478149A91AA0E2528525785E006C1EED?Open&Highlight=0,marshall,watson During her tenure as Director of Economic Crimes, Leontakianakos encouraged side agreements that were contemporaneous with but not memorialized in the formal settlement documents ("AVC"s). Perhaps as some sort of Freudian-like slip reflective of what may be in effect a golden parachute, on the Bar website Leontakianakos still describes her practice in the "Occupation" field as "Government attorney."

The Marshall Watson settlement contains an unusual provision, paragraph 6.1, requiring the Attorney General to close the investigation upon the execution by all parties. It is typical for our office to close investigations following execution, and parties do typically want the public to know that the investigation is closed; what it is unusual, however, at least in my experience, is for the settlement agreement to explicitly state as such memorializing the closing as a priority. Why the extra concern? (Interestingly enough, despite that provision, I should note that the investigation is now open – I don't know whether it remained opened or was reopened).

III.Powerful interests have influence

A. Ferman

According to the Tallahassee Democrat, Attorney General Bondi has stated that, "… the one common denominator with the people that I have hired, they're tough former prosecutors," Bondi said. "The only directive I've ever given to any employees of my office is to go after the bad guys with everything you've got." http://floridacapitalnews.com/article/20110802/CAPITOLNEWS/110802014/1067/RSS15 This may be the case, but the management of the Economic Crimes Division has not gotten the message, and its certainly not the message I've gotten from the management.

Before I get back to foreclosure-related this cases, earlier this year, I requested that we open a case against Ferman, an auto dealership, for running newspaper advertisements of a car which was not available for the price advertised with all the options shown in the ad. Ferman knew exactly what it was doing, because the ads contained stock numbers, which corresponded to less expensive cars without the options. Including the stock numbers is the type of thing that sneaky businesses do to muddy the legal waters in case someone complains or files a lawsuit. Of course, consumers should not have to go online or travel to the dealership to figure out whether the car being advertised is that in the picture, or the cheaper car associated with the stock number.

On April 15, I sent my supervisor, Tampa Bureau Chief Victoria Butler, a case opening request. The request was approved, and on April 29, at 8:59 AM, Butler sent myself and our Senior Financial Investigator William Featheringill an email stating as such. At 9:32

AM, Featheringill, with whom I have worked for seven years and for whom a public records request would evidence has perenially produced little work product, sent me an email, copying Butler, stating, "As a courtesy, I encourage contacting Robert Shimberg on this matter. He has long represented the Ferman family and we have successfully addressed prior concerns through his office."

While Featheringill's was a facially reasonable request, Shimberg was one of the three members of Bondi's transition team with respect to Consumer Protection. http://jacksonville.com/opinion/blog/422234/paul-pinkham/2010-11-16/bondi-transition-team-includes-jacksonville-state After he was named to the transition team, I had approached Shimberg concerning what I believed were some of the issues in our office. However, early in those discussion, I expressed concern to Shimberg about disclosing too much to him about how our office operates, since such disclosure could give him information which could make it easier for him to defend matters involving his clients. As reflected in my reply email to Featheringill five minutes after receiving his email, Shimberg told me not to worry because he had entered into an agreement not to represent any clients against our office for two years in order to be on the transition team (a representation that turned out not to be true).

Due to what Shimberg had told me, I responded to Featheringill, at 9:38 AM, copying Butler: "Because he was on the transition team, for the time being he cannot be involved in matters we are handling."

At 9:55 AM, Featheringill replied: "I understand, It's his firm that's Ferman retains and I would expect that someone else would handle the case. I was merely suggesting a courtesy call when you begin exploring the issue with the company." What legitimate purpose this "courtesy call" Featheringill thought would serve remains unknown to me. Moreover, our investigator on the case had been told by personnel at Ferman that they had an attorney who reviews their advertising by the name of Eileen Diaz (who we later found out was not an attorney, but a paralegal for Ferman's in-house counsel) and I had already been planning to reach out to her.

In approximately seven years of working under Victoria Butler, she had rarely, if ever, suggested terms of resolution of a case prior to, or shortly after, opening a case. Indeed, she only rarely provides specific written firm instructions as to what she wants done in cases. Indeed, it is her slippery, accountability-avoiding management style that allowed her to escape mention in a book, "Under Investigation," which detailed how our office failed to pursue a case against a scam modeling and talent agency due to the purchase of the company by Lou Pearlman when he still had a good reputation before being exposed as a Ponzi schemer.

This time would be different. I soon received an unprecedented email from Butler, sent at 10:46 AM with Featheringill's initial email as the previous email in the string, "Good idea. I'm not convinced this warrants a full blown invest--sounds like they need a disclosure that they are using a stock pic that doesn't rep actual car and may have upgrades that are not available on actual car--i've seen that type of disc on other car ads."

Such a case resolution, which would allow Ferman to disclaim prominent pictures of cars and prices with fine print, would be anathema to me – it would allow consumers to continue to be fooled. Butler has in the past appeared angry when I have not taken her hints, or "suggestions," to be firm instructions. Less than two hours after opening an investigation, with no additional information other than that Shimberg was Ferman's usual attorney, Butler was essentially calling off the investigation, and calling for a weak settlement which would continue to allow, and thereby indirectly sanction, the deception.. Not exactly "go[ing] after the bad guys with everything you've got."

On May 2, I received the email string below from Butler, again raising the issue of Shimberg:

From: Victoria Butler/OAG
To: "Andrew Spark" <andrew.spark@myfloridalegal.com>, "Bill Featheringill" <william.featheringill@myfloridalegal.com>
Date: 05/02/2011 03:01 PM
Subject: Fw: Newly opened Economic Crimes investigations

Pls review and respond to me
Sent from my Blackberry.

----- Original Message -----
From: Richard Lawson
Sent: 05/02/2011 02:43 PM EDT
To: Victoria Butler/OAG@OAG; Trish Conners
Subject: Fw: Newly opened Economic Crimes investigations
Vicki - can you answer Trish's Q?

Sincerely,

Richard Lawson
Director, Division of Economic Crimes
Office of the Attorney General
107 W Gaines Street
Tallahassee, FL 32399

----- Forwarded by Richard Lawson/OAG on 05/02/2011 02:43 PM -----

From: Trish Conners/OAG
To: Richard Lawson/OAG@OAG
Date: 05/02/2011 02:40 PM
Subject: Re: Fw: Newly opened Economic Crimes investigations

Do we have complaints?

From: Richard Lawson/OAG
To: Trish Conners/OAG@OAG

Date: 05/02/2011 02:32 PM
Subject: Fw: Newly opened Economic Crimes investigations

This appears to be a small case, but the target is a very prominent Tampa business and their long time counsel is Robert Shimberg. You should be aware of this in case the AG has any questions. If the case develops into something more significant I will advise accordingly.

Sincerely,

Richard Lawson
Director, Division of Economic Crimes
Office of the Attorney General
107 W Gaines Street
Tallahassee, FL 32399

----- Forwarded by Richard Lawson/OAG on 05/02/2011 02:30 PM -----

Newly opened Economic Crimes investigations

Notes Control
to:
Mark Hamilton
05/02/2011
01:01 AM

This report, distributed nightly to all Economic Crimes personnel, lists new cases in the Economic Crimes Caseload Database:
Office Attorney Case

(Document link:) Tampa Andrew Spark Ferman Motor Car Company, Inc., d/b/a Ferman Chevrolet-Tampa

It is clear from the various emails that:

Victoria Butler didn't recommend the settlement terms from the get-go, right when I asked to open the case, or immediately upon approving it. Yet less than two hours after learning that Shimberg was the attorney, she suddenly had a plan to resolve the case – insufficiently. And it is clear that when push came to shove, she decided to yield to a business at the expense of consumers- intending to settle a case by allowing the deceptive pictures to remain exactly as they are – just because of who their attorney is.

It is apparent from this chain of emails that:

William Featheringill prioritized the interests of Rob Shimberg and a car dealership that was purposely fooling its customers, over the interests of consumers in the State of Florida.

It appears from this set of emails that:

Deputy Attorney General Trish Conners would rather wait until consumers are deceived by a car dealership and complain, than have attorneys and investigators working under her that are able spot the issues before consumers are cheated or have their time wasted from believing false advertisements, especially when moneyed interests are involved. Or was she hoping that, in the absence of aggrieved consumers, we could sweep the investigation under the rug?

I'll allow Richard Lawson's email to speak for itself. It is unclear to me how Lawson even knew that Shimberg was Ferman's longtime counsel. After all, Lawson was primarily a criminal attorney, and not likely to have had cases involving car dealerships, and to my knowledge, Ferman has not been represented by Shimberg in any particularly newsworthy cases Lawson would have known about.

How is an Assistant Attorney General – and we are all expected to identify and recommend opening up cases - supposed to function in this atmosphere? These emails are a bit cryptic. However, as evidenced by the lack of documentation for the dismissals of Clarkson and Edwards, that his how things are done at the management level of the Division of Economic Crimes.

None of this is to say that Shimberg or his firm, Hill Ward Henderson, expected anything in exchange for his involvement with the transition team – just that several people at the Division of Economic Crimes *reacted* as if he did.

B. Lifestyle Family Fitness

On December 14 of last year, I had asked to open a case against Lifestyle Family Fitness, another client of Shimberg's firm (see http://www.hwhlaw.com/Practices/Clients). The case I had asked to open involved Lifestyle having clients sign releases without giving them a reasonable opportunity to read them, and superimposing those signatures onto various documents. They would then use those releases in defense of injury cases, some of which could arise years after the releases were signed. As an office, last fall we had been under pressure to improve our case openings number, and the task of generating new cases was primarily given to Featheringill. I had opened a preliminary investigation into Lifestyle earlier in the year, and as part of that effort, emailed a link to it to Featheringill in September to inquire about his interest in formally opening a case. He emailed me back with two questions:

"A couple of thoughts/ questions:

Do you know if the waiver issue has occurred at more than one location and on more than one occasion?

Does the fact that you are now a Lifestyle customer, create a conflict of interest if you were to be the assigned attorney?"

Of course, the latter question is preposterous. I'm supposed to quit a large, 50-location gym chain in order to handle a case? What if we had a case against the electric company? Would the attorney have to disconnect their power, and use a generator?

Anyway, despite resistance from Featheringill, I eventually confirmed through subsequent documents that the waiver had been a standard practice, at multiple locations. Nevertheless, in a meeting on January 18 of this year, Butler, backed up by Featheringill, stated that she would not open the case. During the meeting, she stated that the case was stale, even though I pointed out that the release could be used long into the future against badly-injured consumers.

The Ferman and Lifestyle matters may not be the only case evidencing Shimberg's influence over, and perhaps to a certain extent control of, our affairs. Featheringill has stated to me on multiple occasions that he has had an open offer for a job as an investigator at Hill Ward, Shimberg's firm, and the firm with which the Bondi's Campaign Manager, Martin Garcia, has been affiliated with for 25 years. I have begun to wonder if he might not already be working for the firm, whether anyone at the firm knows it or not.

C. Timeshare Lifestyle

Shady timeshare resale internet advertisers have become a scourge, taking substantial fees to advertise timeshare interests for resale on obscure websites that rarely result in sales. We have opened multiple investigations into such companies. One such company is Timeshare Lifestyle, and after an investigatory support person recommended to Butler that the case be opened, it was assigned to me. I prepared a subpoena, and was soon advised that the company was represented by the prominent Bush Ross law firm. Butler has since done nothing little but criticize my work on this case and give me a run-around, complaining that I have put detailed notes in the Case Report, and failing to approve the settlement agreement and revisions I have made at her behest since I sent her my initial draft on six months ago, on February 11.

On February 27, I received my first feedback on the draft settlement agreement from Butler, with the rather forboding: "I have reviewed and made some comments on the hard copy. We will need to discuss this one." The draft was first discussed with Butler in a case meeting in her office, attended by Featheringill but which the actual investigator on the case, Bob Calvert, was not (as per Butler's instructions) supposed to attend. Just after the new administration, Butler started a separate policy for me whereby investigators do not attend my case meetings, except Featheringill, whereas with other AAGs, the investigator on the case - naturally - attends. This policy recently changed, presumably after Butler learned that I had complained about it to Lawson. Anyway, since I submitted the AVC in March, Butler has complained about "formatting" errors.

In any event, I submitted a revision to Butler on March 4. I received, and continued to send Butler reminder emails as late as May 27, at which time she finally responded "... I did start reviewing and found a bit of formatting stuff so I set it aside. I'll look at it again." Mind you, any draft we prepare is inevitably subject to discussions and revisions in discussions with opposing counsel. Often these discussions occur before even submitting a document in the form of an AVC. Weeks later, I finally received another edited hard-copy, with numerous vague edits, including many of the items that had been present in the initial draft. I interpreted the edits as best I could and then resubmitted another draft. It is now almost six months after I initially asked Butler to approve a draft merely to share it with the other side to begin negotiations. Her objections consisted of almost nothing substantive, almost entirely formatting – hardly going after the bad guys with everything we've got.

IV. Process serving cases

A. ProVest

I was assigned the ProVest case when it was stripped, rightly or wrongly, from Clarkson and Edwards prior to their termination. Shortly after receiving the case, we received an inquiry from our fraud hotline.

Our fraud hotline and website are the primary vehicles by which we receive consumer complaints. We post most of our investigations on the internet, which almost inevitably leads to our office receiving additional complaints, and sometimes brings out former employees who want to discuss problematic practices. Obviously, the more known our case is to the world, the more people know to complain to our office. We received one such inquiry on May 2, and Butler emailed me and Featheringill concerning the handling. Featheringill wrote, "I would advocate taking the case back off the internet until we know what we are dealing with." Of course, the point of an investigation is to *learn* what one is dealing with– no one, including Featheringill, would be compelled to follow-up with every complaint – our office receives numerous complaints that do not result in more than a brief review and acknowledgment letter to the complainant. At least if the case were on the internet, we would receive more information upon which we could eventually act. The same investigator who wanted to contact Shimberg as a "courtesy" wanted to hide our ProVest investigation from the public. Anyway, Butler agreed with me that the case could not be removed from the internet, and it wasn't.

On June 8, we held at meeting at Economic Crimes in Tampa. Very early in the meeting, ProVest's counsel passed around a one-page handout which she said contained information about the company's finances and ownership, but that she would need back at the end of the meeting because it contained information she did not want to be made public. Butler agreed, and she and Featheringill reviewed it. I did not review it, glance at a single piece of information on it, or even touch it - I just let it sit on the conference table and did not look at it, because to do so and then return it would violate Florida's Public Records law. *National Collegiate Athletic Ass'n v. Associated Press*, 18 So.3d 1201.

1208 (Fla.1st DCA 2009) ("the … lawyers did not … read it out of idle curiosity. To the contrary, they examined it professionally"). The ProVest attorney subsequently took back each copy of the handout – Butler and Featheringill willingly handed it back over.

Companies often fight tooth and nail in litigation to hide their finances - and usually succeed - and obviously ProVest didn't want their finances public; either. So why did ProVest show this information to us? ProVest has told us they are expecting an avalanche of business when foreclosures resume, so it wasn't to show financial weakness, a strategy companies sometimes employ. Did the handout disclose that there are powerful interests behind ProVest? Was the handout to intimidate us by showing us ProVest's financial strength?

On July 1, we held at meeting at Tampa Economic Crimes to discuss ProVest. ProVest had said they were going to get us documents related to approximately 250 motions to quash service in cases involving their process servers, but had not done so. I stated that I couldn't give recommendations on a resolution of the case until I saw the 250 motions– a number substantially dwarfing the number of motions we'd been able to locate thus far. Butler stated that I should not wait, and wanted me to promptly begin preparing settlement documents. Fortunately, Lawson overruled her and stated that we should review them.

B. Other process servers

When I took over ProVest from Clarkson and Edwards, I also took over our investigation from them of another process serving company, Gissen& Zawyer ("GNZ"). Attached to the GNZ Case Report were affidavits of process server Liz Mills which pertained to documents bearing her signature related to process serving by her on behalf of not just GNZ, but two other companies, including FireFly.

I duly investigated the matters set forth in those affidavits, and duly added the names of the companies involved, including FireFly and two notaries impliedly accused of notary fraud in those affidavits, to our investigation. After all, as any good prosecutor like Bondi or Lawson knows, ultimately it is individuals who are responsible for the actions done in the name of a business. Our office received an unfavorable decision in a subpoena battle in the Shapiro case, which held that Florida's Deceptive and Unfair Trade Practices Act ("FDUPTA") did not apply to the law firm's conduct in the processing of foreclosure cases. Expecting a similar result in response to a subpoena directed to process servers with respect to their even smaller role in the conduct of processing foreclosure cases, I gave it all I got, as Bondi would say, researched the law, and concluded that, while improper acts in the course of process serving probably wasn't at the top of the legislature's mind when it passed the RICO statute, it would be preferable if we issued subpoenas under the RICO statute than in the face of the Shapiro decision under FDUPTA. Besides, I abhor when government oversteps its authority. I duly prepared five RICO subpoenas and emailed them to Butler for her approval on May 11.

Despite the fact that attorneys at major law firms who are only a few years out of law school are routinely allowed to issue subpoenas without supervisory approval, at the Florida Attorney General's Office even those of us with 20 years of experience or more must go through multiple layers of approval. Having received no word from Butler by May 26, I emailed her for follow-up, and she wrote back a few minutes later, "I talked to richard abt this last night. I'll get with you this am." Richard, Butler, and I met at Butler's office later that day, at which time we discussed whether to issue the subpoenas as a FDUPTA subpoena, I expressed that I did not believe we could, and he asked if I could write a letter to counsel for GNZ instead, informally asking questions in order to invite a dialogue, and hold off on the other four subpoenas. I duly wrote the attorney, but he declined to fully answer the questions, and asked that we send him a subpoena instead. Lawson had said he would approve a FDUPTA subpoena so I prepared one, sent it to the attorney, and a response is pending.

In the meantime, Butler was upset that I had added the names of the additional persons to the Case Report, even though the conduct of those other persons was virtually identical to, and appeared to probably be at least as egregious as, that of GNZ. As she wrote in an email to Lawson, copied to me, on June 1

"As we discussed, I removed the additional parties from the G&Z investigation. Andrew added these parties after he discovered that a few potential witnesses for G & Z had involvement with/connection to these parties. By way of this email, I am advising Andrew to submit a case opening request for Firefly, if he recommends that we open an investigation, and a case opening for a general process server investigations number for use as we develop potential issues and investigations."

I had just recently sent her, and just days before had a discussion about, a subpoena for approval to be sent to FireFly. In that request for a subpoena, I specifically asked Butler if we should open a separate investigation into FireFly. She knew I believed there was as much merit to an investigation of FireFly as GNZ, yet her email to me was couched in terms of "if he recommends." With her having just gotten upset that I added FireFly and others to an existing investigation, with the law under FDUPTA so muddled, and with Lawson understandably reluctant to issue a RICO subpoena, I was not looking for another excuse for Butler to say I was challenging her by asking to open an investigation into FireFly. Eventually, I followed her non-hedged suggestion and simply opened a general process server investigation, to include FireFly and other process serving companies against whom we have received complaints.

V. The Division of Economic Crimes litigates rarely – and meekly.

Prosecutors are in court all the time, on a virtually daily basis, and civil litigators are also in court all the time. On the other hand, since Bondi has taken over, the 30 or so attorneys of the Economic Crimes Division have filed a total of approximately only 15 lawsuits. In fact, the 15 lawsuit figure is being charitable, since two were efforts shared

among several states filed in distant courts, one was merely an adversary proceeding in a bankruptcy of a defendant we originally sued six years ago that I had to plead with Butler to file, one was merely a petition to enforce a subpoena to require a company to produce documents, and one involved intervening in a previously-filed *qui tam* lawsuit. Even when we do file suit, we often take pains not to take the lead, either waiting for other agencies to file suit or even arrest the perpetrator before we do finally file. None of the 10 lawsuits are against sizable companies such as Lender Processing or ProVest – and this in an atmosphere where due to arbitration clauses and some tough class action rulings, it has been getting progressively more difficult for consumers through private attorneys to bring their own consumer suits, and thereby making it more important for consumers that we fill the void.

This paucity of lawsuit filings, and what is effectively concomitant toothlessness, is not something unique to Bondi's tenure – its long been endemic to the Division of Economic Crimes. The Division of Economic Crimes has long fostered an atmosphere in which, as Clarkson and Edwards found out, and as I have found out in 7 ½ years of having one effort after another squelched, bold action is rare. The people of the State of Florida have the right to better, but under its current management, the situation can only get worse.

Richard Lawson has essentially been a career criminal prosecutor prior to taking his current position running a Division which does not handle criminal cases, and primarily handles consumer cases. He was briefly with a private firm in Tampa, and his webpage on the firm's website evinced little or no civil experience, though he has stated he has some civil experience and I believe him. Essentially, his hire was like hiring a basketball player to coach a baseball team. His lack of experience with civil procedure makes him reliant upon the attorneys on his staff, and Bureau Chiefs in particular – the latter of whom are woefully short of civil litigation experience considering the positions they occupy – and particularly vulnerable to the influence of those in Economic Crimes whose minimal litigation experience causes them to be too suit averse.

Despite running a bureau - and for a while running the Orlando bureau, as well- of what is ostensibly a litigation Division, Victoria Butler has very little litigation experience, her understanding and experience of the most basic civil procedure and evidentiary issues is lacking. As an example, almost 20 years after she was admitted to the bar, she asked me the following in connection with preparing a motion for summary judgment:

11.19.09
Victoria Butler/... if he denies my request for admission--does that create a dispute?
Andrew Spark/... yes
Victoria Butler/... I just have to get this motion done. ugh

In addition, earlier this year, she was shocked to find out that the Florida Third DCA had held that it was inadmissible hearsay for investigators in our Medicaid Fraud unit to testify to the information in the records of a pharmacy for their truth. The holding represented black letter law going back decades. The meeting was held just days after she had returned from a meeting in Fort Lauderdale concerning the foreclosure cases – the most prominent of which involve robo-signing, the main issue of which is the almost

identical hearsay issue of an employee of one company testifying (via affidavit) to facts set forth in another company's records.

In late 2009, we had a major effort in our office against debt collectors which I played a central role in, despite resistance from Butler, and there was great pressure from the front office to open investigations and file suits. I recommended opening an investigation against a debt buyer/collector. While in my case opening memo, I certainly spoke in terms of what we could accomplish filing suit, I wasn't even firmly recommending we immediately do so, referencing some further investigative work that needed to be done. In response, I received this email from Butler: "I approve the opening of this case although I am concerned about resource allocation and the prospect of federal court litigation." The "prospect of federal court litigation?" – something many a sole practitioner – such as I once was – ably contend with every day. Ably contend with, I should add, without investigators on staff, and without a multi-million dollar trust account as a source of litigation funding. In connection with researching that case, Butler even excoriated me for going to the law library to consult a treatise, forbidding me from ever leaving the office for work (even for trips such as the law library) without asking permission, and as I continue to try to do my job, continues to make more policies that only apply to me.

Naturally, Butler's litigation-phobia overshadows every case the Tampa bureau handles. The background of Orlando Bureau Chief Elizabeth Starr, who was Butler's protégé and took over management of the Orlando office from her, was similarly lacking in civil litigation when she was hired to serve as Bureau Chief. Except for a few months at another agency, her legal career had consisted of being a criminal prosecutor – for only about four years. At the time she assumed the role of Bureau Chief, she had never even drafted a civil Complaint –something no small number of civil attorneys do each month by the dozen – and was so inexperienced of civil procedure that in our annual conference, in 2009, she stood in front of a room full of more experienced attorneys and stated, after an hour-long presentation by a mediator, that she's never actually been in a mediation, but a friend of hers at a private firm "wins them all the time." Mediation is not something one wins or loses – it is a meeting that attempts to bring parties together for voluntary settlement. The new South Florida Bureau Chief, while admirably aggressive in pursuing companies that deceive consumers, is also similarly inexperienced with civil matters. As a result, the Economic Crimes Division is led by a Director and three of its four bureau chiefs seriously lacking in civil litigation experience.

In December, after Leontakianakos resigned, Butler seemed upset and told me that the changeover is always stressful because now they were going to have to "break-in" a new Director. Who better to "break-in" than someone like Lawson, who had virtually no civil experience? At the same time, Butler began pressuring me to quit, several times outright suggesting I do so.

The Director of Economic Crimes and three of its four regional bureau chiefs are civil litigation neophytes, and while the head of our CyberFraud Division is a very bright guy, but like Lawson, he was a career crimimal prosecutor for his entire career until he took

over that division in 2009. Bondi is a career criminal prosecutor, as well, so where is our civil litigation expertise? It's not like its hard to find experienced civil litigators that would like a steady job that brings with it health insurance, sick days, and a pension. Hiring criminal prosecutors is well and good – the Office of the Attorney General, like many other law offices – needs more attorneys who prepare for and are not afraid to go to trial – but they desperately need more people with experience in civil litigation to get there. And at a management level, not just the functionaries. There's only so far you can go trying to win cases on affidavits.

During my time at the Attorney General's Office, my understanding is that the Economic Crimes Division has gone to trial only 3 times: 1) Alltel, which we lost and where I was told we paid substantial costs or fees, 2) the "bingo" case, which we lost and have been ordered to pay $10 million, and 3) what I understand was a trial in absentia, against a scammer who had already made off with the loot to Thailand. The people of this state have a right to expect better.

In my second year with Economic Crimes, in July of 2005, while the housing market was bubbling toward its peak of froth, I managed to get Butler to agree to open an investigation into Sentinel Mortgage Company, a Sarasota mortgage broker that was advertising in Spanish that mortgages were available for less than a 1% interest rate. The company showed us marketing materials of several other companies advertising the same false interest rates and thumbed its eye at us, but Butler and Leontakianakos decided we should walk away, obviously precluding my asking to pursue action against any of the other companies. Now that the housing market has collapsed, Butler and Leontakianakos appear to have convinced people that they are mortgage experts – years too late. Like the Securities and Exchange Commissions ignoring Bernard Madoff's scams, our office – like so many agencies – was asleep at the wheel while the future of the state's economy was being ravaged by mortgage fraud - when it *really* mattered.

VI. Closing

What I have presented here are only some of the troubling issues at the Economic Crimes Division of the Attorney General's Office. I'll conclude with a few questions:

Why do Economic Crimes investigators continue to act as process servers, even though they don't have the credentials to do so, even though their mileage often costs more than the cost of a process server, even though if one has the proper credentials one cannot properly serve process if one is employed by a party to the matter, and even though their time serving subpoenas and such sucks time out of their schedule when they could be productive? I have told both Butler and Lawson this, but have been met with shrugs – even though we are investigating process servers.

Why did Featheringill tip off the opposing attorney in one of our lawsuits, just prior to our filing suit and moving for a preliminary injunction in order to freeze bank accounts?

No attorney should have to receive the types of emails I received in connection with opening the cases against Ferman, and to otherwise meet the resistance I and other attorneys have had to encounter here while trying to put a stop to fraud and shady business practices. No attorney should be settling cases on behalf of a public agency for private gain. Politics and power should be completely out of the equation.

I happen to revere legitimate, successful businesspeople, and my views on the foreclosure cases are diametrically opposed to those like June Clarkson who favor the idea of letting people out of their mortgage because of technical defects relating to enforcing them. I respected it - tremendously – when Attorney General Bondi initially did not want to negotiate for mortgage principal writedowns as part of the settlement of the servicer negotiations. That may or may not turn out to be the right policy to take. Perhaps time will tell. But the job of the Attorney General is not simply to yield to the popular against businesses – there are many factors to consider. There's justifiable anger these days at the top bankers who earned multi-million-dollar bonuses, but some of our biggest banks themselves are really hurting. Bank of America stock closed yesterday at less than $7 a share. In 2007, it was over $50 share. Regular working people with modest 401Ks and mutual funds own that stock, and have lost a lot of money on it.

But this is not about ideology, or politics - its about accountability, honesty, and efficacy in the management of an agency of our state government. While our office is largely self-funded, a fact which carries with it some perverse incentives I will refrain from elaborating on now, the people of the State of Florida will be footing the bill for nearly the entire cost of our pensions. The people of the State of Florida, those that do business with Florida companies in our increasingly global and interconnected environment, and honest businesspeople throughout our state and elsewhere deserve better.

Before joining the Attorney General's Office, I was private practice in Sarasota, with much of my practice dedicated to representing consumers.

When I applied and later accepted an offer to work here, I did so under the expectation that I would be aggressively fighting fraud and deceptive practices, helping ensure a better marketplace for consumers and honest businesses alike, but without the budgetary and cash flow concerns of a small law practice. My time here has been a disappointment in all of those regards. And the Division of Economic Crimes will continue to be a disappointed to dedicated consumer advocates and the people of this state until someone takes a stand that matters. Hopefully this stand will.

During my 10 years as a consumer attorney in private practice, and continuing since as a member of the Consumer Protection Law Committee, I have come to know many tireless consumer advocates – attorneys who don't know where their next dollar will come from, let alone have gold-plated defined-benefits pensions their taxes help pay for. Attorneys who by themselves file more lawsuits in a year than the more than two dozen attorneys in the Economic Crimes Division. Attorneys who don't have to worry about criticism and recrimination for doing nothing wrong than having a passion for their work. Attorneys who don't have to worry about their supervisors suggesting they propose meaningless

resolutions because a business that has been deceiving consumers has well-connected counsel. Attorneys who don't constantly have to worry about reprisals from their supervisor because they dare suggested the possibility of a lawsuit.

But whatever philosophical disagreements I may have with June Clarkson and Theresa Edwards,

what I do share with them

what I thought I shared with Richard Lawson when I first met him,

and sadly what Victoria Butler and William Feathingill do not share with me,

is the desire for a job not just that looks good on the surface, but which is actually a job well-done.

– the desire to do a job not just that looks good by the standard of some questionably-selected numbers – though of course many numbers are certainly meaningful – but a job that IS good.

a desire that should never yield to political influences - influences which now more than ever Americans of every political persuasion realize arise from money and power – but rather that should yield only to things like justice, the law, decency and common sense.

I've tried to deal with these issues within the Office of the Attorney General for some time now, but to no avail, but Pam Bondi can't be held responsible for the staff composition of Economic Crimes at the time she took over – it was the hand she was dealt. Running the Office of the Attorney General is a big job, and her administration is still new. After 7 ½ years in the Division of Economic Crimes, more than 10 years in private practice handling consumer protection litigation, and with a business degree from Wharton, I am far more qualified than the three defense attorneys that comprised the consumer protection component of the transition team to help make the Economic Crimes Division all it should be to protect the consumers and legitimate business in the State of Florida. I look forward to using those qualifications to continue to work within our office – and in service to Attorney General Bondi - to making the office better.