

AFFIDAVIT

I, Detective Sergeant John D. Lemont on oath, depose and say:

That I am a sworn member of the Rhode Island State Police and have been continuously employed in that capacity for the previous sixteen years. I am currently assigned to the Financial Crimes Unit of the Detective Division and as such am charged with the investigation of crimes committed in violation of Rhode Island General Law.

This affidavit pertains to the investigation of two \$75,000 insufficient funds checks issued in 2006 to the City of Providence by Attorney John Cicilline on behalf of his client Felix Nelson Garcia and the resulting removal of a tax lien from real property owned by Garcia.

Garcia is a Providence business owner who was delinquent on his tangible property taxes and retained Attorney John Cicilline to assist in the matter. As a direct result of the issuance of the first of these two checks on May 9, 2006, the City of Providence released a \$98,632.72 lien that existed on Garcia's real estate property. It was later determined that Attorney Cicilline's office account on which the check had been drawn had insufficient funds to cover the check. A subsequent replacement check issued by Attorney John Cicilline on November 2, 2006 in the amount of \$75,000 from the same account was also deemed to be insufficient. As of this date the tangible taxes at issue have not been paid by Attorney John Cicilline or his client, Felix Nelson Garcia. The City of Providence has not reinstated the lien against Garcia's business property. Subsequent to the removal of the tax lien, Garcia transferred the property at 559 Cranston Street from his business entity "Garcia Enterprises Inc." to himself as sole owner. Garcia then obtained financing on the property in the amount of \$484,250.00 from InterBay Funding, LLC on June 26, 2007.

Subjects Named in the Investigation:

Mayor David Cicilline – Mayor of the City of Providence

Attorney John Cicilline – Attorney for Felix Nelson Garcia and brother to Mayor David Cicilline

Felix Nelson Garcia – Business owner in the City of Providence

Robert Ceprano – Tax Collector for the City of Providence

Attorney Scott Hammer – Former outside counsel hired by the city for debt collection

Alexander Prignano – Former Finance Director for the City of Providence through October 2006

John Simmons – Former Director of Administration and Finance Director after October 2006

Rita Murphy – Deputy Chief of Staff for Mayor David Cicilline

Christopher Bizzacco – Former Chief of Staff for Mayor David Cicilline

Matthew Clarkin - Deputy Tax Collector for the City of Providence

Andy Andujar – Mayoral Aide to Mayor David Cicilline

Summary

Felix Nelson Garcia is a property and business owner in the City of Providence (Garcia Enterprises Inc., 559 Cranston Street, Providence RI, further described as Lot 449 on Assessor's Plat 42). As the result of owning a business, Garcia incurs tangible taxes on business equipment and furnishings, which are assessed annually.

Attorney Scott Hammer is a Rhode Island attorney who, during the time period in question, represented Robert Ceprano in his capacity as Tax Collector for the City of Providence. Attorney Hammer filed a lawsuit in Providence County Superior Court on July 13, 2004, for non-payment of tangible taxes by Felix Garcia for the years 1998 through 2004. As a result of this suit a judgment was obtained on August 30, 2005 and a lien was placed on Garcia's real property at 559 Cranston Street. By May 9, 2006 Garcia's overdue tax bill had grown to the amount of \$98,632.72 including interest.

On May 9, 2006 Attorney John Cicilline issued a check in the amount of \$75,000 made payable to the City of Providence on behalf of his client, Providence business owner Felix Nelson Garcia. This check was written from the office account of John M. Cicilline, Esq., located at 387 Atwells Avenue in Providence, RI. The purpose of this check was to act as "collateral" in order to induce the City of Providence to release the outstanding lien on Garcia's property. According to Attorney Cicilline, Garcia did not have enough money to pay the back taxes, but was willing to refinance the property and pay the taxes from the proceeds of the refinancing. Cicilline told Tax Collector Robert Ceprano that the lien needed to be removed in order for Garcia to obtain this financing. The total dollar amount of the check (\$75,000) was to be a settlement in full for all of Garcia's outstanding taxes. Once the lien was removed, Garcia was to obtain refinancing on the property and use that money, in part, to pay Attorney Cicilline. The check was to be held by the city for an indefinite period of time and to be cashed once Garcia had obtained financing and paid Attorney Cicilline.

This (verbal) tax settlement agreement was proposed by Attorney Cicilline and accepted by Tax Collector Ceprano, but only after conferring with outside counsel, Attorney Scott Hammer. Hammer thought it was unorthodox for John Cicilline to risk his own money, but stated that he had no reason to doubt Cicilline, who at the time was a member of the Rhode Island Bar in good standing and a prominent defense attorney. Attorney Hammer recalled that during a conference call, Attorney Cicilline identified Garcia as "a friend." Attorney Hammer believed that Attorney Cicilline would not risk facing disciplinary action or risk embarrassing Mayor Cicilline by issuing a bad check. Attorney Hammer released the lien on Garcia's property on May 9, 2006. In furtherance of this agreement, Attorney Cicilline provided a loan "conditional pre-approval" letter issued by Bayview Financial and signed by Felix Nelson Garcia in or about June of 2006.

After a period of time, Attorney Hammer became concerned when Attorney Cicilline could not be reached to determine if Garcia had obtained financing (and if the check could be cashed). Attorney Hammer, after attempting to contact John Cicilline and becoming frustrated by a lack of response, contacted Fleet Bank and learned that there were insufficient funds in John Cicilline's account to cover the check. Attorney Hammer notified Ceprano of the situation but never deposited the check.

Between June and October of 2006 a series of telephone calls, e-mails, and conversations took place between Attorney Hammer, Tax Collector Ceprano, Finance Director Alex Prignano, Deputy Chief of Staff Rita Murphy, Director of Administration John Simmons, Chief of Staff Chris Bizzacco, and others at city hall.

Although he stated that he was not part of the initial decision to accept Attorney Cicilline's check, Finance Director Alex Prignano agreed that the transaction was acceptable to him at the time and he did not fault Ceprano in any way. Prignano stated that Ceprano was well within his authority to negotiate and accept a settlement on back taxes. Prignano further stated that he would not have questioned a check written by Attorney John Cicilline.

Finance Director Prignano stated that he specifically recalled two individual meetings when members of the mayor's staff were made aware of the fact that the check could not be cashed due to insufficient funds. Prignano stated that Ceprano first brought the issue to his attention sometime in June of 2006 and that he immediately took Ceprano to meet with Deputy Chief of Staff Rita Murphy and Chris Bizzacco, then Chief of Staff for Mayor Cicilline. Prignano specifically recalled telling Bizzacco and Murphy that if the issue was not resolved the mayor could be embarrassed, particularly if the newspaper were to report the story. Prignano stated that he was assured in the meeting that Murphy would contact John Cicilline and resolve the situation.

Between June and October of 2006, Tax Collector Robert Ceprano reportedly made numerous attempts to collect the outstanding \$75,000. Ceprano stated that over the course of time, in addition to phone calls, he approached Attorney John Cicilline in person on at least two occasions and told him that this could lead to an embarrassing situation for the Mayor. Each time, Attorney Cicilline told Ceprano that Garcia was having problems obtaining financing or could not be reached. Ceprano also had several conversations with Rita Murphy who continued to "stall" the deposit of the check.

On or about August 16, 2006, Ceprano received an e-mail from Attorney Hammer stating that he planned to deposit the check. Hammer believed that if the check were deposited and returned marked insufficient funds, it would force Attorney John Cicilline to resolve the outstanding debt. Ceprano told your affiant that he went to Deputy Director of Administration Rita Murphy and advised her of Hammer's plan. Murphy told Ceprano not to cash the check and to hold it indefinitely. On August 21, 2006 Ceprano reduced this instruction to an e-mail and copied Hammer, Bizzacco, Murphy and Simmons. Ceprano thought this was an inappropriate decision, however he (Ceprano) did not wish to appear insubordinate. Ceprano considered any instruction from Murphy to be a directive from a supervisor. Ceprano stated that from this point forward the decisions regarding the \$75,000 check from Cicilline and how to resolve the situation were being made by members of the mayor's staff. Ceprano told your affiant, "at this point, someone else was making the call."

Murphy, in a recent meeting with your affiant, stated that former Chief of Staff Chris Bizzacco was giving her instructions regarding this particular situation. Murphy stated that Bizzacco told her "on at least three occasions" to afford Garcia more time to resolve the financing. Murphy admitted to passing this instruction along to Ceprano. Murphy also stated that she personally called John Cicilline in an attempt to collect the debt or otherwise resolve the issue. Former Chief of Staff Chris Bizzacco later confirmed telling Murphy not to deposit the Cicilline check.

Your affiant spoke with city employee Andy Andujar who is a mayoral aide to Mayor Cicilline. Andujar stated that he is friendly with Felix Garcia's brother, Miguel. When Felix Garcia approached Andujar regarding unpaid taxes, he was the one who initially put Garcia in touch with Rita Murphy. Andujar had a limited number of conversations regarding the tax issue but recalled on one occasion being asked by Murphy to contact Garcia and obtain a check for the payment of back taxes. Andujar stated that Garcia told him that he didn't have the money, information which Andujar relayed back to Murphy. Andujar stated that he did not assist Garcia in any way other than putting him in contact with the appropriate person who might assist in resolving Garcia's tax matter, that being Rita Murphy who was responsible for the Office of Neighborhood Services at the time.

Between May and October of 2006, Attorney Hammer maintained contact with Ceprano and grew concerned over the John Cicilline \$75,000 check dated May 9, 2006. Under Title 6A of the Uniform Commercial Code §6A-4-404, a bank is under no obligation to cash a check more than six months after its date of issue. Attorney Hammer was becoming concerned that the six month time line would elapse and the city may lose any right to cash the check.

Finance Director Prignano recalled a second meeting on or about October 1, 2006 to discuss the issue. Prignano stated that he had planned to retire on October 13th and was in the transition process when this second meeting took place. On or about October 1st, Prignano met with his successor, Director of Administration John Simmons, who was to assume the additional role of Finance Director. According to Prignano, Simmons, Tax Collector Robert Ceprano, and Deputy Tax Collector Matthew Clarkin were all present at this second meeting. Prignano stated that he urged Simmons to resolve the issue in order to avoid any embarrassment to the Mayor. Prignano stated that this issue might have been mentioned as one of a number of separate outstanding issues which he raised to prepare Simmons for the transition as incoming Finance Director.

Former Chief of Staff Chris Bizzacco provided a formal statement to your affiant that he recalled John Simmons approaching him to discuss the matter on one particular occasion. Bizzacco believes this conversation took place during the transition period when John Simmons was preparing to take over as Finance Director (October of 2006). Bizzacco stated that he specifically recalled bringing Simmons directly into Mayor David Cicilline's office to discuss the matter. Bizzacco stated that he presented the mayor with the circumstances of the insufficient funds check; however, he denies that Mayor Cicilline gave him any specific direction in the matter other than "see what you can do to resolve it."

Former Director of Administration John Simmons told your affiant that he never spoke to the mayor about the issue. Simmons also told your affiant that he specifically instructed Ceprano to cash the check, a statement that Ceprano directly denies. Simmons further stated that he was unaware of any instruction by either Murphy or Bizzacco to Ceprano not to cash John Cicilline's check.

On October 31, 2006, Attorney Cicilline agreed to provide a replacement check in the amount of \$75,000 and enter into a new agreement. Attorney Cicilline issued a second check in the amount of \$75,000 on November 2, 2006. Unlike the first verbal agreement, this agreement was reduced to writing by Attorney Hammer on behalf of the City. The agreement included stipulations that the replacement check would be held for a period of 60 days and then cashed without further notice and a lien in the amount of \$111,805.42 would be reinstated against 559 Cranston Street (not to be discharged until all taxes were paid in full). Ceprano forwarded copies of an e-mail outlining this agreement to Hammer, Clarkin, Simmons, Murphy, and Bizzacco on October 31, 2006. Ceprano also confirmed that each recipient had received and opened the e-mail by printing e-mail tracking reports.

Chief of Staff Chris Bizzacco recalled obtaining a second check from Attorney John Cicilline and also recalled having to meet with Cicilline again, sometime later, to have him sign the formal agreement. Atty. Cicilline's second check was dated November 2, 2006 and the formal agreement was signed by John Cicilline on December 1, 2006.

At some undetermined point in time after November 2, 2006, Attorney Hammer came into possession of the second Cicilline check and again contacted Fleet Bank, but was told that there was not enough money in the account to cover the second check. The check was never deposited. Attorney Hammer retained the two original checks and turned them over to your affiant on September 26, 2008 along with his entire file relating to Felix Nelson Garcia and the City of Providence.

Ceprano let the matter drop after numerous conversations and after being continually stalled by excuses from Attorney Cicilline, Bizzacco and Murphy. Ceprano printed e-mails and placed all correspondence, including the signed agreement, in a file which he secured in his office. Ceprano did not return the signed agreement between John Cicilline and the city to Attorney Hammer. Your affiant is currently in possession of this file.

Attorney Hammer stated that he made several more inquiries about the payment, however he felt uncomfortable pushing the issue due to the relationship of Attorney John Cicilline to the Mayor. Further, Hammer did not want to do any additional work on the file because he had not been paid for any of the work he had done to date. Hammer is paid only if the debt is collected, and would have been paid approximately \$15,000 had the check been cashed. Attorney Hammer simply took the situation as "a lesson learned." Hammer stated that he never received a copy of the signed agreement between John Cicilline and the city dated December 1, 2006. The lien was never reinstated.

Records show that Garcia on 5/10/2007 transferred the property at 559 Cranston Street by quit claim deed from his business entity "Garcia Enterprises Inc." to himself as sole owner. Garcia then obtained financing on the property in the amount of \$484,250.00 from InterBay Funding, LLC on the same date. InterBay Funding, LLC is a subsidiary of Bayview Financial, LP. On June 26, 2007, InterBay Funding, LLC assigned the mortgage to Bayview Loan Servicing, LLC.

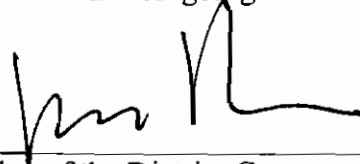
Based upon the above information your affiant requests a search warrant be issued to Bayview Financial Holdings, LP as the corporate headquarters of InterBay Funding, LLC and Bayview Loan Servicing, LLC in order to obtain the loan application package of Felix Nelson Garcia, DOB: 5/2/1965, supporting the loan "conditional pre-approval" letter issued in or about June of 2006 or any other loan or loan application information relating to Felix Nelson Garcia or 557-559 Cranston Street in Providence, RI submitted to Bayview Financial Holdings, LP or Bayview Loan Servicing, LLC, or InterBay Funding, LLC, whose corporate headquarters are located at 4425 Ponce de Leon Blvd. 4th Floor, Coral Gables, FL 33146 from the time period of June 1, 2005 through December 31, 2007 in furtherance of an investigation of providing false statements to obtain a loan under RIGL §11-18-6.



John Lemont
Sergeant
Rhode Island State Police
Financial Crimes Unit

In Providence this 5th day of December, 2008 before me personally came

Detective Sergeant John Lemont and made oath to the truth of the foregoing.



~~Judge of the District Court~~
~~Justice of the Supreme/Superior Court~~


Handwritten notes:
DPP 2110
12/5/08

AFFIDAVIT

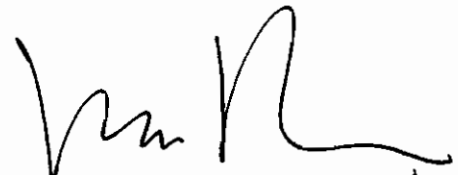
Your affiant upon oath states that he has reason to believe and does believe that grounds for such warrant exist and states the following facts on which such belief is founded on the following affidavit.

See attached affidavit of Detective Sergeant John D. Lemont of the Rhode Island State Police

12-5-08
Date


Affiant

Providence Sc.. In Providence this 5th day of December, 2008, before me personally came Sgt. John D. Lemont of the Rhode Island State Police and made oath to the truth of the foregoing.


Judge of the District Court
Justice of the Supreme/Superior Court

Search Warrant

State Ex rel	Member of the Rhode Island State Police	County: Providence
vs. Respondent Keeper of Records, Bayview Financial Holdings, LP or Bayview Loan Servicing, LLC, or InterBay Funding, LLC, at 4425 Ponce de Leon Blvd. 4th Floor, Coral Gables, FL 33146		TO: An Officer authorized by law to execute the within warrant, _____

Complaint and affidavit having been made to me under oath, **Sergeant John D. Lemont** and as I am satisfied that there is probable cause for the belief therein set forth that grounds for issuing a search warrant exist, you are hereby commanded diligently to search the place or person herein described for the property specified and to bring such property or articles, and to summon the owner, or keeper thereof, if any be named in the complaint, if to be found by you, to appear before the District Court in the district where such property shall have been seized, namely the 6th Division of the District Court of Rhode Island.

Place or person to be searched: **Keeper of Records, Bayview Financial Holdings, LP or Bayview Loan Servicing, LLC, or InterBay Funding, LLC, at 4425 Ponce de Leon Blvd. 4th Floor, Coral Gables, FL 33146**

Property or articles to be searched for: **loan application package of Felix Nelson Garcia, DOB: 5/2/1965, supporting the loan "conditional pre-approval" letter issued in or about June of 2006 or any other loan or loan application information relating to Felix Nelson Garcia or 557-559 Cranston Street in Providence, RI submitted to Bayview Financial Holdings, LP or Bayview Loan Servicing, LLC, or InterBay Funding, LLC**

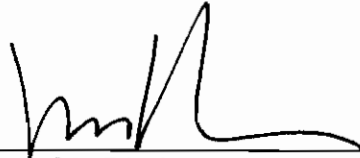
Name of owner, or keeper, thereof if known to complainant: **Keeper of Records, Bayview Financial Holdings, LP or Bayview Loan Servicing, LLC, or InterBay Funding, LLC, at 4425 Ponce de Leon Blvd. 4th Floor, Coral Gables, FL 33146**

Said warrant shall be served in the daytime -- may be served in the nighttime -- within seven (7) days from the issuance hereof, AND IF NOT SERVED WITHIN SAID TIME TO BE RETURNED FORTHWITH TO A JUDGE SITTING IN THE ABOVE NAMED COURT.

Property seized by you hereunder shall be safely kept by you under the direction of the Court so long as may be necessary for the purpose of being used as evidence in any case. As soon as may be thereafter, if the same be subject to forfeiture, such further proceedings shall be had thereon for forfeiture as is prescribed by law.

Hereof fail not and MAKE TRUE RETURN PROMPTLY OF THIS WARRANT TO A JUDGE THERE SITTING with your doings thereon, accompanied by a written inventory of any property taken to a judge sitting in the above named court.

Issued at Providence in the county of Providence this 5th day of December, A.D. 2008



 Judge of the District Court
Providence

State of Rhode Island and Providence Plantations Complaint to Search and Seize Property / or Person

TO JOSEPH P. IPPOLITO Justice of the ~~Supreme~~ Superior Court, or Judge of the District Court of the State of Rhode Island.

- a) Sergeant John D. Lemont, Member of the Division of State Police.
- b) _____ a person authorized by law to bring complaints for violation of the law which it is my responsibility to enforce/a person who has a right to possession of the property stolen, embezzled, or obtained by false pretense or pretenses:

ON OATH COMPLAINS THAT:

- (1) Certain property has been stolen or embezzled, or obtained by false pretenses, or pretenses, with intent to cheat or defraud within this state or elsewhere.
- (2) Certain property has been kept, suffered to be kept, concealed, deposited, or possessed in violation of law, or for the purpose of violating the law;
- (3) Certain property is designed or intended for use, or is or has been used in violation of law, or as a means of committing a violation of law;

and prays that a warrant to search for and seize said property/person be issued and if the same be subject to forfeiture, that the property be forfeited.

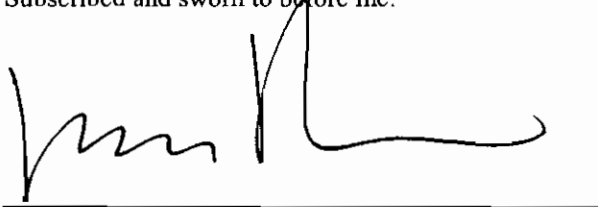
The person/property or articles to be searched for and/or seized is described as follows:

loan application package of Felix Nelson Garcia, DOB: 5/2/1965, supporting the loan "conditional pre-approval" letter issued in or about June of 2006 or any other loan or loan application information relating to Felix Nelson Garcia or 557-559 Cranston Street in Providence, RI submitted to Bayview Financial Holdings, LP or Bayview Loan Servicing, LLC, or InterBay Funding, LLC,

The name of the owner or keeper, thereof (if known) is: _____ Keeper of Records, Bayview Financial Holdings, LP or Bayview Loan Servicing, LLC, or InterBay Funding, LLC, at 4425 Ponce de Leon Blvd. 4th Floor, Coral Gables, FL 33146

The place or person to be searched is described as follows: _____ Keeper of Records, Bayview Financial Holdings, LP or Bayview Loan Servicing, LLC, or InterBay Funding, LLC, at 4425 Ponce de Leon Blvd. 4th Floor, Coral Gables, FL 33146

Subscribed and sworn to before me:



Judge/Justice

IPPOLITO JM
12/5/08

12-5-08

Date



Complainant

LISA
SERVED

Court - Sixth Division
Dorrance Plaza
Providence, Rhode Island 02903
(401) 458-5400

2009 DEC -8 AM 9:51
CLERK

IN SO,
CLERK

CASE NO. 6

RECEIPT FOR SEARCH WARRANT

DATE: 12-8-08

MOVED FROM:
(PLEASE CHECK ONE)

POLICE DEPT. (_____)
LIST OFFICER'S NAME
 RHODE ISLAND STATE POLICE John Lemant LIST TROOPER'S NAME

OTHER AGENCY/DEPT. (_____)
LIST AGENCY/NAME OF AGENT

SEARCH WARRANT RE:

KEEPER OF RECORDS alias John/Jane Doe
Bayview financial holdings, LP
OR Bayview Loan Servicing, LLC
OR INTER BAY funding, LLC At
4425 Ponce de Leon Blvd 4th floor
CORAL GABLES, FL 33146
ALSO SUMMONED

(IF APPLICABLE)

Denise J. Pagharini
CLERK

ACKNOWLEDGMENT OF RETURN

Warrant received on the 8th day of DEC 08, from Jordan with District

Devin F. Pagliarini
Judge
Clerk

RETURN OF SERVICE

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

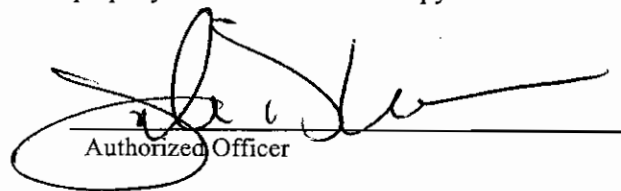
_____, SC.

At 155 S. MAIN STREET PROVIDENCE (place), 12 8 (date) A.D. 2009, pursuant to the within warrant I have made search during the -- daytime -- as commanded and submit herewith a written inventory of property taken :

RECORDS RETURN PENDING

I have also summoned _____ named in said Complaint, as commanded to appear before the Division of the District Court in _____ at 9:30 o'clock in the forenoon, on _____ A.D. _____.

CTCORP
I have also given to _____ the person from whom -- from whose premises said property was taken -- a copy of the within warrant -- I have left a copy of the within warrant at -- on the place from which said property was taken -- but I did not find the person from whose premises said property was taken but left a copy of said warrant -- on the place from which the property was taken.



Authorized Officer