

[Feds Slam Bid To Nix Charges In Ohio Corruption Case](#)

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Author: Dietrich Knauth

Summary

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Michael Gabor, alleged co-conspirator in the corrupt activities of Cuyahoga County Commissioner Jimmy Dimora, was indicted in September 2010, as one of several defendants in the sweeping bribery scandal that implicated several Ohio politicians and judges.

The latest indictment, unsealed in March, says that Gabor gave former Cuyahoga County Auditor Frank Russo - who was sentenced to 22 years in prison in December - around \$5,000 for helping Gabor secure employment in the auditor's office, and forking over \$10,000 to an intermediary to bribe the judge in Gabor's divorce case. He is also accused of aiding and abetting commerce by extortion.

Gabor filed two motions to dismiss last week, with one motion targeting the honest service fraud charges and another taking aim at the racketeering charge.

Gabor argued that the honest services fraud allegations actually alleged employee election fraud and conspiracy to commit election fraud, a claim that the Sixth Circuit has held is not covered under the statutory definition of honest services fraud.

Additionally, Gabor said, the allegations didn't fall within the "core bribery or kickback scheme definitions" laid out in the U.S. Supreme Court's 2010 ruling in *Skilling*. The government attacked that claim Wednesday, saying that the indictment explicitly alleged bribery and kickbacks, while *Skilling* only prohibited charges of "undisclosed self-dealing."

In his motion to dismiss charges under the Racketeer Influenced and Corrupt Organizations Act, Gabor argued that the indictment did not establish enough links between the alleged misconduct to establish a conspiracy.

"While the indictment sweepingly includes virtually every corrupt act occurring in Cuyahoga County by any public official, or others, over a 10-year period, such sweeping allegations fail to demonstrate a connected enterprise," the motion said.

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The RICO charges also must fail, Gabor argued, because they didn't show violation of a RICO predicate statute, despite allegations that Gabor was involved in job buying and judicial corruption. Because the allegations are unrelated to mail or wire transactions, neither mail fraud nor honest services mail fraud statutes could form the statutory basis for imposing RICO liability, according to Gabor.

Attempts to pin the RICO violations to state law bribery must also fail because "Ohio state law does not outlaw conspiracy to commit bribery," according to the motion.

Prosecutors said in court filings Thursday that the indictment had adequately established a pattern of misconduct to support conspiracy claims, and that the RICO charges were well-supported.

Although the U.S. must show that Gabor conspired to commit at least two racketeering acts, it must not prove that Gabor committed an overt racketeering violation at this stage, prosecutors said.

"Gabor ignores the legal principle, accepted by every circuit which has addressed the issue, that a RICO conspiracy indictment need not allege specific racketeering acts," prosecutors said.

Dimora and Gabor and were indicted in a long-running corruption probe that led to a conviction and 14-month sentence for Court of Common Pleas Judge Bridget M. McCafferty.

Two other defendants entered plea agreements for bribing the public officials in exchange for contracts in July. Reliance Mechanical LLC President William Neiheister was sentenced to 37 months in prison, and Robert Rybak, the business manager for a plumbing and pipe-fitting union, was sentenced to 27 months in prison.

The bulk of the indictment focuses on Dimora, leveling dozens of counts against the embattled commissioner for allegedly pocketing kickbacks, including a trip to Las Vegas, home improvements and thousands of dollars in cash, in exchange for securing valuable county contracts.

Dimora pled not guilty on Sept. 15, 2010.

Gabor is represented by Leif B. Christman Law Offices.

The case is United States of America v. Dimora et al., case number 1:10-cr-00387, in the U.S. District Court for the Northern District of Ohio.

--Additional reporting by Sam Howard. Editing by Andrew Park.