

United States Department of Justice

For Immediate Release

June 3, 2010 United States Attorney's Office

District of Nevada

Las Vegas Lawyer Sentenced for Obstruction of Justice

LAS VEGAS—Local lawyer Noel Gage was sentenced today by Senior U.S. District Judge Justin L. Quackenbush to three years probation, 90 days of home confinement, and ordered to pay a \$25,000 fine, following his guilty plea to felony obstruction of justice charges, announced Daniel G. Bogden, United States Attorney for the District of Nevada. Gage must also pay \$702,600 to former client Melodie Simon.

Gage, 72, pleaded guilty on February 23, 2010, to one count of obstruction of justice. According to the plea agreement, the government maintained that it would prove at trial that a federal Grand Jury issued a subpoena to Gage's law firm in September 2006 for documents relating to any agreements or fee arrangements between Gage and Howard Awand in connection with a particular case. Today, the Court found that Gage intentionally obstructed justice by not disclosing documents called for by the subpoena.

Gage and Awand were originally charged with conspiracy and fraud in 2007 and accused of being part of a network of Las Vegas physicians and lawyers who allegedly defrauded clients by protecting doctors from malpractice lawsuits and sharing kickbacks from legal settlements. Gage was also charged with one count of obstruction of justice for allegedly concealing documents from the grand jury investigating the case. In March 2009, Dr. Mark Kabins was also charged with fraud and conspiracy for his alleged role in the scheme.

Consistent with the plea agreement, the Court today dismissed the conspiracy and fraud counts against Gage, and Gage is required to return to Melodie Simon his attorney's fees in the amount of \$702,600. The plea agreement allowed Gage to plead guilty under a provision of law that allowed him to maintain his innocence while simultaneously pleading guilty to obstruction of justice. The so-called Alford plea is named after the 1970 United States Supreme Court decision of *North Carolina v. Alford*, which allows a defendant to enter a plea of guilty, and to be found guilty, while maintaining innocence to a criminal charge.

Mark Kabins M.D. pleaded guilty on November 23, 2009, to one count of misprision of felony, and was sentenced on January 14, 2010, to five years of probation, six months of home confinement, 250 hours of community work service, and ordered to pay \$3.5 million in restitution.

Howard Awand pleaded guilty on March 8, 2010, to misprision of a felony, and is scheduled for sentencing on June 25, 2010, at 9:00 a.m. The case was investigated by the FBI, IRS Criminal Investigation, and the Nevada Attorney General's Office, and prosecuted by Assistant United States Attorneys Steven W. Myhre and Daniel R. Schiess.