

State V. Snell & Wilmer
P0022015000615

Snell & Wilmer
P0022015000615

Agent: Dan Woods
Agency: AGO/SIS
DR#

X
Alpha
Conf



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
CRIMINAL DIVISION

January 8, 2016

William Graven
[REDACTED]
[REDACTED]

**RE: Outside Counsel Investigation
P0022015000615**

Dear Mr. William Graven,

This is to inform you that the State will decline prosecution in the above-referenced case.

After all of the information available was carefully considered, the Assistant Attorney General determined that the filing of a felony charge was not appropriate. The State must be able to prove all elements of a crime beyond a reasonable doubt. If it is unable to do so, there is no reasonable likelihood of conviction at trial. For this reason the Assistant Attorney General is declining prosecution at this time.

You have the right pursuant to A.R.S. § 13-4408(B) to confer with the Assistant Attorney General before this decision becomes final. If you wish to exercise your right to confer with the prosecutor, you should contact Joseph W. Waters at [REDACTED] [REDACTED]. If I do not hear from you within fourteen (14) days, the decision not to proceed will be considered final.

If you have any other questions, or if there is anything else we can do for you, please call our office at (602) 542-3881, between 8:00 a.m. and 5:00 p.m., Monday through Friday.

Sincerely,

Joseph W. Waters
Assistant Attorney General
Fraud and Special Prosecutions Section

Cc: Victim Services

#4848913

AZ ATTY GENERAL

TURNDOWN/DECLINE Further/Follow-up Request
 POST-FILING Further/Follow-up Request

Attorney Assigned: Joseph W. Waters Phone No.: [REDACTED]

Case Agent: Dan Woods Agency: AGO/SIS

Agency Address: 1275 W. Washington St., Phoenix, AZ 85007

Departmental Report #: P2015-0615 LF# or CRP#: P0022015000615

Defendants/Suspects: SNELL & WILMER, LLP., DANIEL V. ESPOSITO, WILLIAM A. KASTIN, MARK D. OHRE, JAMES SIENICKI

Charges: FRAUD - FRAUDULENT SCHEMES

(REQUIRED)

Reasons for: **TURNDOWN:** **FURTHER:**

Code# 6113

(See Code #'s on Reverse)

VICTIMS' RIGHTS COMPLIANCE: YES NO NOT A VICTIM CASE

Additional Comments:

PROPERTY RELEASE (REQUIRED)

DO NOT RELEASE **RELEASE ALL PROPERTY** RELEASE ALL PROPERTY,

EXCEPT: _____

PROPERTY RELEASE DATE: _____

BY: _____

Section Chief/Date

Attorney Signature/Date
Donald E. Conrad
Division Chief/Date 1/8/16

NO CASE CLOSE-OUT IS NECESSARY
(Copy to yellow paper)

Closed in LF by: Arthur Acuña

DATE: 1/08/2016

TURNDOWN AND FURTHER CODES

TURNDOWNS:

a.	Alibi	(6111)
b.	Analysis Negative	
	Fingerprint.....(6127) Handwriting.....(6125) Laboratory.....	(6126)
c.	Civil Matter not Criminal.....	(6107)
d.	Defendant:	
	Is a Juvenile	(6108)
	Sentenced in Other Case No Need to Prosecute This Matter	(6102)
e.	Double Jeopardy Would Result	(6128)
f.	Illegal Search and Seizure.....	(6129)
g.	Inadequate Evidence of:	
	Corpus..... (6147) Corroboration	(6148)
	Dominion/Control..... (6150) Fraudulent Prescription	(6153)
	Identification..... (6149) Intent.....	(6151)
		Participation
		(6152)
h.	Inadmissibility of:	
	Confession	(6131)
	Identification.....	(6132)
i.	Informant Problems	(6119)
j.	Intoxication	(6112)
k.	Limited Resources/Offense Does Not Warrant Prosecution	(6101)
l.	Mens rea.....	(6110)
m.	No Crime Committed.....	(6114)
n.	NO REASONABLE LIKELIHOOD OF CONVICTION	(6113)
o.	Old Case/Stale	(6157)
p.	Refer to Parole/Probation Officer for Consideration	(6103)
q.	Search Warrant/Affidavit Defective	(6130)
r.	Self Defense/Mutual Combat.....	(6109)
s.	This Case Should Be:	
	Submitted to City Prosecuting Agency.....	(6104)
	Referred to Other Criminal Prosecuting Agency.....	(6105)
	Referred to County Attorney due to lack of jurisdiction (ARS § 21-422)	(6159)
	Used as an Aid to Prosecution in Other Case(s).....	(6106)
	U.S. v. Bruton.....	(6120)
	Declined Per Plea Agreement.....	(6162)
t.	Victim/Witness:	
	Credibility Problems.....	(6117)
	Reluctance/Refusal to Prosecute.....	(6116)
	Unavailable.....	(6118)
u.	Referred to Diversion Program	(6160)
v.	Does Not Meet Criteria for Prosecution	(6161)
w.	Agency Requests Case Not to be Filed	(6163)
x.	No False Statement	(6164)
y.	No Response to RFI.....	(6165)

FURTHER INVESTIGATION:

a.	Confirm Willingness to Prosecute	(6139)
b.	Department Report Incomplete.....	(6156)
c.	Departmental Report Needs Clarification.....	(6155)
d.	Interview Suspect.....	(6158)
e.	Locate and Interview Victim/Witness.....	(6136)
f.	No:	
	Fingerprint Analysis..... (6123) Handwriting Analysis.....	(6121)
	Lab Analysis..... (6122) Photo Line-up	(6124)
g.	Obtain:	
	Court Records..... (6142) Positive ID of Property.....	(6138)
	Relevant Bank Records..... (6141) Relevant ID of Property.....	(6138)
	Relevant MVD Records..... (6133) Relevant Records (not identified above.).....	(6145)
h.	Submit:	
	Alcohol/DRE Influence Report..... (6135) Copy of Order of Protection.....	(6146)

1010658
AZ ATTY GENERAL

TURNDOWN/DECLINE Further/Follow-up Request
 POST-FILING Further/Follow-up Request

Attorney Assigned: Joseph W. Waters Phone No.: [REDACTED]

Case Agent: Dan Woods Agency: AGO/SIS

Agency Address: 1275 W. Washington St., Phoenix, AZ 85007

Departmental Report #: P2015-0615 LF# or CRP#: P0022015000615

Defendants/Suspects: SNELL & WILMER, LLP., DANIEL V. ESPOSITO, WILLIAM A. KASTIN, MARK D. OHRE, JAMES SIENICKI

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(REQUIRED)

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Additional Comments:

PROPERTY RELEASE (REQUIRED)

DO NOT RELEASE **RELEASE ALL PROPERTY** RELEASE ALL PROPERTY,

EXCEPT: _____

PROPERTY RELEASE DATE:

1-8-16

BY:

Joseph Waters 1-8-16
Attorney Signature/Date

Section Chief/Date

Donald E. Conrad
Division Chief/Date

NO CASE CLOSE-OUT IS NECESSARY

(Copy to yellow paper)

Closed in LF by: Arthur Acuña

DATE: 1/08/2016

CASE OPENING SHEET

Legal Files Number: P0022015000615 GJ# CR#
ASSIGNED SECTION CODE: FSP DATE CASE RECD.: 04/28/2015

LIST ALL SUSPECTS NAMES, BUSINESS (including full name, aka, dba, etc.)

Snell & Wilmer, LLP
Esposito, Daniel V (Dan) Esq.
Kastin, William A.
Ohre, Mark D.
Sienicki, James

CHARGES: Fraud

SPECIFIC FACTUAL ALLEGATIONS (including suspected offenses and dates)

Between 12/14/2005 and 3/28/2006, Snell & Wilmer Attorneys Jim Sienicki, Mark Ohre, And Bill Kastin conspired with 9.9% owner of Arizona Building Systems, Inc. (ABS), Deborah Dubree; and ABS General Counsel Daniel Esposito, to modify the ABS shareholders' agreement to give Deborah Dubree and Daniel Esposito control over ABS. Jim Sienicki, Mark Ohre, Bill Kastin, Deborah Dubree, and Daniel Esposito, concealed the modifications from Snell & Wilmer client and 90.1% owner of ABS, Will Graven.

Between 6/13/11 and 2/21/13 Snell & Wilmer attorneys continued to conceal the above-described activity by misleading Will Graven and the court during a civil lawsuit and failing to preserve severall emails and documents.

STATUTE OF LIMITATION RUNS? 2018

ESTIMATED LOSS: Unknown ESTIMATED ASSET RECOVERY: Unknown

ESTIMATED NUMBER OF VICTIMS: 1

ASSIGNED INVESTIGATOR: Special Agent Dan Woods

AGENCY: AGO/SIS DR #P2015-0615

DATE CHARGES FILED: _____ NEXT COURT DATE:

APPROVED: _____ DATE _____

(Section Chief)

APPROVED: _____ DATE 5/6/15

(Division Chief)

ASSIGNED TO: Joseph Waters AAG INITIALS _____ DATE _____

Conflict Check Done by: g. Martinez DATE: 4/29/15

If the Office of the Attorney General is to conduct any investigation in this case, the Case Opening Sheet must be approved by the Criminal Division Chief Counsel before any investigation is conducted.

CASE TYPE
(for Statistical Tracking)

- | | | |
|--|--------------|---|
| <input type="checkbox"/> (AHCCCS) Code: | Description: | <input type="checkbox"/> Human Smuggling |
| <input type="checkbox"/> Abuse Code: | Description: | <input type="checkbox"/> Investigation - Information Only |
| <input type="checkbox"/> Administrative | | <input type="checkbox"/> Juvenile Description: |
| <input type="checkbox"/> Amicus Curiae | | <input type="checkbox"/> Larceny |
| <input type="checkbox"/> Assault | Description: | <input type="checkbox"/> Maricopa HIDTA/Provisional HIDTA |
| <input type="checkbox"/> Bribery | Description: | <input type="checkbox"/> Misappropriation of Public Money |
| <input type="checkbox"/> Burglary | | <input type="checkbox"/> Misconduct Description: |
| <input type="checkbox"/> Computer Forensics | | <input type="checkbox"/> Money Laundering |
| <input type="checkbox"/> Conflict of Interest | | <input type="checkbox"/> Money Transmitters |
| <input type="checkbox"/> Consumer Fraud | Description: | <input type="checkbox"/> Murder Description: |
| <input type="checkbox"/> Criminal Enterprise | | <input type="checkbox"/> Negligent Homicide |
| <input type="checkbox"/> Destruction of Public Records | | <input type="checkbox"/> Nepotism |
| <input type="checkbox"/> Disorderly Conduct | | <input type="checkbox"/> Obstruction of Justice |
| <input type="checkbox"/> Drugs | Description: | <input type="checkbox"/> Open Meeting Law Violation |
| <input type="checkbox"/> Embezzlement | | <input type="checkbox"/> Post Conviction Relief |
| <input type="checkbox"/> Environmental Crime | Description: | <input type="checkbox"/> Public Corruption |
| <input type="checkbox"/> Financial Exploitation | | <input type="checkbox"/> Racketeering-Financial Gain |
| <input type="checkbox"/> Foreign Prosecution | Description: | <input type="checkbox"/> Robbery Description: |
| <input type="checkbox"/> Forfeiture | | <input type="checkbox"/> Sexual Conduct-Minor |
| <input checked="" type="checkbox"/> Fraud | Description: | <input type="checkbox"/> Sexually Violent Predator |
| <input type="checkbox"/> Gambling | | <input type="checkbox"/> Special Action |
| <input type="checkbox"/> Gang | Description: | <input type="checkbox"/> Technology Crimes Description: |
| <input type="checkbox"/> Habeas Corpus | | <input type="checkbox"/> Telemarketing |
| <input type="checkbox"/> Harassment | | <input type="checkbox"/> Terrorism |
| <input type="checkbox"/> Hate Crimes | | <input type="checkbox"/> Theft Description: |
| <input type="checkbox"/> Hindering Prosecution | | <input type="checkbox"/> Trafficking – Stolen Property |
| <input type="checkbox"/> Homicide | Description: | <input type="checkbox"/> Wiretap |

4440291

Ingoed 4/29/15

For Office Use Only

Check One

PHX-#4426036

- Conflict Check
- Name Cards
- File Set-Up
- File Related People
- File Manager
- Case Phase
- Physical File Location

**STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL
SPECIAL INVESTIGATIONS**

- Open Case
- Open & Close
(Info Only Report)
NO Case Closing Required

CASE OPENING FORM

KG4/22/15

LF No.: P-2015-0615

Open Date: 4/22/2015

Case Name: Snell & Wilmer

- Suspect
- Victim
- Complainant

Other Suspects/Suspect Business/Victims to be indexed (Please Indicate Role in Case (S), (V), (W))

Role	L Name	F Name	M Name	DOB	SSN
(S)	Snell & Wilmer, LLP				
(S)	Sienicki	James	Joseph	[REDACTED]	[REDACTED]
(S)	Ohre	Mark	Daniel	[REDACTED]	[REDACTED]
(S)	Kastin	William	Andrew	[REDACTED]	[REDACTED]
(S)	Esposito	Daniel	Vincent	[REDACTED]	[REDACTED]
(W)	Dubree	Deborah	Marie	[REDACTED]	[REDACTED]
(V)	Graven	William	Andrew	[REDACTED]	[REDACTED]

Law Enforcement Assist? NO YES
 If Yes, Agency:

Type of Report:
 Conspiracy to commit fraud

Assigned Agent(s)	Supervisor	Assigned Attorney
D. Woods 376	A. Rubalcava 246	J. Waters

No investigation is to proceed until this form is approved by the Criminal Division Chief.

Chief Special Agent Andrew Rubalcava	Approval <i>AR</i>	Chief Counsel Donald Conrad	Approval <i>DC</i>
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Is the subject of the investigation a client agency, an elected official, governmental entity and/or a matter of political sensitivity? YES NO

Synopsis of Allegation/Complaint (include approx. dates of offense, estimated loss, estimated number of victims):

Between 12/14/2005 and 3/28/2006, Snell & Wilmer Attorneys Jim Sienicki, Mark Ohre, and Bill Kastin conspired with 9.9% owner of Arizona Building Systems, Inc. (ABS), Deborah Dubree; and ABS General Counsel Daniel Esposito, to modify the ABS shareholders' agreement to give Deborah Dubree and Daniel Esposito control over ABS. Jim Sienicki, Mark Ohre, Bill Kastin, Deborah Dubree, and Daniel Esposito, concealed the modifications from Snell & Wilmer client and 90.1% owner of ABS, Will Graven.

Between 6/13/2011 and 2/21/2013, Snell & Wilmer attorneys continued to conceal the above-described activity by misleading Will Graven and the Court during a civil lawsuit and failing to preserve several emails and documents.



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
CRIMINAL DIVISION

February 9, 2016

Keith Manning
Law Enforcement Liaison
Maricopa County Attorney's Office
301 W Jefferson Street, Suite 800
Phoenix, Arizona 85003

Re: Victim: William Graven - Conflicted Cases

Dear Mr. Manning:

I understand that the Maricopa County Attorney's Office has agreed to accept the transfer of the active cases listed below involving victim, William Graven. Therefore, I am forwarding the following cases to you:

AGO Number/Name	Cause Number	Status
P002-2011-002341 – Martin, Michael (001) Esposito, Daniel (002)	CR2015-002486	Case Management Conf. 3/16/2016 Case Management Conf. 3/16/2016
P002-2012-002622 – Smolens, Greg (001)	CR2013-002659	Sentencing Hearing 3/10/2016
P002-2013-000419 – Martin, Michael (001) Esposito, Daniel (002) Johnson, Pamela (003) Groh, Michael (005)	CR2014-001649	Case Management Conf. 3/16/2016 Case Management Conf. 3/16/2016 Case Management Conf. 3/16/2016 Status Conf./Sentencing 3/29/2016
P002-2013-002449 Epley, Douglas (001)	CR2013-005033	Sentencing Hearing 3/01/2016
P002-2014-000600 – Forfeiture Graven #1	CV2014-009284	Stayed

Please have your assigned investigator contact Chief Agent Mark Perkovich at [REDACTED] to initiate the transfer of evidence obtained in the active cases listed above. Also attached are the Substitution of Counsel and Order regarding the above cases.

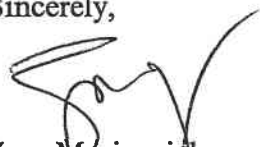
Keith Manning
February 9, 2016
Page Two

In addition, I am also forwarding inactive and files recently turned down for your consideration:

AGO Number/Name	Cause Number	Status
P002-2013-001134 – Rubble	None	Turned Down
P002-2014-002355 – City of Victorville	None	Turned Down
P002-2015-000615 – Snell & Wilmer	None	Turned Down
P002-2014-001290 – Forfeiture Graven #2	None	No Action
P002-2013-002546 – Forfeiture Epley	CV2014-004808	Closed/Distributed

Thank you for agreeing to review and/or handle these cases.

Sincerely,



Zora Manjencich
Assistant Division Chief Counsel
Fraud & Special Prosecutions Section

ZM:lsr

cc: Gilda Martinez, AGO Conflict Secretary
Erlinda Parrish, MCAO Conflict Secretary
Mark Perkovich, Chief Agent
Joseph Waters, Assistant Attorney General
Andy Kvesic, Assistant Attorney General
Steve Womack, Assistant Attorney General

Enclosure
#4900461



OFFICE OF ATTORNEY GENERAL

Criminal Division

MEMORANDUM

CONFIDENTIAL

TO: Mark Brnovich
Attorney General

Mike Bailey
Chief Deputy/Chief of Staff

Joe Waters
FSP Assistant Attorney General

Jennifer Perkins
Assistant Solicitor General

Mark Perkovich
Chief Agent

Mike Edwards
Special Agent Supervisor

Tom Rankin
Acting FRS Section Chief Counsel

Stephen Womack
FRS Assistant Attorney General

FROM: Zora Manjencich
Assistant Division Chief FSP Section Chief Counsel

DATE: January 27, 2016

RE: Screen for Paul Ahler from Graven
P002-2011-002341 - Fraud - Michael Martin
P002-2013-000419 - Fraud - Michael Martin
P002-2013-001134 - Fraud - Emery Rubble
P002-2014-000600 - Forfeiture #1 - Arizona Business Systems
P002-2014-001290 - Forfeiture #2 - Will Graven
P002-2014-002355 - Fraud - City of Victorville
P002-2015-000615 - Snell & Wilmer

This memo is to follow-up a previous screening memo dated April 27, 2015 and distributed on April 30, 2015. See attached.

To avoid a conflict of interest, and to avoid any appearance of impropriety, Criminal Division Chief Paul Ahler is recused from the above-referenced matters and has been screened. Assistant Division Chief Zora Manjencich will serve as his designee on the afore-mentioned cases/closed investigations.

The Arizona Attorney General's Office currently has the following open/active cases relating to victim William Graven in AGO CRM Legal File numbers:

P002-2011-002341 - Fraud - Michael Martin
P002-2013-000419 - Fraud - Michael Martin
P002-2014-000600 - Forfeiture #1 - Arizona Building Systems

The Arizona Attorney General's Office has closed the following cases relating to William Graven in AGO CRM Legal File numbers:

P002-2013-001134 – Fraud – Emery Rubble
P002-2014-002355 – Fraud – City of Victorville
P002-2014-001290 – Forfeiture #2 – Will Graven
P002-2015-000615 – Snell & Wilmer

cc: Lisa Rodriguez, Legal Administrator
Gilda Martinez, FSP OA
Arthur Acuna, FSP LSII
Autumn Maya, SIS OA
Tanika Sherman, FSP LA
Dominque Rivas, AGO SGJ Clerk

#220584-v33

Rodriguez, Lisa

From: Rodriguez, Lisa
Sent: Thursday, April 30, 2015 3:57 PM
To: Brnovich, Mark; Bailey, Michael; Ahler, Paul; Rubalcava, Andy; Buhrow, Lauren; Womack, Stephen; Dailey, Mike; Woods, Dan; Waters, Joseph; Perkins, Jennifer
Cc: Conrad, Donald; Martinez, Gilda; Maya, Autumn; Sherman, Tanika; Rivas, Dominique; Rodriguez, Lisa
Subject: RE: Screen for Paul Ahler from cases involving Will Graven
Importance: High

Please note: P-2015-0615 is also screened from Paul Ahler. Please make sure to mark your LF cases. Thanks. Lisa

From: Rodriguez, Lisa
Sent: Thursday, April 30, 2015 3:34 PM
To: Brnovich, Mark; Bailey, Michael; Ahler, Paul; Rubalcava, Andy; Buhrow, Lauren; Womack, Stephen; Dailey, Mike; Woods, Dan; Waters, Joseph; Perkins, Jennifer
Cc: Rodriguez, Lisa; Conrad, Donald; Martinez, Gilda; Maya, Autumn; Sherman, Tanika; Rivas, Dominique
Subject: Screen for Paul Ahler from cases involving Will Graven

All - Please see attached screening memo. Thanks. Lisa



ATTORNEY GENERAL
Criminal Division

MEMORANDUM

CONFIDENTIAL

TO: Mark Brnovich
Attorney General

Mike Bailey
Chief Deputy/Chief of Staff

Paul Ahler
FSP Section Chief Counsel

Joe Waters
FSP Assistant Attorney General

Andy Rubalcava
Chief Agent

Dan Woods
Assistant Chief Agent

Lauren Buhrow
Special Agent

Mike Dailey
FRS Section Chief Counsel

Stephen Womack
FRS Assistant Attorney General

Jennifer Perkins
Assistant Solicitor General

FROM: Donald E. Conrad *DE*
Criminal Division Chief Counsel

DATE: April 27, 2015

RE: Screen for Paul Ahler from Graven
P002-2011-002341 - Fraud
P002-2013-001134 - Fraud
P002-2014-000600 - Forfeiture #1
P002-2014-001290 - Forfeiture #2

The Arizona Attorney General's Office is investigating and prosecuting a case related to AGO CRM Legal File numbers: P002-2001-002341/P002-2013-001134 - Fraud and P002-2014-000600/P002-2014-001290 - Forfeiture. Possible targets of the investigation include Snell & Wilmer and lawyers with that firm, including James Sienicki, Mark Ohre and William Kastin. Paul Ahler, Fraud & Special Prosecution's Section Chief Counsel, notified AAG Joseph Waters that he has a conflict of interest related to Snell & Wilmer. Paul Ahler is to be screened from this matter, and will not receive any information about the case or participate in any discussions of or decisions relating to this case. I will be the point of contact for any matters relating to this investigation and/or prosecution.

This memorandum is provided to you, including those listed below as receiving copies of this memorandum, as the persons who have or potentially will have information concerning this investigation.

The following steps must be followed by each of you:

- No information, discussion, or decisions regarding #P002-2001-002341/P002-2013-001134 – Fraud and #P002-2014-000600/P002-2014-001290 – Forfeiture or related matters may be conveyed to Paul Ahler.
- All files maintained in and related to #P002-2001-002341/P002-2013-001134 – Fraud and #P002-2014-000600/P002-2014-001290 – Forfeiture or related matters shall be prominently marked to denote that the file shall be screened from Paul Ahler.
- All computer records relating to #P002-2001-002341/P002-2013-001134 – Fraud and #P002-2014-000600/P002-2014-001290 – Forfeiture or related matters shall be restricted from access by Paul Ahler. In the event that Mr. Ahler inadvertently accesses any computer records pertaining to the matter, he will immediately close out of the computer record and notify me.
- All staff persons working with the above listed person shall be provided a copy of this memorandum and instructed that they are not to communicate in any manner with Paul Ahler regarding #P002-2001-002341/P002-2013-001134 – Fraud and #P002-2014-000600/P002-2014-001290 – Forfeiture or related matters.

If any person, other than the recipients of this memorandum listed above, receives responsibilities in the future with regard to #P002-2001-002341/P002-2013-001134 – Fraud and #P002-2014-000600/P002-2014-001290 – Forfeiture, the supervisor or person with primary responsibility for this matter shall provide that person with a copy of this memorandum, and document in writing that the memorandum was provided. This directive includes any and all staff who may work on the matter.

cc: Lisa Rodriguez, Legal Administrator
Gilda Martinez, FSP OA
Autumn Maya, SIS OA
Tanika Sherman, FSP LA
Dominique Rivas, AGO SGJ Clerk

#220584-v29