

THE ELECTRONIC

ESSAY

Volume LXXI
Summer 2010



Friday, July 9, 2010

FORE !

**Annual Golf Outing
Cog Hill Golf Club
12294 Archer Lemont IL**

Tee Times: 11:00 AM—1:00 PM

Golf & Dinner—Only \$110.00

Just Dinner—Only \$45.00

Foursome & Hole Sponsor—Only \$500.00

(See page 7 & 8 for details)

**SPECIAL AGENTS
ASSOCIATION
PO Box 8522, Romeoville IL
60446**

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ESSAY EDITOR = STEVE KIRBY

President's Message

How about a round of golf? This year our annual Golf Outing is on a **Friday (July 9)**, so take a look at launching a 3 day summer weekend in style on a world class golf course (Cog Hill) with a full course dinner afterward. Raffle prizes will be abundant, and a portion of the outing's proceeds will be donated to the Chicago Police Chaplains Fund which provides invaluable support to families of slain police officers. This is a high line golf event, so corporate sponsors will be acknowledged at the dinner and given ample exposure with professionally designed signs on the course. Don't be shy about soliciting corporate participation. Please mark your calendars, dial up your favorite foursome, and contact Drew O'Connor to set your tee times.

Now that we're at the golf outing, we've hit the half-way mark for this year. We've celebrated St. Patrick's Day with a few laughs at the expense of the McGinley family, honored the Chicago FBI's Family Secrets investigative team, and expanded the family of Special Agents in our 70 year old Association. We've had a behind the scenes look at judicial cases argued by the State of Illinois to the United States and Illinois Supreme Courts; and we've established a valuable source of both public and private sector information through the United States Department of Homeland Security. Meeting attendance is strong; and new member applications are impressive in quality and quantity. Special Agents Challenge Coins are a hit; and the 2010 Membership Directory will hit your mailbox this month.

Progress, for sure. But as the old saying goes, it's not how you start but how you *finish* that counts. So we look ahead, beginning with this summer's golf outing followed by a fall lineup of compelling speakers and venues.

As we look ahead, we also see the end of an era. Consistent with our reminders all year, this month's edition of the newsletter "Essay" is the last which will be published in printed version. Hereafter, the Essay will be delivered to you only via email unless you do not have internet access and you request a printed copy of the emailed version. Amidst an age of advanced technology and tight budgets, the Association has kept pace with both. We now have a higher quality *electronic* Essay with expanded text and better color photos, all at significant cost savings to the Association. Our website has been improved in content as well as functionality. Both the Essay and website (www.specialagentsassn.org) provide outstanding sources of information and serve as great starting points of reference for prospective applicants to the Association.

Thanks are extended to everyone who has contributed their time, energy, and participation at the monthly meetings. On behalf of the Officers and Directors of the Association, let's keep the good times rolling. Grab your golf bag, dust off the woods and irons, buy a sleeve of golf balls, and hit the links with us July 9 for a day of fun in the sun. To top it off, the 19th hole carries its own intrinsic rewards! See you there.

Philip A. Mullenix

Eddie Holba on the Mend

Past President, Official Photographer and all around good guy Eddie Holba is recuperating at home after eighteen days in St. Joseph Hospital following back surgery. Eddie would love to hear from his Special Agent buddies so take a few minutes and give him a call at 773-491-2146.

Board Meeting June 30

The next Special Agents Association Board meeting is scheduled for **Wednesday, June 30, 2010**. The meeting will be held at Harry Caray's, 10233 W. Higgins Road, Rosemont. (on Higgins just East of Mannheim Rd.). The meeting will begin promptly at 6:30PM. Contact Phil Mullenix by June 29 so proper reservations can be made.

New Members

Patricia Dalton, Detective Financial Crimes, CPD
John Heneghan, Lieutenant, Bannockburn
Robert Mance, P.I. Professionals;
Molly Speiser, Lake County FPD /Gurnee PD
Matthew C. Peterson - Chicago Police Dept/

Welcome



Phil Mullenix and Dave Eshoo honor the C-7 Unit of FBI at May's Law Enforcement Nigh for their masterful work in the Family Secrets Case, which was detailed at this year's January Meeting

Roses amongst the thorns



Current Recording Secretary Jill Longmire with Life Member Lillian Fortman

Like Father Like Son



Glenn Eiden watches with pride as his son Jim joins the Special Agent's Association

Legal Briefs In the News...

The U.S. Supreme Court affirms that you have the right to remain silent... but only if you speak up

On June 1, 2010, in a case alleged to turn *Miranda v. Arizona* upside down, the U.S. Supreme Court in a 5-4 decision held that a suspect in a custodial interrogation must expressly assert the right to remain silent.*

In *Berghuis v. Thompkins*, defendant Thompkins was convicted of 1st degree murder, assault with intent to commit murder and several firearms charges in Michigan state court. He had been questioned for approximately 2 hours and 45 minutes before he responded in the affirmative to three questions: (1) do you believe in God; (2) do you pray; and (3) do you pray that god will forgive you for killing.

At trial, the Court denied his motion to suppress his one-word answers. He was found guilty, sentenced to life in prison without parole, and lost his subsequent state court appeals.**

Thompkins then sought a writ of habeas corpus in federal court relying on the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). Federal courts can consider such writs under the AEDPA where a state court decision adjudicated on the merits was contrary to or involved the unreasonable application of clearly established federal law. The District Court denied the petition, ruling that the state court finding that he had waived his *Miranda* rights was not unreasonable. Thompkins appealed.

Reversing the District Court, the Sixth Circuit Court of Appeals ruled that “persistent silence for nearly three hours in response to questioning and repeated invitations to tell his side of the story offered a clear and unequivocal message to the officers: Thompkins did not wish to waive his rights.”

The U.S. Supreme Court disagreed. The Court held that “[i]n sum, a suspect who has received and understood the *Miranda* warnings, and has not invoked his *Miranda* rights, waives the right to remain silent by making an uncoerced statement to the police.” The U.S. Supreme Court held that “[w]here the prosecution shows that a *Miranda* warning was given and that it was understood by the accused, an accused’s uncoerced statement establishes an implied waiver of the right to remain silent.”

Courts have continued to require suspects to “knowingly and intelligently” waive their 5th Amendment right against self-incrimination and also to require police officers to “scrupulously honor” a suspect’s right to cut off custodial questioning. “Ambiguous, equivocal and no statement” actions by an accused alone have not been considered a mandatory basis to end an interrogation. Thompkins shifts the burden of proof to suspects from whom a specific, articulated election of the right is now required.

Arguing that the Court did not need to reach the *Miranda* issue to dispose of the case, the Dissenting Justices asserted that, “[t]aken together with the Court’s reformulation of the prosecution’s burden of proof as to waiver, today’s novel clear-statement rule for invocation invites police to question a suspect at length—notwithstanding his persistent refusal to answer questions—in the hope of eventually obtaining a single inculpatory response which will suffice to prove waiver of rights.”

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Special Agent John Lucki's Financial Crimes Unit Instrumental in Investigation Leading to Indictments For Mortgage Fraud

Cook County, State's Attorney Anita Alvarez recently announced that four people were indicted on multiple felony financial charges following a joint city, county and federal investigation that is part of a sweeping new crackdown on mortgage fraud here in today.

Two businessmen and two unnamed co-conspirators were indicted as a result of the ongoing investigation, which was conducted by a new Mortgage Fraud Unit within the Cook County State's Attorney's Office, in conjunction with the Chicago Police Department Financial Crimes Unit and the Inspector General's Office of the United States Department of Housing and Urban Development. Special Agent member **Sgt. John Lucki** is commanding officer of Chicago's Financial Crimes Unit.

The individuals named in the indictment were Jimmy Pililimis, 36, of Des Plaines and Anthony Palermon, 41 of Elmwood Park. Pililimis was charged with Organizing a Continuing Financial Crimes Enterprise and Identity Theft, both Class X felonies punishable by six to 30 years in prison. He was also charged with Financial Institution Fraud, Loan Fraud, and multiple counts of theft. Palermo was charged with Financial Institution Fraud, Loan Fraud, Attempted Identity Theft and multiple counts of theft.

According to prosecutors, the defendants are charged in connection with three schemes to defraud, the first in which Pililimis is alleged to have provided one of the co-defendants with fraudulent income tax returns, fake pay stubs and phony W-2 forms in order to obtain nearly \$28,000 in automobile loans from a credit union.

In the second scheme, the co-defendants functioned as so-called "straw purchasers" and one of them was provided with false employment documents, fake W-2 forms and phony bank statements by Pililimis in order to obtain a \$360,000 loan for a mortgage on a home in Chicago's Englewood community.

After the sale of the property, the home went into foreclosure proceedings and, since the time of the sale, numerous arrests have taken place at the property for charges ranging from gambling to weapons offenses. The home has also been cited by the City of Chicago for housing violations.

After targeting the defendants, investigators and prosecutors conducted a pro-active investigation into Pililimis and Palermo's third scheme, using undercover officers and agents to pose as potential straw purchasers and utilizing court-approved, covert audio and video devices to record the defendants as they plotted to defraud another lending institution out of more than \$350,000. The case marks the first time that county prosecutors have utilized electronic surveillance in a sting operation targeting mortgage fraud, a new approach that Alvarez said will continue.

Sergeant Lucki said the arrests represent the pervasive nature of the problem of mortgage fraud and how it extends to other communities. "Here we have revealed a group of economic criminals operating in Cook County's northern suburbs who are exploiting one of Chicago's most devastated housing markets in the Englewood community, depleting legitimate economic resources, community and business efforts by stealing away mortgage monies for their own self-serving greed," Lucki said.

Past President Fred Hunter stars on ABC 20/20

For those who tuned into the national news magazine show 20/20 last Friday (June 11) there in all his splendor was our own **Fred Hunter** being interviewed regarding the Riley Fox murder case. Fred discussed the dangers of conducting a polygraph examination on a subject who has been interrogated at length as was done in this case, resulting in a false positive. As usual, Fred came off cool, calm, collective, and of course right on target with his observations. Well done Fox.

Miranda rights have been eroding for decades, with courts increasingly understanding that sophisticated criminals game the system. For confessions, one thing is clear: with mounting concerns and new laws applying constitutional concepts to novel national security threats, courts continue to shift the burden of proof from law enforcement to the accused. The challenge to law enforcement will be to respect those individual rights, despite the authority to act with a heavier hand than before. As noted in the Dissent, the increased “ability to obtain confessions should be tempered with continued insistence on obtaining traditional proof.” Citing the original Miranda decision, the Dissenting Justices noted that the United States remains a legal system premised on investigation rather than inquisition.

**Berghuis v. Thompkins* (No. 08-1470), 647 F. 3d 572, reversed and remanded. Justice Kennedy authored the Majority Opinion and was joined by Chief Justice Roberts and Justices Alito, Scalia and Thomas. Justice Sotomayor authored the Dissent and was joined by Justices Breyer, Ginsburg and Stevens.

**The second basis for appeal, ineffective assistance of counsel, is not discussed in this synopsis. Procedurally, *Thompkins* lost before the Michigan Court of Appeals on both issues and was denied review by the Michigan Supreme Court. The Supreme Court decision focused, in part, on the application of rulings interpreting *Miranda*. The Dissent argued that the Majority over-reached to erode *Miranda* since the case could have been decided on the whether the *Davis v. Unites States* clear-statement rule has been determined to apply unequivocally to apply to an invocation of the right to remain silent, as Michigan contended

Some Things Never change (thank goodness)



CPD Captain John Howe, Founding Member of S/A John Weber and Paul Newey at Special Agent's Golf Outing held at Nordic Hills July 21, 1961

SPECIAL AGENTS ASSOCIATION ANNUAL GOLF OUTING

WHEN: Friday July 9th, 2010

**WHERE: Cog Hill
12294 Archer Avenue
Lemont, Il 60439**

**COST: \$110.00 per person
Includes 18 holes of golf w/cart
Dinner and door prizes
2 Hour Open Bar**

SPONSOR A HOLE/FOURSOME	\$500.00
HOLE SPONSORSHIP ONLY	\$100.00
Dinner Only	\$45.00

Copy and return with your check to:

Special Agents Association
c/o Jill Longmire
1481 Windflower Ct.
Romeoville, IL 60446

Player #1 _____ Phone: _____

Player #2 _____

Player #3 _____

Player #4 _____

AMOUNT ENCLOSED \$ _____

Tee times will be assigned. Please contact Drew O'Connor at 630-347-1992 with time requests.

SPECIAL AGENTS ASSOCIATION
ANNUAL GOLF OUTING

FRIDAY, JULY 9TH, 2010

COG HILL GOLF CLUB
12294 ARCHER AVENUE
LEMONT , IL. 60439

**REGISTER A FOURSOME AND SPONSOR A HOLE
WITH A \$500.00 PAYMENT!**

Golf & Dinner:	\$110.00
Dinner Only:	\$ 45.00
Hole Sponsorship:	\$100.00

Includes green fees, power cart, dinner,
2 hour open bar, raffle, and lots of fun!

Tee Times 11:00AM to 1:00PM

**Please call for Tee Times:
Drew O'Connor at 630-428-1938**

Complete attached reservation form on Page 7 and return with check to:
Special Agents Association Golf Outing
c/o Jill Longmire
1481 Windflower Ct
Romeoville, IL 60446

Door Prize donations and Raffle items are always welcome.

