

IN THE SUPREME COURT OF OHIO

STATE, *ex rel.* THE CINCINNATI ENQUIRER, a Division of Gannett Satellite Information Network, Inc.  
312 Elm Street  
Cincinnati, Ohio 45202

Case No. 11-1643

Petitioner,

AFFIDAVIT OF JOHN C. GREINER

vs.

HONORABLE NADINE ALLEN,  
Hamilton County  
Court of Common Pleas  
1000 Main Street, Room 495  
Cincinnati, Ohio 45202

Respondent.

FILED  
SEP 27 2011  
CLERK OF COURT  
SUPREME COURT OF OHIO

Affiant, after being duly cautioned and sworn, states as follows:

1. I am an attorney admitted to practice in the State of Ohio. I represent The Cincinnati Enquirer ("the Enquirer") in this matter.
2. On or about Tuesday, September 20, I learned that Martin Morris, the plaintiff in the case of *State of Ohio v. Martin Morris*, Case No. B1001826, Hamilton County Court of Common Pleas, may have pled guilty to aggravated theft and telecommunications fraud. Those were two counts of a fourteen-count complaint. See copy of Indictment attached hereto as Exhibit A. Apparently, the remaining twelve counts were dismissed.
3. On the Hamilton County Common Pleas Clerk's electronic docket, there is no listing for Case No. B1001826. I was informed by John Williams, the acting Clerk, that this is so because Judge Allen had issued an order sealing all records in the case ("the Order").

RECEIVED  
SEP 27 2011  
CLERK OF COURT  
SUPREME COURT OF OHIO

4. As a result of the Order, the public cannot see the motion for sealing, or any other case documents. The public cannot see the case docket of any schedule of events. Nor is there any way to determine the grounds for the Order.

5. On the morning of September 21, I delivered a letter to Judge Allen expressing my client's concerns. A true and correct copy of the letter is attached hereto as Exhibit B.

6. Later on September 21, I was told that Judge Allen would conduct a hearing on the matter on September 22 at 1:00 p.m.

7. I attended the hearing. At 1:00, Judge Allen called the prosecutor, Andy Berghausen, and the defense counsel, Amy Higgins into her chambers. The three of them were in there for about 20 minutes. They emerged from chambers, and Judge Allen sat at the bench and announced that she reviewed her original Order in light of the applicable Rules of Superintendence. She said that she was satisfied there was a risk of injury if the case were not sealed, and that therefore, public policy favored sealing the records. She did not specify the injury, or who would suffer the injury. She announced she would maintain the Order in place.

Further Affiant sayeth naught.

*John C. Greiner*  
John C. Greiner

STATE OF OHIO            )  
                                  )  
COUNTY OF HAMILTON )        ss:

Sworn and subscribed personally before me by John C. Greiner this 26<sup>th</sup> day of September, 2011.

*Kimberly A. Lubbers*  
Notary Public



**KIMBERLY A. LUBBERS**  
Notary Public - State of Ohio  
My Commission Expires  
8-10-15

THE STATE OF OHIO, HAMILTON COUNTY  
COURT OF COMMON PLEAS

STATE OF OHIO

Plaintiff

Case No. B 1001826

-vs-

MARTIN MORRIS

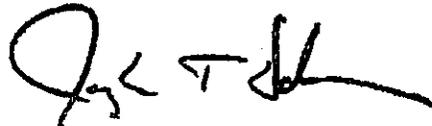
Defendant

PROSECUTING ATTORNEY'S REQUEST  
FOR ISSUANCE OF WARRANT  
UPON INDICTMENT

TO THE CLERK OF THE COURT OF COMMON PLEAS:

MARTIN MORRIS has been named a defendant in an indictment returned by the Grand Jury.

Pursuant to Rule 9, Ohio Rules of Criminal Procedure, the undersigned requests that you or a Deputy Clerk forthwith issue a warrant to an appropriate officer and direct him to execute it upon the above-named defendant at the following address: Hamilton County Justice Center, or at any place within this State.



Joseph T. Deters  
Prosecuting Attorney  
Hamilton County, Ohio



D87677889

By: 

Assistant Prosecuting Attorney

EXHIBIT

A

THE STATE OF OHIO, HAMILTON COUNTY  
COURT OF COMMON PLEAS

THE STATE OF OHIO

Case No. B 1001826

HAMILTON COUNTY, ss:

INDICTMENT FOR:

- CT1: AggravatedTheft 2913.02(A)(1)[F3]
- CT2: AggravatedTheft 2913.02(A)(2)[F3]
- CT3: AggravatedTheft 2913.02(A)(3)[F3]
- CT4: Unauthorized Use of Property  
2913.04(A)[F3]
- CT5: Telecommunications Fraud 2913.05[F3]
- CT6: Forgery 2913.31(A)(3)[F3]
- CT7: Theft From Elderly Person or Disabled  
Adult 2913.02(A)(1)[F1]
- CT8: Theft From Elderly Person or Disabled  
Adult 2913.02(A)(2)[F1]
- CT9: Theft From Elderly Person or Disabled  
Adult 2913.02(A)(3)[F1]
- CT10: Unauthorized Use of Property  
2913.04(A)[F2]
- CT11: Telecommunications Fraud 2913.05[F3]
- CT12: Forgery 2913.31(A)(3)[F2]
- CT13: Forgery 2913.31(A)(3)[F3]
- CT14: Forgery 2913.31(A)(3)[F2]

In the Court of Common Pleas, Hamilton County, Ohio, of the Grand Jury Term Two Thousand and  
Ten.

FIRST COUNT

The Grand Jurors of the County of Hamilton, in the name and by authority of the State of Ohio, upon their oaths do find and present that **MARTIN MORRIS**, from the 1<sup>ST</sup> day of December, Two Thousand and Three to the 25<sup>TH</sup> day of May, Two Thousand and Five at the County of Hamilton and State of Ohio aforesaid, with purpose to deprive the owner of certain property or services worth \$100,000 or more, to wit: **UNITED STATES CURRENCY AND/OR SECURITIES** belonging to **DONNA COLLINS**,

**knowingly obtained or exerted control over such property or services without the consent of the owner or person authorized to give consent, in violation of Section 2913.02(A)(1) of the Ohio Revised Code and against the peace and dignity of the State of Ohio.**

SECOND COUNT

The Grand Jurors of the County of Hamilton, in the name and by authority of the State of Ohio, upon their oaths do find and present that **MARTIN MORRIS, from the 1<sup>ST</sup> day of December, Two Thousand and Three to the 25<sup>TH</sup> day of May, Two Thousand and Five** at the County of Hamilton and State of Ohio aforesaid, with purpose to deprive the owner of certain property or services worth \$100,000 or more, to wit: **UNITED STATES CURRENCY AND/OR SECURITIES belonging to DONNA COLLINS, knowingly obtained or exerted control over such property or services beyond the scope of the express or implied consent of the owner or person authorized to give consent, in violation of Section 2913.02(A)(2) of the Ohio Revised Code and against the peace and dignity of the State of Ohio.**

THIRD COUNT

The Grand Jurors of the County of Hamilton, in the name and by authority of the State of Ohio, upon their oaths do find and present that **MARTIN MORRIS, from the 1<sup>ST</sup> day of December, Two Thousand and Three to the 25<sup>TH</sup> day of May, Two Thousand and Five** at the County of Hamilton and State of Ohio aforesaid, with purpose to deprive the owner of certain property or services worth \$100,000 or more, to wit: **UNITED STATES CURRENCY AND/OR SECURITIES belonging to DONNA COLLINS, knowingly obtained or exerted control over such property or services by deception, in violation of Section 2913.02(A)(3) of the Ohio Revised Code and against the peace and dignity of the State of Ohio.**

#### FOURTH COUNT

The Grand Jurors of the County of Hamilton, in the name and by authority of the State of Ohio, upon their oaths do find and present that **MARTIN MORRIS**, from the **1<sup>ST</sup> day of December, Two Thousand and Three to the 25<sup>TH</sup> day of May, Two Thousand and Five** at the County of Hamilton and State of Ohio aforesaid, knowingly used or operated property, to wit: **UNITED STATES CURRENCY AND/OR SECURITIES**, of **DONNA COLLINS**, without the consent of the owner or person authorized to give consent, and the offense was committed for the purpose of devising a scheme to defraud or to obtain property or services and the value of the property or services or the loss to the victim was **\$100,000 or more**, in violation of Section 2913.04(A) of the Ohio Revised Code and against the peace and dignity of the State of Ohio.

#### FIFTH COUNT

The Grand Jurors of the County of Hamilton, in the name and by authority of the State of Ohio, upon their oaths do find and present that **MARTIN MORRIS**, from the **1<sup>ST</sup> day of December, Two Thousand and Three to the 25<sup>TH</sup> day of May, Two Thousand and Five** at the County of Hamilton and State of Ohio aforesaid, having devised a scheme to defraud, knowingly disseminated, transmitted, or caused to be disseminated or transmitted by means of a wire, radio, satellite, telecommunication, telecommunications device, or telecommunications service, any writing, data, sign, signal, picture, sound, or image, to wit: **SCOTTRADE DISTRIBUTION REQUEST FORMS**, with purpose to execute or otherwise further the scheme to defraud and the value of the benefit obtained by the said defendant or of the detriment to the victim of the fraud is **one hundred thousand dollars or more**, in violation of Section 2913.05 of the Ohio Revised Code and against the peace and dignity of the State of Ohio.

SIXTH COUNT

The Grand Jurors of the County of Hamilton, in the name and by authority of the State of Ohio, upon their oaths do find and present that **MARTIN MORRIS, from the 1<sup>ST</sup> day of December, Two Thousand and Three to the 25<sup>TH</sup> day of May, Two Thousand and Five** at the County of Hamilton and State of Ohio aforesaid, with purpose to defraud or knowing that he was facilitating a fraud, uttered or possessed with purpose to utter a writing, to wit: **SCOTTRADE DISTRIBUTION REQUEST FORMS**, that he knew to have been forged, and the value of the property or services or loss to the victim was **\$100,000 or more**, in violation of Section 2913.31(A)(3) of the Ohio Revised Code and against the peace and dignity of the State of Ohio.

SEVENTH COUNT

The Grand Jurors of the County of Hamilton, in the name and by authority of the State of Ohio, upon their oaths do find and present that **MARTIN MORRIS, from the 26<sup>TH</sup> day of May, Two Thousand and Five to the 31<sup>ST</sup> day of October, Two Thousand and Eight** at the County of Hamilton and State of Ohio aforesaid, with purpose to deprive the owner of certain property or services worth **\$100,000 or more**, to wit: **UNITED STATES CURRENCY AND/OR SECURITIES belonging to DONNA COLLINS**, knowingly obtained or exerted control over such property or services without the consent of the owner or person authorized to give consent, and at the time, the said victim of the offense was an elderly person or disabled adult, in violation of Section 2913.02(A)(1) of the Ohio Revised Code and against the peace and dignity of the State of Ohio.

EIGHTH COUNT

The Grand Jurors of the County of Hamilton, in the name and by authority of the State of Ohio, upon their oaths do find and present that **MARTIN MORRIS, from the 26<sup>TH</sup> day of May, Two Thousand and Five to the 31<sup>ST</sup> day of October, Two Thousand and Eight** at the County of Hamilton and State of Ohio aforesaid, with purpose to deprive the owner of certain property or services worth \$100,000 or more, to wit: **UNITED STATES CURRENCY AND/OR SECURITIES belonging to DONNA COLLINS, knowingly obtained or exerted control over such property or services beyond the scope of the express or implied consent of the owner or person authorized to give consent, and at the time, the said victim of the offense was an elderly person or disabled adult,** in violation of Section 2913.02(A)(2) of the Ohio Revised Code and against the peace and dignity of the State of Ohio.

NINTH COUNT

The Grand Jurors of the County of Hamilton, in the name and by authority of the State of Ohio, upon their oaths do find and present that **MARTIN MORRIS, from the 26<sup>TH</sup> day of May, Two Thousand and Five to the 31<sup>ST</sup> day of October, Two Thousand and Eight** at the County of Hamilton and State of Ohio aforesaid, with purpose to deprive the owner of certain property or services worth \$100,000 or more, to wit: **UNITED STATES CURRENCY AND/OR SECURITIES belonging to DONNA COLLINS, knowingly obtained or exerted control over such property or services by deception, and at the time, the said victim of the offense was an elderly person or disabled adult,** in violation of Section 2913.02(A)(3) of the Ohio Revised Code and against the peace and dignity of the State of Ohio.

TENTH COUNT

The Grand Jurors of the County of Hamilton, in the name and by authority of the State of Ohio, upon their oaths do find and present that **MARTIN MORRIS**, from the 26<sup>TH</sup> day of May, Two Thousand and Five to the 31<sup>ST</sup> day of October, Two Thousand and Eight at the County of Hamilton and State of Ohio aforesaid, knowingly used or operated property, to wit: **UNITED STATES CURRENCY AND/OR SECURITIES**, of **DONNA COLLINS**, without the consent of the owner or person authorized to give consent, and the said victim of the offense was an elderly person or a disabled adult and the value of the property or services or less to the said victim was \$25,000 or more, in violation of Section 2913.04(A) of the Ohio Revised Code and against the peace and dignity of the State of Ohio.

ELEVENTH COUNT

The Grand Jurors of the County of Hamilton, in the name and by authority of the State of Ohio, upon their oaths do find and present that **MARTIN MORRIS**, from the 26<sup>TH</sup> day of May, Two Thousand and Five to the 31<sup>ST</sup> day of October, Two Thousand and Eight at the County of Hamilton and State of Ohio aforesaid, having devised a scheme to defraud, knowingly disseminated, transmitted, or caused to be disseminated or transmitted by means of a wire, radio, satellite, telecommunication, telecommunications device, or telecommunications service, any writing, data, sign, signal, picture, sound, or image, to wit: **SCOTTRADE DISTRIBUTION REQUEST FORMS**, with purpose to execute or otherwise further the scheme to defraud and the value of the benefit obtained by the said defendant or of the detriment to the victim of the fraud is one hundred thousand dollars or more, in violation of Section 2913.05 of the Ohio Revised Code and against the peace and dignity of the State of Ohio.

### TWELFTH COUNT

The Grand Jurors of the County of Hamilton, in the name and by authority of the State of Ohio, upon their oaths do find and present that **MARTIN MORRIS, from the 26<sup>TH</sup> day of May, Two Thousand and Five to the 31<sup>ST</sup> day of October, Two Thousand and Eight** at the County of Hamilton and State of Ohio aforesaid, with purpose to defraud or knowing that he was facilitating a fraud, uttered or possessed with purpose to utter a writing, to wit: **SCOTTRADE DISTRIBUTION REQUEST FORMS**, that he knew to have been forged, and **DONNA COLLINS** was an elderly person or disabled adult, and the value of the property or services or loss to the victim was **\$25,000 or more**, in violation of Section 2913.31(A)(3) of the Ohio Revised Code and against the peace and dignity of the State of Ohio.

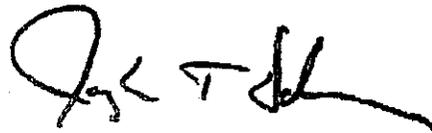
### THIRTEENTH COUNT

The Grand Jurors of the County of Hamilton, in the name and by authority of the State of Ohio, upon their oaths do find and present that **MARTIN MORRIS, from the 1<sup>ST</sup> day of December, Two Thousand and Three to the 25<sup>TH</sup> day of May, Two Thousand and Five** at the County of Hamilton and State of Ohio aforesaid, with purpose to defraud or knowing that he was facilitating a fraud, uttered or possessed with purpose to utter a writing, to wit: **CHECKS FROM SCOTTRADE PAYABLE TO DONNA COLLINS**, that he knew to have been forged, and the value of the property or services or loss to the victim was **\$100,000 or more**, in violation of Section 2913.31(A)(3) of the Ohio Revised Code and against the peace and dignity of the State of Ohio.

### FOURTEENTH COUNT

The Grand Jurors of the County of Hamilton, in the name and by authority of the State of Ohio, upon their oaths do find and present that **MARTIN MORRIS, from the 25<sup>TH</sup> day of May, Two Thousand and Five to the 31<sup>ST</sup> day of October, Two Thousand and Eight** at the County of Hamilton and State of Ohio aforesaid, with purpose to defraud or knowing that he was facilitating a fraud, uttered or possessed

with purpose to utter a writing, to wit: CHECKS FROM SCOTTRADE PAYABLE TO DONNA COLLINS, that he knew to have been forged, and DONNA COLLINS was an elderly person or disabled adult, and the value of the property or services or loss to the victim was \$25,000 or more, in violation of Section 2913.31(A)(3) of the Ohio Revised Code and against the peace and dignity of the State of Ohio.

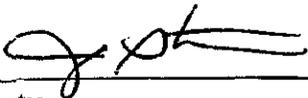


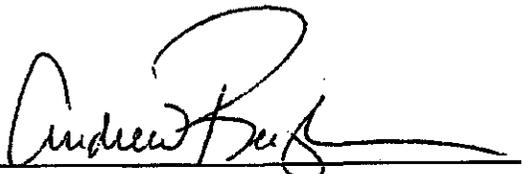
Joseph T. Deters  
Prosecuting Attorney  
Hamilton County, Ohio

Reported and filed this

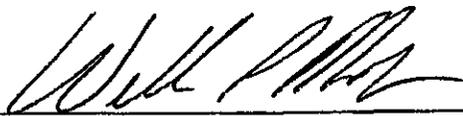
31 Day of 03, A.D. 10

By: **Patricia M. Clancy**  
Clerk of Hamilton County  
Common Pleas

By:   
Deputy

By:   
Assistant Prosecuting Attorney

A TRUE BILL

By:   
Foreperson, Grand Jury

# GRAYDON HEAD

LEGAL COUNSEL | SINCE 1871

John C. Greiner  
Direct: 513.629.2734  
jgreiner@graydon.com

COPY

September 21, 2011

## VIA HAND DELIVERY

Honorable Nadine L. Allen  
HAMILTON COUNTY MUNICIPAL COURT  
1000 Main Street, Room 240  
Cincinnati, OH 45202

**Re: *The Cincinnati Enquirer***

Dear Judge Allen:

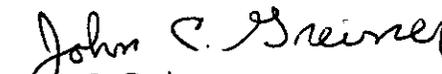
This firm represents The Cincinnati Enquirer ("The Enquirer"). It has come to our attention that you have sealed all records in the case of *State of Ohio v. Martin Morris*, Case No. B 1001826. It is our understanding that the case was sealed based on the request of defense counsel to "avoid embarrassment" for Mr. Morris. As you know, Ohio Rules of Superintendence 44-47 address the public's right of access to court records. The rules provide that public access is presumed, and that access may be denied only upon specific findings that a compelling need to restrict access to outweighs the public right of access. Moreover, the public has a First Amendment right of access to criminal trials that can only be denied for compelling circumstances. Even when access to certain information is properly limited, the Superintendence Rules require redaction, not a blanket restriction of access. A defendant's desire to avoid embarrassment is not a compelling interest.

It appears that in sealing this case, you did not apply the Rules of Superintendence, much less abide by them. The remedy for this violation is a mandamus action. I am writing this letter, and copying counsel, in hopes that you will lift the sealing order. If you don't we will be proceeding with a mandamus action in the Ohio Supreme Court.

I would appreciate a response by the end of this week.

Very Truly Yours,

GRAYDON HEAD & RITCHEY LLP

  
John C. Greiner

JCG|pl

c. Andrew A. Berghausen, Esq.  
Amy L. Higgins, Esq.

3329516.1

Cincinnati at Fountain Square

Northern Kentucky at the Chamber Center

Butler/Warren at University Pointe

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