

The Salient Facts of The *DeLano* Case

(as of 6sep10)

revealing the involvement of bankruptcy & legal system insiders in a bankruptcy fraud scheme
(*D:#* & footnote references are to Judicial-Discipline-Reform.org/Follow_money/DeLano_docs.pdf; these are *bookmarks* on the left)

DeLano is a federal bankruptcy case. Part of a case cluster, it reveals fraud that is so egregious as to betray overconfidence born of a long standing practice¹: Coordinated wrongdoing evolved into a bankruptcy fraud scheme.² It was commenced by the DeLano couple filing a bankruptcy petition with Schedules A-J and a Statement of Financial Affairs on January 27, 2004. (04-20280, WBNY³) Mr. DeLano, however, was a most unlikely bankruptcy candidate. At filing time he was a 39-year veteran of the banking and financing industry and continued to be employed by M&T Bank precisely as a bankruptcy officer. He and his wife, a Xerox technician, were not even insolvent, for they declared \$263,456 in assets v. \$185,462 in liabilities (*D:29*); and also:

1. that they had in cash and on account only \$535 (*D:31*), although they also declared that their monthly excess income was \$1,940 (*D:45*); and in the FA Statement (*D:47*) and their 1040 IRS forms (*D:186*) that they had earned \$291,470 in just the three years prior to their filing;
2. that their only real property was their home (*D:30*), bought in 1975 (*D:342*) and appraised in November 2003 at \$98,500⁴, as to which their mortgage was still \$77,084 and their equity only \$21,416 (*D:30*)...after making mortgage payments for 30 years! and receiving during that period at least \$382,187 through a string of eight mortgages⁵. (*D:341*) Mind-boggling!
3. that they owed \$98,092 –spread thinly over 18 credit cards (*D:38*)- while they valued their household goods at only \$2,810 (*D:31*), less than 1% of their earnings in the previous three years. Even couples in urban ghettos end up with goods in their homes of greater value after having accumulated them over their working lives of more than 30 years.
4. Theirs is one of the trustee's 3,907 *open* cases and their lawyer's 525 before the same judge.

These facts show that this was a scheming bankruptcy system insider offloading 78% of his and his wife's debts (*D:59*) in preparation for traveling light into a golden retirement. They felt confident that they could make such incongruous, implausible, and suspicious declarations in the petition and that neither the co-schemers would discharge their duty nor the creditors exercise their right to require that bankrupts prove their petition's good faith by providing supporting documents. Moreover, they had spread their debts thinly enough among their 20 institutional creditors (*D:38*) to ensure that the latter would find a write-off more cost-effective than litigation to challenge their petition. So they assumed that the sole individual creditor, who in addition lives hundreds of miles from the court, would not be able to afford to challenge their good faith either. But he did after analyzing their petition, filed by them under penalty of perjury, and showing that the DeLano 'bankrupts' had committed bankruptcy fraud through concealment of assets.

The Creditor requested that the DeLanos produce documents⁶ as reasonably required from any bankrupt as their bank account statements. Yet the trustee, whose role is to protect the creditors, tried to prevent the Creditor from even meeting with the DeLanos. After the latter denied *every single document* requested by the Creditor, he moved for production orders. Despite his discovery rights and their duty to determine whether bankrupts have concealed assets, the *bankruptcy* and *district judges* denied him *every single document*. So did the *circuit judges*, even *then CA2 Judge Sotomayor*, the presiding judge, who also needed the documents to find the facts to which to apply the law. They denied him and themselves due process of law. To eliminate him, *they* disallowed his claim in a *sham evidentiary hearing*. Revealing how incriminating the documents are, to oppose their production the DeLanos, with the trustee's recommendation and the bankruptcy judge's approval, were allowed to pay their lawyers \$27,953 in legal fees⁷...though they had declared that they had only \$535. To date \$673,657⁸ is still unaccounted for. Where did it go⁹? How many of the trustee's 3,907 cases have unaccounted for assets? For whose benefit?²

¹§XIII ²§III ³§V. ⁴§X ⁵§§I.B & VIII ⁶Cf. §XII ⁷§XI ⁸§I.B ⁹§II

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Summary of the DeLanos' income of \$291,470 + mortgage receipts of \$382,187 = \$673,657 and credit card borrowing of \$98,092

**unaccounted for and inconsistent with their declaration in Schedule B
 of their voluntary bankruptcy petition (D:23)¹ that at the time of its filing
 on January 27, 2004, they had in hand and on account only \$535!**

Exhibit page #	Mortgages² referred to in the incomplete documents produced by the DeLanos^a to Chapter 13 Trustee George Reiber (cf.Add:966§B)	Mortgages or loans	
		year	amount
D ^b :342	1) from Columbia Banking, S&L Association	16jul75	\$26,000
D:343	2) another from Columbia Banking, S&L Asso.	30nov77	7,467
D:346	3) still another from Columbia Banking, S&L Asso.	29mar88	59,000
D:176/9	4) owed to Manufacturers & Traders Trust=M&T Bank	March 88	59,000
D:176/10	5) took an overdraft from ONONDAGA Bank	March 88	59,000
D:348	6) another mortgage from Central Trust Company	13sep90	29,800
D:349	7) even another one from M&T Bank	13dec93	46,920
D:350-54	8) yet another from Lyndon Guaranty Bank of NY	23dec99	95,000
	9) any other not yet disclosed?	Subtotal	\$382,187
The DeLanos' earnings in just the three years preceding their voluntary bankruptcy petition (04-20280, WBNY; D:23)			
2001	1040 IRS form (D:186)	\$91,229	\$91,229
2002	1040 IRS form (D:187) Statement of Financial Affairs (D:47)	\$91,859	91,655
2003	1040 IRS form (D:188) Statement of Financial Affairs (D:47)	+97,648	+108,586
to this must be added the receipts contained in the \$98,092 owed on 18 credit cards, as declared in Schedule F (D:38) ^c		\$280,736 ^d	\$291,470 ^d
		TOTAL	\$673,657

^a The DeLanos claimed in their petition, filed just three years before traveling light of debt to their golden retirement, that their home was their only real property, appraised at \$98,500 on 23nov3, as to which their mortgage was still \$77,084 and their equity only \$21,416 (D:30/Sch.A) ...after paying it for 30 years! and having received \$382,187 during that period through eight mortgages! *Mind-boggling!* They sold it for \$135K³ on 23apr7, a 37% gain in merely 3½ years.

^b D=Designated items in the record of [Cordero v. DeLano, 05-6190L, WDNY](#), of April 18, 2005.

^c The DeLanos declared that their credit card debt on 18 cards totals \$98,092 (D:38/Sch.F), while they set the value of their household goods at only \$2,810! (D:31/Sch.B) *Implausible!* Couples in the Third World end up with household possessions of greater value after having accumulated them in their homes over their working lives of more than 30 years.

^d Why do these numbers not match?

¹http://Judicial-Discipline-Reform.org/Follow_money/DeLano_docs.pdf>§V. ²Id.>§§VI-VIII. ³Id.>§X.

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***Follow the Money!* from a Subpoena for the Financial Statements of the Weak Link, the DeLanos, to the Top of the Bankruptcy Fraud Scheme**

The weak link is the DeLanos, for if they were shown to have concealed assets, they would face up to 20 years imprisonment and up to \$500,000 in fines each. (18 U.S.C. §§152-157, 1519, and 3571) In that event, Mr. DeLano could use the wealth of inside knowledge of wrongdoing that he gained during the more than 42 years that he spent as a banker as his chip in plea bargaining for leniency. He could trade up to “bigger fish”, such as Bankruptcy John C. Ninfo, II, WBNY, the trustees, and other bankruptcy system insiders, anyone of whom could incriminate him. In turn, the Judge could trade up to “fat cats” in the federal judiciary who have either participated in running, or sharing in the benefits of, the bankruptcy fraud scheme or have knowingly looked the other way for years.

The *Follow the money!* investigation can also search the public registries, such as county clerk’s offices. (<http://www.naco.org>; for Rochester, NY, go to <http://www.monroecounty.gov/>; see also §§VI-VIII, X infra) Then it can cover private and official trustees and other bankruptcy system insiders. The following leads can pinpoint and expedite a cost-effective investigation:

David Gene DeLano, SS # 077-32-3894
DoB: September 1, 1941
Last employer: M&T Bank –Manufacturers & Traders Trust Bank-
255 East Avenue, Rochester, NY 14604
Previous employers: Central Trust, Rochester, NY;
First National Bank, Rochester, NY; employed as Vice President
Voter Identification Number: 13374201

Mary Ann DeLano, SS # 091-36-0517
DoB: September 21, 1944
Last employer: Xerox, Rochester, NY; employed as a product specialist
Last known address: 1262 Shoecraft Road, Webster, NY 14580; tel. (585) 671-8833
Previous address: 35 State Street, Rochester, NY 14814-8954

Their children and their education: **Jennifer DeLano,** born circa 1969
Mercy High School, 1988
Associate Business degree from Monroe Community College, NY

Michael David DeLano, born circa 1971
Aquinas High School, 1989
Associate Business degree from Monroe Community College, NY

Initial judges: Their investigation can begin by matching up **a)** the assets that they declared in their mandatory annual financial disclosure reports publicly filed with the Administrative Office of the U.S. Courts (<http://www.uscourts.gov/>) under the Ethics in Government Act (**5 USC App. 4)** and **b)** assets –homes, cars, boats- registered in their names or their relatives’ or strawmen’s; then on to finding from drivers, barmen, maids, etc. about their conduct at judicial junkets; etc.

1. U.S. Bankruptcy Judge John C. Ninfo, II, WBNY; Rochester, NY; <http://www.nywb.uscourts.gov/>
2. U.S. District Judge David G. Larimer, WDNY; Rochester, NY; <http://www.nywd.uscourts.gov/>
3. Former CA2 Chief Judge John M. Walker, Jr.; NYC; <http://www.ca2.uscourts.gov/>
4. Current CA2 Chief Judge Dennis Jacobs
5. CA2 Judge Peter W. Hall; NYC