

Labor Racketeer Awaits Payoff After Rare Court Victories



John Fazio GL

Convicted labor racketeer John Fazio has 30 months remaining on an 11-year prison term, but after a rare win in the 2d Circuit Court of Appeals, and an even rarer admission by the feds that they wronged him, the Genovese associate should be back home before long. Fazio, 47, would be home already if the usually slow judicial system worked at normal speed.

In a recent filing, Manhattan prosecutors admit that back in 2012 they wrongly calculated the sentencing guidelines of Fazio, a former officer of Local 348 of the United Food & Commercial Workers Union, (UFCW). They also agreed with a defense request that he should be resentenced, but this time facing a lesser prison term, one that would likely end in a "time-served" sentence.

Fazio, a [longtime associate](#) of Genovese capo John (Johnny Sausage) [Barbato](#), was found guilty in a controversial trial of reaping more than \$2.5 million in kickbacks and bribes from numerous employers in return for labor peace and by looting the union's health and welfare funds from 1999 to 2010.

There was extensive evidence at trial that Fazio and other crooks in his labor local were running a massive racket in which they arranged sweetheart labor deals with employers looking to avoid otherwise costly union contracts. But when it came to figuring out the math of how much dough the racketeers were pulling in, prosecutors now acknowledge they overreached.

In a stunning *mea culpa*, Assistant U.S. Attorney Brian Blais wrote, "Given that the government" has known since 2015 that the \$2.5 million loss was overstated and that Fazio's recommended prison term should have been "lower" than 135 months, it "consents to a resentencing of Fazio with an appropriately calculated guidelines range" before a different judge.



John Barbato GL

In his July 18 filing, which the appeals court has not yet acted on, Blais conceded that the government had wrongly stated at sentencing that Fazio, a former Local 348 secretary-treasurer, had reaped more than \$2.5 million from kickbacks and thefts from the union's benefit fund — the key reason for the heavy prison sentence.

Based on the government's assertions, Judge Katherine Forrest had ruled at sentencing that the total loss was \$12,000 greater than \$2.5 million, and sentenced Fazio to 135 months. That comes to about 115 months behind bars, according to normal Bureau of Prisons protocol.

The government's concession comes two years after Fazio's new attorney, Anthony DiPietro, first alleged in a detailed 92-page filing that the actual

loss attributable to his client was at least \$250,000 less than the \$2.5 million threshold, and that the maximum guidelines sentence Fazio should have faced was 108 months.



Anthony DiPietro GL

At that point, the government objected and Forrest, who has since left the bench, denied the motion. But DiPietro filed a second detailed brief with the 2d Circuit, which had already upheld Fazio's conviction and sentence, seeking permission to appeal Forrest's ruling, a request the judge had refused to grant.

In a split 2-1 ruling, the appeals court agreed there was merit to that claim and gave DiPietro the right to appeal. In his filing, the lawyer alleged that the government had overstated Fazio's thefts by an even larger amount — a whopping \$978,000, including \$50,000 the FBI and prosecutors knew about before trial. While not responding to those figures, prosecutor Blais folded his cards and asked the court to grant Fazio's motion and order him resentenced.

In his filing, Blais attributed some of the government's new understanding of the thefts to a cooperating witness who provided information showing "that certain amounts included in the loss amount attributed to Fazio at sentencing were not appropriately attributed to Fazio." Blais didn't disclose the "amounts," or the identity of the snitch who provided the information.

Sources say the unnamed informer is [Vincent Fyfe](#), the grandson of late oddfather-godfather Vincent (Chin) [Gigante](#), the president of UFCW sister Local 2D, the unlikely turncoat who fingered Gigante's son, Vincent Esposito, as a longtime extortionist who shook him down for annual \$10,000 payoffs for 16 or so years.

Sources say Fyfe and Fazio are [longtime friends](#) who often socialized with each other and who shared a home in Staten Island years ago — before Fazio was incarcerated following his conviction seven years ago.

Blais did not return a call from Gang Land. DiPietro declined to discuss any specifics about the case, but stated that the prosecutor's actions in the appeal were "exemplary and he should be commended for taking steps to remedy this incorrect sentence."



Vincent Fyfe

Blais's decision, assuming the 2d Circuit goes along with it eventually, will not impact the five year sentence that Fazio's cousin, Anthony Fazio Jr., a former 348 vice president received for his conviction, since he was released in 2017. But it could have an impact on the 151 month prison term his dad, [Anthony Sr., 73](#), is serving. Anthony Sr., a former Local 348 president, isn't due to be released until April of 2023.