No. 15-5991

IN THE SUPREME COURT OF THE UNITED STATES

LAWRENCE EUGENE SHAW, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTION PRESENTED

Whether a bank-fraud offense under 18 U.S.C. 1344(1) requires proof that the defendant intended to expose the defrauded bank to a financial loss or a risk of loss.

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OPINION BELOW

The opinion of the court of appeals (Pet. App. A1-A15) is reported at 781 F.3d 1130.

JURISDICTION

The judgment of the court of appeals was entered on March 27, 2015. A petition for rehearing was denied on June 8, 2015 (Pet. App. B1). The petition for a writ of certiorari was filed on September 4, 2015. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a jury trial in the United States District Court for the Central District of California, petitioner was convicted on 14 counts of bank fraud, in violation of 18 U.S.C. 1344(1) and 2. Judgment 1. The district court sentenced petitioner to 57 months of imprisonment, to be followed by five years of supervised release. Ibid. The court of appeals affirmed. Pet. App. A1-A15.

1. Petitioner's counts of conviction stem from his fraudulent scheme to obtain funds from Bank of America (BoA) through transfers from BoA accounts owned by Stanley Hsu. Hsu had worked and raised his children in the United States before moving to Taiwan. In connection with that move, Hsu arranged to have Beatrice Fu -- the daughter of one of his company's employees -- receive his mail at her residence in the United States and forward the mail to him in Taiwan. Petitioner lived with Fu, had no outside employment, and routinely retrieved the household mail. In 2007, petitioner intercepted Hsu's BoA bank statements from the mail, opened them, and used the information about Hsu's accounts to syphon funds from them by a fraudulent scheme. Pet. App. A5; Gov't C.A. Br. 4.

Petitioner executed a series of fraudulent banking transactions using multiple accounts at BoA, PayPal, and Washington Mutual Bank. Pet. App. A5-A6. First, petitioner established a

PayPal account using Hsu's personal information and an email account that he created in Hsu's name. Petitioner electronically linked the fraudulent Hsu PayPal account to Hsu's BoA accounts. Id. at A5; Gov't C.A. Br. 4-7. Second, petitioner opened a savings account at Washington Mutual Bank in the name of his father, Richard Shaw. When petitioner attempted to link that account to the fraudulent Hsu PayPal account, PayPal flagged the transaction as suspicious and sent a request for more information to the email address that petitioner had created in Hsu's name. Petitioner circumvented Paypal's security procedures and succeeded in linking the accounts by using an altered copy of Hsu's driver's license and a copy of one of Hsu's BoA statements that petitioner altered to make it look like Hsu owned the fake Richard Shaw account. Pet. App. A5-A6; Gov't C.A. Br. 8. Third, petitioner opened a checking account at Washington Mutual in his father's name, which was automatically linked to the fraudulent Richard Shaw savings account. Petitioner also linked that checking account to a Paypal account that petitioner had previously established in his father's name. Pet. App. A6; Gov't C.A. Br. 4-5, 8. Petitioner also had access to a Washington Mutual account that he previously opened in his and Fu's names and to which he linked his own Paypal account. Pet. App. A6; Gov't C.A. Br. 9. Petitioner took these actions

without the knowledge or permission of Hsu, his father, or Fu. Pet. App. A5-A6.

After petitioner established and linked the accounts, he began to drain the BoA accounts with a series of cascading computer transfers and checks that moved funds from BoA, to PayPal, to the Washington Mutual accounts in his father's name, and ultimately to petitioner's own bank account. Pet. App. A6; Gov't C.A. Br. 9. From June to October 2007, petitioner successfully executed about 38 fraudulent bank transfers and obtained approximately $307,000 from the BoA accounts. Pet. App. A6; Gov't C.A. Br. 10. Petitioner used the funds to pay for, inter alia, his unsuccessful day-trading efforts and motorcycle and car parts. Gov't C.A. Br. 9.

In October 2007, Hsu's son discovered that money was missing from the BoA accounts, reported the fraud to BoA, and closed the accounts. Consistent with standard industry practice, BoA returned approximately $131,000 to Hsu for the fraudulent transactions that occurred within 60 days of his report of the fraud but did not reimburse Hsu for funds that petitioner drained in earlier transactions. PayPal, in turn, reimbursed BoA for the amount that BoA reimbursed to Hsu. As a result, BoA did not ultimately suffer a direct pecuniary loss from petitioner's fraud. Pet. App. A6-A7; Gov't C.A. Br. 10-11.

2. A federal grand jury indicted petitioner on 17 counts of bank fraud, in violation of 18 U.S.C. 1344(1). Pet. App. A7. Section 1344 makes it an offense "knowingly [to] execute[], or [to] attempt[] to execute, a scheme or artifice --

> (1) to defraud a financial institution; or
>
> (2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises.

18 U.S.C. 1344. This case concerns only the first clause of that provision, Section 1344(1).

At trial, petitioner argued that the district court should instruct the jury that, to prove bank fraud under Section 1344(1), the government must prove that he intended not only to target a bank for fraud but also that he intended to cause the bank to suffer an actual loss or to expose the bank to a risk of loss. Pet. App. A7. More specifically, petitioner requested instructions requiring that the government prove that his scheme to defraud was "designed to victimize [the bank] by causing [the bank], not only Stanley Hsu, monetary loss," and that petitioner "acted with the specific intent to defraud [the bank]; that is, with the intent to deceive and cheat [the bank] in order to expose [the bank], not only Stanley Hsu, to monetary loss." Id. at A7-A8 (brackets in original).

The district court rejected petitioner's instructional request based on its conclusion that Section 1344(1) does not require proof that a fraudulent scheme expose a bank to a risk of loss or proof of intent to make the bank a financial victim of the fraud. Pet. App. A8. The court instead instructed the jury that, to prove bank fraud under Section 1344(1), the government must prove beyond a reasonable doubt that petitioner (1) "knowingly executed a scheme to defraud a financial institution as to a material matter" (2) "with the intent to defraud the financial institution" and that (3) "the financial institution was insured by the Federal Deposit Insurance Corporation." Id. at A8-A9. The court further instructed that "[a]n intent to defraud is an intent to deceive or cheat" and that "[t]he phrase 'scheme to defraud' means any deliberate plan of action or course of conduct by which someone intends to deceive, cheat, or deprive a financial institution of something of value." Id. at A9. The court clarified to the jury that the government need not prove that "any financial institution lost any money or property as a result of the scheme to defraud." Ibid.

The jury found petitioner guilty on 14 bank-fraud counts. Pet. App. A9. Petitioner appealed.

3. While petitioner's appeal was pending, this Court decided Loughrin v. United States, 134 S. Ct. 2384 (2014), which interpreted the second clause of the bank-fraud statute, Section

1344(2). The Court in Loughrin granted review on the question whether "the Government must prove that the defendant intended to [1] defraud a bank and [2] expose it to risk of loss in every prosecution under 18 U.S.C. § 1344." Pet. at i, Loughrin, supra (No. 13-316). The Court held that neither is required.

First, Loughrin observed that Section 1344(1) requires proof that "a defendant intend[ed] to 'defraud a financial institution,'" 134 S. Ct. at 2389-2390, but Section 1344(2) does not, id. at 2390-2395. Rather than read Section 1344(2) to incorporate an element textually limited to the first clause of Section 1344, the Court interpreted Section 1344(2) to require proof of a scheme (1) to obtain property owned by, or under the custody or control of, a bank (2) by means of false or fraudulent pretenses, representations, or promises, which requires proof of a scheme in which the "defendant's false statement is the mechanism naturally inducing a bank (or custodian) to part with its money." Id. at 2389, 2394. Under that reading, the Court recognized, "the overlap between the two clauses [of Section 1344] is substantial." Id. at 2390 n.4. Nevertheless, the Court explained, Section 1344(1) retains independent meaning because it covers not only schemes involving the use of falsehoods like Section 1344(2) but also check-kiting schemes that "do not involve any false representations." Ibid.

Second, Loughrin held that Section 1344(2) does not require proof that the fraudulent scheme placed a bank at a risk of loss. 134 S. Ct. at 2395 n.9. The Court reasoned that "nothing like that element appears in the clause's text." Ibid. Moreover, the Court explained, a risk-of-loss element "fits poorly" with the Court's holding in Neder v. United States, 527 U.S. 1, 25 (1999), that "the gravamen of § 1344 is the 'scheme,' rather than the 'completed fraud.'" 134 S. Ct. at 2395 n.9 (quoting Neder, 527 U.S. at 25). That focus on the defendant's "scheme" rather than a completed fraud means that a Section 1344 offense requires neither "damage" nor any "reliance" by a victim on the defendant's fraudulent misrepresentation. Ibid. (quoting Neder, 527 U.S. at 25); see id. at 2393-2394.

4. The court of appeals subsequently affirmed in this case. Pet. App. A1-A15. The court upheld the jury instructions, holding that Section 1344(1) does not require proof that a defendant "intended the bank to bear the loss" from his fraudulent scheme, id. at 4. See id. at 10-15.

The court of appeals observed that Loughrin had recently concluded that although Section 1344(1) and Section 1344(2) govern distinct types of bank fraud, the provisions "overlap substantially." Pet. App. A10. Among other things, the court observed, Loughrin held that Section 1344(2) does not require proof of "a risk of loss to a bank." Id. at A11.

The court of appeals reached a similar conclusion under Section 1344(1). The court explained that the "statutory language" was inconsistent with petitioner's view that Section 1344(1) requires proof that the defendant "intended to expose the bank to the principal risk of loss." Pet. App. A11-A12. "[N]either [Section 1344(1) nor Section 1344(2)] * * * refers to monetary loss or to the risk of such loss." Id. at A11. Section 1344(1)'s text, the court explained, instead "focuses on the intended victim of the deception" (a bank) and, for that reason, it applies to schemes "to deceive the bank" and "covers schemes to deceive the bank directly." Id. at A11-A12. Thus, "[n]either clause [of Section 1344] requires the government to establish the defendant intended the bank to suffer a financial loss." Id. at A12.

The court of appeals explained that its prior bank-fraud precedent reached "the same result" and that Loughrin now further supports the conclusion that neither Section 1344(1) nor Section 1344(2) turns on "which entity the defendant intended to bear the financial loss" of his scheme. Pet. App. A12-A13. Loughrin, the court explained, interpreted Section 1344(2)'s language as designed to avoid "'entangling courts in technical issues of banking law about whether the [bank], or, alternatively, a depositor would suffer the loss from a successful fraud.'" Id. at A14. "There is no reason to believe Congress

wanted courts to become more entangled in such technical issues under [Section 1344(1)] than under [Section 1344(2)]." Ibid.

The court of appeals noted that decisions by other courts of appeals before Loughrin reflected a "circuit split" (Pet. App. A13) over whether "risk of financial loss to the bank is an element that must be proven under [Section] 1344(1)." Id. at A14; see id. at A4. Those courts that previously required such an offense element, the court explained, based their view on "legislative history" suggesting that Section 1344 would advance the "'federal interest in protecting the financial integrity'" of federally insured banks. Id. at A14-A15 (citation omitted). "But requiring proof of intent that a bank bear a risk of loss does not serve this end": "Few criminals have any knowledge of the rules of law that govern which entity bears the risk of loss," and the identity of the person ultimately bearing that risk depends upon "the operation of banking laws," not the identity of the person "that the defendant intends to harm." Id. at A15. The court accordingly concluded that, consistent with Loughrin, it would not "read an additional element into [Section] 1344(1) that Congress did not include; that does not serve the Congressional purpose; and that could needlessly entangle judges and juries in the intricacies of banking law." Ibid.

ARGUMENT

Petitioner argues (Pet. 21-24) that the court of appeals erred in rejecting his contention that Section 1344(1) requires proof that the defendant intended the defrauded bank to suffer a financial loss. Petitioner further argues (Pet. 10-21) that this Court's intervention is necessary to resolve a division of authority on that question. This Court's review is unwarranted at this time. The court of appeals correctly interpreted Section 1344(1), and it is the only court of appeals to have addressed the question presented after Loughrin v. United States, 134 S. Ct. 2384 (2014). Review would be premature before other courts of appeals have had an appropriate opportunity to consider Section 1344(1) in light of this Court's analysis of the bank-fraud statute in Loughrin.

1. The court of appeals correctly rejected petitioner's contention that Section 1344(1) requires proof of "intent to financially victimize the bank." Pet. App. A4. Section 1344(1) makes it an offense "knowingly [to] execute[], or [to] attempt[] to execute, a scheme or artifice -- (1) to defraud a financial institution." 18 U.S.C. 1344. A scheme to defraud a bank, in turn, requires proof of an intent to deprive the bank of something of value by deception; it does not require proof that a defendant intended to cause financial harm to the bank.

a. This Court has concluded that the term to "defraud" in the mail-, wire-, and bank-fraud contexts borrows meaning from the common law. Neder v. United States, 527 U.S. 1, 22 (1999). At common law, the term "refer[s] 'to wronging one in his property rights by dishonest methods or schemes,' and 'usually signif[ies] the deprivation of something of value by trick, deceit, chicane or overreaching.'" McNally v. United States, 483 U.S. 350, 358 (1987) (citation omitted). Such fraud at common law requires proof only of an "intention to induce the plaintiff to act or refrain from action in reliance upon the misrepresentation." William P. Keeton et al., Prosser and Keeton on the Law of Torts § 105, at 728 (5th ed. 1984); see Restatement (Second) of Torts § 525 (1976) ("One who fraudulently makes a representation * * * for the purpose of inducing another to act or to refrain from action in reliance upon it, is subject to liability to the other in deceit."). "[C]ommon-law fraud has no additional 'intent to harm' requirement." United States v. Kenrick, 221 F.3d 19, 28 (1st Cir.) (en banc), cert. denied, 531 U.S. 961 and 531 U.S. 1042 (2000), abrogated in part on other grounds by Loughrin, 134 S. Ct. at 2388 n.2. Thus, the words "scheme or artifice to defraud" in Section 1344(1) do not suggest a requirement of intent to cause financial harm to the victim.

That conclusion is supported by this Court's holding that the mail- and wire-fraud statutes -- which, like Section

1344(1), prohibit certain "scheme[s] or artifice[s] to defraud," 18 U.S.C. 1341, 1343 -- cover "any scheme to deprive another of money or property by means of false or fraudulent pretenses, representations, or promises." Carpenter v. United States, 484 U.S. 19, 27 (1987). In Carpenter, for instance, the Court held that Sections 1341 and 1343 apply even if the fraudulent scheme -- when wholly successful -- wrongfully acquires intangible property whose theft would cause no "monetary loss" to the victim. Id. at 26 (holding that a deprivation of a right to "exclusive use" of confidential information is sufficient). Congress directly modeled Section 1344 on the mail- and wire-fraud statutes because it understood them "to reach a wide range of fraudulent activity." S. Rep. No. 225, 98th Cong., 1st Sess. 378 (1983). It follows that Section 1344(1) likewise requires no proof of intent to cause a victim bank financial harm.

Section 1344(1)'s drafting history demonstrates that Congress rejected language that would have required proof of intent to harm a bank. After the Senate passed the Comprehensive Crime Control Act bill (S. 1762, 98th Cong.) containing the text ultimately enacted as Section 1344, see 130 Cong. Rec. 1587, 1636-1637 (1984); S. Rep. No. 225, at 377-379, 772; cf. 18 U.S.C. 1344 (1988), a House subcommittee hearing addressed the relevant portions of S. 1762 and a competing House measure (H.R. 5405). Financial Bribery and Fraud: Hearing Before the Subcomm.

on Crim. Justice of the House Comm. on the Judiciary, 98th Cong., 2d Sess. (1984). The House bill was narrower than its Senate counterpart, defining a Section 1344 offense as knowingly "devis[ing] a plan to obtain the property of a national credit institution, or to cause economic loss to such an institution by fraudulent means." Id. at 19 (emphasis added). The Justice Department "strongly urge[d]" the subcommittee "to follow the format in * * * S. 1762" because, the Department explained, Section 1344 should be given "broader coverage" and the Senate text was "modeled on the present mail and wire fraud statutes deliberately to incorporate [the] existing case law," which did not limit the offenses to "situations where the object of the fraud is to obtain money or inflict an economic loss." Id. at 4, 12. The House bill was later reported as a clean bill (H.R. 5872) with revisions to "address[] some of the Justice Department's concerns" by adopting S. 1762's language so as "to incorporate case law" giving "expansive interpretations" to the mail- and wire-fraud statutes. H.R. Rep. No. 901, 98th Cong., 2d Sess. 3-4 (1984). In doing so, Congress rejected the very requirement that petitioner now advocates: a requirement that the scheme be intended to cause financial harm to a bank.

Such a requirement would also serve no evident legislative goal. Petitioner's intent-to-harm requirement would draw a distinction between identical fraudulent schemes targeting bank

property based on whether the defendant was merely indifferent to whether the bank would itself bear the loss or whether the loss would ultimately be covered by insurance or other entities. But the capacity of such fraudulent schemes to undermine the banking system does not turn on whether the financial loss is ultimately borne by a particular deceived bank or by some other entity affected by the relevant banking transaction -- a question that may turn on "technical issues of banking law." Loughrin, 134 S. Ct. at 2395 n.9. Petitioner thus identifies no sound reason why Congress would have wanted to prohibit only fraudulent schemes targeting banks by schemers who affirmatively "intend[] to expose the bank to actual or potential loss," Pet. 23.

This Court's recent decision in Loughrin supports the reasoning of the court of appeals. The Court in Loughrin granted certiorari on the question whether the government must prove that the defendant "intended to [1] defraud a bank and [2] expose it to risk of loss in every prosecution under 18 U.S.C. § 1344," Pet. at i, Loughrin, supra (No. 13-316) (emphasis added), and held that Section 1344(2) does not include a risk-of-loss element, 134 S. Ct. at 2395 n.9. The rationale for that holding applies equally here.

First, "nothing like that [asserted] element appears in the [statutory] text." Loughrin, 134 S. Ct. at 2395 n.9. As the

court of appeals explained, "[t]he language of neither clause of [Section 1344]" supports petitioner's view that "the defendant [must have] intended the bank to suffer a financial loss." Pet. App. A11-A12. Loughrin also concluded that a risk-of-harm-to-a-bank element would be a poor fit for Section 1344 because it reaches the scheme, not the consummated fraud, 134 S. Ct. at 2395 n.9, yet petitioner's "inten[t] to expose the bank to actual or potential loss" element (Pet. 23) is even worse. Petitioner emphasizes (Pet. 23) that his "position is not that [Section] 1344(1) requires proof of 'risk of loss,' * * * but rather proof that the defendant intended to expose the bank to actual or potential loss." But Congress would have had no reason to limit the bank-fraud statute in that manner, since the harms from the scheme do not depend on the fraudster's anti-bank purpose (as opposed to his indifference to a possible bank loss). See pp. 14-15, supra. Loughrin's conclusion that the text of Section 1344(2) "appears calculated to avoid entangling courts in technical issues of banking law about [who] would suffer the loss from a successful fraud," 134 S. Ct. at 2395 n.9, applies equally here: Congress used no language that suggests that it intended to base liability for a fraudulent scheme on a defendant's understanding or belief about who would ultimately bear the financial loss from that scheme. See Pet. App. A14.

b. Petitioner briefly argues (Pet. 21-22) that the word "defraud" as construed in McNally supports his intent-to-harm-a-bank requirement. But as explained above (pp. 12-13, supra), that common-law term provides no basis for that requirement.

Petitioner contends that rejecting his intent-to-harm-a-bank requirement for Section 1344(1) "virtually dissolves the distinction" between Section 1344(1) and Section 1344(2) because the latter already covers schemes when "'a defendant makes a misrepresentation to the bank itself.'" Pet. 22 (quoting Loughrin, 134 S. Ct. at 2393). Petitioner recognizes the "'substantial overlap'" of the two provisions, but argues that omitting his intent element "effectively" renders one of the clauses superfluous. Ibid. (quoting Loughrin, 134 S. Ct. at 2390 n.4). That too is incorrect. Section 1344(1) covers "check kiting" schemes while Section 1344(2) does not. Loughrin, 134 S. Ct. at 2390 n.4. Section 1344(2), in turn, is broader in some respects than Section 1344(1) because it covers schemes targeting either (1) bank-owned property directly held by the bank or in the custody or control of others and (2) property not owned by a bank but under its custody or control, 18 U.S.C. 1344(2), when the scheme's "false statement is the mechanism naturally inducing a bank (or custodian) to part with its money" or other property, Loughrin, 134 S. Ct. at 2394. Both provisions thus

retain independent meaning even though they have "substantial" overlap in practice, id. at 2390 n.4.

Finally, petitioner argues (Pet. 23-24) that his focus on the defendant's intent to harm a bank would not entangle courts in "technical issues of banking law" because the bank's actual risk of loss is irrelevant. Petitioner illustrates his point by arguing (Pet. 23) that the jury could infer intent, for instance, when evidence shows that a bank was "obligated to pay a cashier's check written on non-sufficient funds." Such evidence not only directly implicates "technical issues of banking law," it does so through the even less sensible lens of a criminal defendant's inferred knowledge of such law. See pp. 14-16, supra.

2. Petitioner contends (Pet. 11-19) that review is warranted because, he asserts, the court of appeals' decision conflicts with decisions from nine other courts of appeals. Although some of decisions on which petitioner relies are distinguishable and do not support petitioner's asserted extent of the division of authority, the government acknowledges that some courts of appeals before Loughrin agreed with petitioner's view that Section 1344(1) requires proof of intent to harm a bank. See, e.g., United States v. Nkansah, 699 F.3d 743, 748 (2d Cir. 2012) (concluding that Section 1344 requires "intent to victimize the [banking] institution by exposing it to actual or poten-

tial loss") (citation omitted), abrogated in part by Loughrin, supra (rejecting risk-of-loss element under Section 1344(2)); United States v. Thomas, 315 F.3d 190, 200 (3d Cir. 2002) (concluding that "harm or loss to the bank must be contemplated by the wrongdoer" because "the bank must be deliberately harmed before [Section 1344(1)] is violated"), abrogated in part by Loughrin, 134 S. Ct. at 2388 n.2 (rejecting parallel holding for Section 1344(2)).

This Court's review is nevertheless unwarranted at this time. Other than the opinion in this case, petitioner cites no opinion decided after Loughrin. Indeed, no court of appeals other than the court here has yet to consider after Loughrin whether Section 1344(1) requires intent to harm a bank.* Petitioner argues (Pet. 26) that "the question presented here will repeat, and the existing conflict will endure." Perhaps that will be so; perhaps not. But if a significant division of authority exists after the courts of appeals have had an

* After Loughrin, the Second Circuit issued an unpublished summary order in United States v. Reese, 603 Fed. Appx. 63, cert. denied, 136 S. Ct. 433 (2015), holding that evidence that Reese "trafficked in stolen checks and the forged checks were presented to the drawee bank" was sufficient under Section 1344(1) to show that he "intended to victimize the bank by exposing it to an actual or potential loss." Id. at 64 (citation omitted). Because the evidence was sufficient under its pre-Loughrin precedents, Reese had no occasion to consider whether to disavow its pre-Loughrin intent-to-harm requirement.

opportunity to consider the issue in light of Loughrin, this Court will have the opportunity to decide whether review is warranted at that time. If not, review would not be warranted either now or in the future.

Moreover, even if the courts of appeals remain divided over whether Section 1344(1) includes an intent-to-harm-the-bank requirement after having considered the issue in light of Loughrin, such a division may not reflect a significant one warranting this Court's review. Loughrin recognizes that, given the Court's interpretation of Section 1344(2), "the overlap between [Section 1344(1) and Section 1344(2)] is substantial." 134 S. Ct. at 2390 n.4. For instance, because petitioner's scheme targeted bank funds and involved fraudulent representations communicated to banks, petitioner's scheme could now be charged under Section 1344(2) as interpreted by Loughrin. The substantial overlap of the two provisions therefore may mean that any resulting future disagreement about the scope of Section 1344(1) could be of limited, or no, practical import. Cf. United States v. Bah, 587 Fed. Appx. 752, 754-755 (4th Cir. 2014) (unpublished) (affirming bank-fraud conviction based on guilty plea because the defendant was charged under both Section 1344(1) and Section 1344(2), and the conviction was valid in light of Loughrin under Section 1344(2)). As such, review is not warranted at this time.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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