

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

CRIMINAL NO. 09-348 (RJL)

v.

**DANIEL ALVIREZ, and
LEE ALLEN TOLLESON,**

Defendants.

UNITED STATES' NOTICE REGARDING DISCOVERY

The United States of America, by and through its undersigned attorneys, hereby submits this Notice to apprise the Court of the status of its discovery production in the above-captioned cases. At the last status conference on March 22, 2010, the government outlined for the Court the general categories of discovery that had been produced and identified the discovery that was awaiting production. The Court ordered that “the Government may have until the 29th [of March] to produce all the discovery that is required to do so in this case.” (Transcript of Status Conference on March 22, 2010, at 93.) This Notice details the discovery that has been produced and outlines the discovery the government continues to receive and will produce as it becomes available.

A. Recorded Meetings and Calls

The government has produced all of the audio and video recordings of the meetings in connection with the undercover investigation, which consists of over 615 audio and video recordings of more than 150 meetings.¹ The government provided an index of the recordings to

¹ As the Court is aware, in advance of this production of audio and video recordings, which was completed March 27, 2010, the government produced audio recordings of the meetings discussed in the indictments and made all of the audio and video recordings of meetings in connection with the investigation available for review by the defendants.

the defendants to facilitate their review of that material. As explained at previous status conferences, the government also offered to identify the relevant recordings for defense counsel and has met with many defense counsel to assist them in identifying recordings, and conversations within the recordings, that are relevant to their clients.

The government has also produced 5,287 recorded telephone calls between the defendants and the cooperating witness, identified as Individual 1 in the indictments, and between the defendants and undercover FBI agents. To facilitate the defendants' review of these telephone calls, the government has provided an index of the calls. Additionally, the government has produced recordings of telephone calls between Individual 1 and FBI agents, and has provided an index of those calls. The government has also notified the defendants that certain calls, approximately a minute or less in length, recorded in connection with the undercover investigation, were not included in the prior productions and that the government will produce those calls to the defendants upon receipt of a hard drive. The government has provided the defendants with a log of those calls as well.

B. Documents Related to Individual 1

The government has produced in excess of 5,000 pages of documents relating to Individual 1, including reports, expense paperwork, bank statements, quotes, emails, notes, drug tests results, payment receipts, and Skype text messages, among others. The government has also produced emails from the accounts of Individual 1 and the undercover FBI agents. Additionally, the government has produced nearly 3,000 pages of text messages from the telephone Individual 1 used in connection with the undercover operation ("Operation Phone").

In response to a request from defense counsel, the government has produced telephone bills from Individual 1's Operation Phone, notwithstanding the fact that the government does not

believe these telephone bills constitute Rule 16, Brady or Giglio material. Defense counsel have requested additional telephone bills for Individual 1's Operation Phone, as well as his personal telephone. Although the government does not believe these telephone bills constitute Rule 16, Brady or Giglio material, it is in the process of identifying and producing these documents.

C. Documents Related to the Undercover Investigation

The government has also produced documents related to the undercover investigation that are not directly related to Individual 1, including case administration documents, FBI reports, bank records, product information, and search warrant materials.

D. Defendant Documents

The government has produced to each defendant and his or her co-defendant documents regarding the defendant's participation in the Country A deal charged in the indictments and historic deals, including emails, invoices and quotes. Documents related to other co-conspirators' participation in the Country A deal and historic deals have been made available to the defendants upon request.

The government has also produced to each defendant the FBI report memorializing his or her own post-arrest statements and has made the reports memorializing the post-arrest statements of co-defendants and co-conspirators available upon request. Additionally, the government has produced the documents seized from the defendants at the time of their arrests and the related paperwork.

The government has also produced photographs of the items the defendants sold in Phase I of the Country A deal. Those physical items, as well as additional samples that were provided by certain defendants in advance of Phase I, have been made available for inspection and photographing.

E. Search Warrant Materials

The government has produced the materials seized during the 13 search warrants executed in connection with the undercover investigation relating to the defendants. In this production, the government produced a total of approximately 242,000 pages of documents to the relevant defendants. Additionally, the government produced to the relevant defendants electronic media, including desktop computers, laptop computers, USB drives, zip discs, memory cards and DVDs, among other items, seized during the searches. The government has also produced to all the defendants photographs taken in connection with the search warrants and logs of those photographs, as well as search diagrams and seizure inventories.

F. Defendants' Document Requests

As noted at the status conference on March 22, 2010, defense counsel have contacted the government and requested numerous additional categories of discovery in addition to what the government has already provided. The government is working with defense counsel on those requests and has, and will continue to, supplement its production, as appropriate, in response to those requests. For example, counsel for John and Jeana Mushriqui have requested recordings of calls from Individual 1 to their clients in addition to the calls that were produced on February 17, 2010. In responding to this request, the government learned that certain calls, approximately a minute or less in length, were not included in the prior production. The government has identified these calls and has notified defense counsel that it will produce them upon receipt of a hard drive. The government has produced a log of all of the telephone calls recorded in connection with the undercover investigation to allow each defendant to identify the calls in which that individual participated.

Defense counsel have also requested materials obtained from Individual 1's former employer that were produced to the government in connection with the company's voluntary disclosure of possible criminal conduct. The government has produced materials that relate to Individual 1 from the company's production but has not produced all of the materials provided by the company. Due to the confidential and possibly privileged nature of the information provided by the company, the government will work with the company to determine how any additional discoverable material, to the extent it exists, can be produced to the defendants.

Additionally, defense counsel have requested documents and electronic media seized by the authorities in the United Kingdom in connection with searches executed by the City of London Police. As explained to defense counsel and the Court, the government does not have those materials in its possession and has no current intention of using the materials at trial. To the extent the government obtains the United Kingdom search materials, it will produce any discoverable materials to the defendants at that time.

G. Ongoing Discovery Obligations

The government is aware of, and will comply with, its ongoing discovery obligations. To the extent the government comes into possession of additional discoverable materials, it will produce them to the defendants. For example, the government has subpoenaed documents, including bank records and records from companies in the law enforcement and military products industry, in connection with the undercover investigation and is receiving materials in response to these subpoenas on a rolling basis. The government will continue to produce

discoverable materials from the subpoena responses on a rolling basis as they are received and reviewed by the government.

Respectfully submitted,

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