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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

03 CR 484 (TPG)

ALBERT SANTORO,

Defendant.

-----x



New York, N.Y.
May 11, 2006
12:10 p.m.

Before:

HON. THOMAS P. GRIESA,

District Judge

APPEARANCES

DAVID N. KELLEY
United States Attorney for the
Southern District of New York
MARCIA R. ISAACSON
STEVEN D. FELDMAN
Assistant United States Attorneys

LITMAN, ASCHE & GIORELLA, LLP
Attorneys for Defendant
BY: JACK LITMAN
TODD TERRY

LAW OFFICES OF STANLEY N. LUPKIN
Attorneys for Defendant
BY: STANLEY N. LUPKIN

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1 about anything that was told to me in the ex parte conference I
2 just had, but is it possible to simply say who was the person
3 who went to that residence, or is that something that there's
4 some reason not to disclose?

5 MR. LUPKIN: I believe, your Honor, that before either
6 of the two ex parte conferences, I was asked that question by
7 the Court early on and I responded that it was Mr. Rambam.

8 THE COURT: I think you did. I think you did.

9 I think that in view of that, and I had not recalled
10 that, I don't quite see -- well, let me take -- I won't
11 complete that sentence. The defense attorneys and Mr. Lupkin
12 raise a point, which I think is, has to be considered, and that
13 is if there's a Grand Jury investigation now of Mr. -- I better
14 just write that. Is it R-a-m--

15 MR. LUPKIN: R-a-m-b-a-m.

16 THE COURT: R-a-m-b-a-m, as in Mary?

17 MR. LUPKIN: M as in Mary. Yes, sir.

18 THE COURT: Both M's. If there's a Grand Jury
19 investigation of Mr. Rambam, and if a subpoena is carried out
20 now calling for the production of substantial, a substantial
21 amount of documents, then it could very well cause Mr. Rambam
22 to withdraw from the case or conceivably cause Pallorium to
23 resign from the case.

24 Now, there has been a very extensive investigation by
25 Pallorium, lots of interviews with a lot of people. It's not

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1 finished, according to what I'm informed. I wish to do what I
2 can to allow the defense to continue that investigation. I
3 don't know whether Mr. Rambam acted improperly in talking to
4 Ms. Wong or not. I have an affirmation of an FBI agent that
5 said that this person did. Mr. Rambam is not named in the
6 affirmation, but we know now that it's Mr. Rambam.

7 But the point is, apparently, that Mr. Rambam has
8 conducted many, many interviews, as I am informed, over an
9 extensive period of time, and I'm not apprised of any other
10 instance where he was acting as is alleged here, and if I can
11 assume, as I believe I can, that he has acted lawfully in the
12 investigation with this possible exception, he should be
13 allowed to continue and encouraged to continue in that
14 investigation.

15 Now, the government has come up with this accusation
16 of misconduct and that could in and of itself be a discouraging
17 factor to Mr. Rambam, but at least I don't want to add to the
18 problem. And consequently, I am inclined to rule that the
19 subpoena should not be given effect now, and that we should
20 have the trial. We'll probably learn a lot more at the trial
21 about matters which relate to what went on with Ms. Wong, as
22 well as many other incidents.

23 Now, I want to get to the issues that concern me as a
24 trial judge. Without making a finding, I want to state to
25 everybody here, and that includes defense counsel and

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1 Mr. Lupkin representing Pallorium, you must understand that you
2 are under a very clear direction, all of you, to use every
3 possible effort you can to avoid any activity which would
4 involve a misrepresentation of the nature of, and identity and
5 so forth of the investigator and any discussions which could
6 possibly constitute a threat or harassment or anything that
7 would deter the appearance of a witness here in court, that
8 must be totally avoided. Any issues about that that need to be
9 specifically dealt with can be brought up now or at any time
10 beginning now. Although I am at home most of the time during
11 June and July, I can certainly entertain an application for
12 some remedy.

13 As far as the investigation, I don't know how to say
14 anything except that legitimate investigation, legitimate
15 inquiries will go forward and if there's anything that I as the
16 Court can do to foster that, I will do.

17 The defense has actually made a motion to dismiss this
18 case because of the service of this subpoena, and in the ex
19 parte discussion, the defense attorneys expressed the idea that
20 they should be able to put on evidence about FBI misconduct and
21 about activities engaged in by Mr. Meyers. The suggestion was
22 that this service of the subpoena should trigger a rather
23 far-ranging hearing about misconduct leading to this
24 indictment. I will not entertain such a hearing, I will not
25 hold such a hearing, I will not hear such evidence, and that

1 motion is denied.

2 The case will come to trial. The issue about whether
3 Mr. Santoro should or should not be convicted will be
4 determined by the evidence at the trial, and this Judge will
5 not hear evidence in advance of the trial. So that's the
6 ruling. Thank you very much.

7 MR. FELDMAN: Your Honor, I'm sorry, could we ask you
8 to clarify, then? One, we don't have a trial date in this
9 case. Mr. Beale has told us that your calendar is filled
10 through December, although your Honor last time indicated you
11 wanted to go to trial in August. So is it your Honor's ruling
12 that the Grand Jury subpoena will be returnable --

13 THE COURT: Wait a minute. I want to talk about the
14 trial date. I think that I probably left court so fast that
15 afternoon when we were having testimony, maybe my intentions
16 sort of didn't get expressed, but I thought I was trying to
17 head for an August trial date, and didn't I express that on the
18 record?

19 MR. FELDMAN: You did, your Honor, but your schedule
20 right now I'm told is completely booked.

21 THE COURT: I think we have to adjust the schedule.

22 Listen, this case has priority over anything on my
23 calendar. I talked about a trial in August. I talked about it
24 to Mr. Santoro when he was on the stand, and he and I had a
25 pretty good discussion. So let's revisit the subject of the