

**MEMO ENDORSED**

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ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 1/15/16

  
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January 14, 2016

**SENT UNDER SEAL / CONFIDENTIAL**

**BY EMAIL**

The Honorable Valerie E. Caproni  
United States District Judge  
United States District Court  
Southern District of New York  
40 Foley Square, Room 240  
New York, NY 10007  
CaproniNYSDCChambers@nysd.uscourts.gov

Re: *U.S. v. Silver*, 15-cr-00093-VEC (S.D.N.Y.)

Dear Judge Caproni:

We represent the individual who was the subject of a motion *in limine* in the above-referenced case. As I understand it, before trial, the government had suggested that it might want to inquire of Mr. Silver concerning his dealings with our client as part of its case-in-chief or if Mr. Silver testified. The motion *in limine* and briefings addressed the relevance and other admissibility of this issue. The motion and proceedings about it were sealed, and ultimately the line of questioning did not occur.

It has been brought to our attention that the Court has asked the parties whether the motion and pleadings should remain sealed now that the trial has ended. I am writing to request that, on behalf of the person actually involved in the motion, we can be part of the Court's consideration of this issue. Our client's interest is obvious, but to be able to represent our client's interests and be helpful to the Court, we would like to see the pleadings and transcript of the proceeding. It is possible that the references are such that there would be no concern about unsealing. On the other hand, it might be that our client's identity and the topics are so clear that a connection would be made and her privacy unnecessarily invaded. It might be that any issue can be addressed through redactions instead of continued sealing. The issue, among others, is whether it is fair for one side or another in a trial or proceeding to propose the use of something that might not be at all relevant or otherwise admissible, for that item not to be used, but that the person involved still be injured by something that need not have been raised in the first place.

In any event, before the Court acts, we hope we can be involved as our client may be the only party who could be adversely impacted by disclosure of these proceedings being

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unsealed. I have spoken with both the Assistant U.S. Attorney and Mr. Silver's defense counsel who do not object to our involvement. We also request that this letter be put under seal as part of the Court's consideration of these issues.

We appreciate the Court's attention and consideration.

Respectfully submitted,


*/s/ Abbe David Lowell*

Abbe David Lowell

cc: Carrie Cohen, Esq. (carrie.cohen@usdoj.gov)  
Joel Cohen, Esq. (jcohen@stroock.com)

Given that the parties do not object, the Government must provide Mr. Lowell with a copy of the relevant sealed documents. Mr. Lowell may also file a letter brief under seal no later than January 22, 2016, regarding why redactions cannot be made to the sealed documents that will both preserve his client's privacy interests and make these pre-trial proceedings adequately available to the public consistent with *Lugosch v. Pyramid Co. Onondaga*, 453 F.3d 110, 119-20 (2d Cir. 2006). Mr. Lowell may file proposed redactions that satisfy both interests. If Mr. Lowell intends to file a letter brief, he must first confer with the parties regarding disclosure.

SO ORDERED.



1/15/16

HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE