

The Honorable Richard A. Jones

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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff

v.

ROMAN SELEZNEV,
aka TRACK 2,
aka ROMAN IVANOV,
aka RUBEN SAMVELICH,
aka nCuX
aka Bulba
aka bandysli64,
aka smaus,
aka Zagreb,
aka shmak.
Defendant.

NO. CR11-0070RAJ

SUPPLEMENT TO MOTION FOR
INQUIRY REGARDING POTENTIAL
CONFLICT OF INTEREST

NOTED: August 22, 2014

On August 14, 2014, the United States filed a Motion for Inquiry (Dkt. 39) alerting the Court to a potential conflict of interest involving Fox Rothschild, a firm that has submitted *pro hac vice* applications to represent the defendant in this matter. After the government filed the Motion, Larry Finegold, who appeared as local counsel on August 14, advised the government that Mr. Finegold's firm, Garvey Schubert Barer, may also face a potential conflict of interest. The government submits this supplement to

1 advise the Court of this issue and to suggest that the Court also inquire into Garvey
2 Schubert Barer's potential conflict of interest.

3 On the afternoon of August 13, 2014, Larry Finegold contacted the undersigned to
4 advise the government of a potential conflict that had come to Mr. Finegold's attention.
5 Mr. Finegold informed the government that Joy Ellis, a partner in Garvey Schubert and
6 Barer's Portland office, has represented Grand Central Baking Company in employment
7 matters. Grand Central Baking Company is a bakery with locations in Portland and
8 Seattle. Grand Central Baking Company is one of the victims named in the Superseding
9 Indictment. *See, e.g.*, Dkt 5 at ¶¶ 13. Counts 7, 15, and 22 are specifically based on
10 intrusions by Seleznev into Grand Central Baking Company's computer systems. It is
11 probable that at least one witness from Grand Central Baking Company will testify at
12 trial.

13 As reported by Mr. Finegold, Garvey Schubert and Barer's representation of
14 Grand Central Baking Company has been limited to employment matters unrelated to
15 these charges. Mr. Finegold also reported that Grand Central Baking Company has
16 declined to execute a waiver of the potential conflict. Finally, Mr. Finegold reported that
17 Garvey Schubert and Barer has conducted an internal analysis of the conflict and has
18 determined that it is not precluded from representing Mr. Seleznev in this matter.

19 Garvey Schubert and Barer's relationship with Grand Central Baking Company
20 appears to implicate the same Rules of Professional Responsibility (RPCs 1.7, 1.9 and
21 1.10) discussed in the government's Motion for Inquiry. Grand Central Baking Company
22 appears to be materially and directly adverse to Seleznev, though the situation is
23 somewhat different from that involving Fox Rothschild in that Garvey Schubert and
24 Barer represented Grand Central Baking Company in a matter unrelated to the pending
25 charges. However, if Grand Central Baking Company is a current client of Garvey
26 Schubert and Barer, this distinction may not be relevant to the firm's conflict issue.
27 *Compare* RPC 1.7(a)(1) (absent waiver, a lawyer may not concurrently represent two
28 clients in any situation if "the representation of one client will be directly adverse to

1 another client”) *with* RPC 1.9(a) (absent a waiver, “[a] lawyer who has formerly
2 represented a client in a matter shall not thereafter represent another person in the same
3 or a substantially related matter in which that person’s interests are materially adverse to
4 the interests of the former client”). Accordingly, the United States respectfully submits
5 that the Court should hold a hearing not only to inquire into the potential conflict faced
6 by Fox Rothschild, but also that faced by Garvey Schubert and Barer.

7 DATED this 14th day of August, 2014.

8
9 Respectfully submitted,

10 JENNY A. DURKAN
11 United States Attorney

12 *s/ Norman Barbosa*

13

NORMAN BARBOSA
14 Assistant United States Attorney

15 *s/ Seth Wilkinson*

16

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CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2014, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the attorney of record for the defendant.

s/Janet K. Vos
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