

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

2008 MAR 19 P 4: 28

UNITED STATES OF AMERICA)
)
 v.)
)
 STEVEN J. ROSEN and)
 KEITH WEISSMAN,)
)
 Defendants.)

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

CRIMINAL CASE NO. 1:05CR225

The Honorable T.S. Ellis, III

**DEFENDANTS' MOTION FOR AN ORDER AUTHORIZING THE EXPERT
WITNESS TESTIMONY OF DEFENSE EXPERT J. WILLIAM LEONARD**

Defendants Steven J. Rosen and Keith Weissman, through counsel, hereby move for an Order from the Court authorizing the testimony of J. William Leonard as a defense expert.¹ In support of this Motion, defendants state the following:

1. J. William Leonard is the former Director of the Information Security Oversight Office ("ISOO"). Currently, he serves part-time as a Senior Counselor to the Archivist of the United States, in the capacity as a "special Government employee" ("SGE"). In addition to his current service as an SGE, Mr. Leonard plans in the near future to serve on a part-time basis as a consultant for the Office of Personnel Management ("OPM").

2. In the spring of 2006, while still serving as Director of ISOO, Mr. Leonard was interviewed by the government in connection with this case. The government apparently was interested in potentially having him testify as to whether and to what extent the alleged

¹ Pursuant to Fed. R. Crim. P. 16 and CIPA Section 5, defendants filed notice of Mr. Leonard's expected testimony on Friday, March 14, 2008.

disclosures by the defendants in this case damaged the national security. Mr. Leonard has not been contacted by the prosecution since and has advised the defendants that the government does not intend to use him as a witness.

3. Defense counsel approached Mr. Leonard about possibly serving as an expert witness on the defendants' behalf on January 3, 2008. Mr. Leonard agreed. Shortly thereafter, he contacted the Designated Agency Ethics Official at the National Archives regarding his potential role as an expert witness for the defense in order to ensure the propriety of this testimony.

4. As a current SGE and a former Director of ISOO, Mr. Leonard is subject to federal ethics laws and regulations, including the post-employment restrictions set forth at 18 U.S.C. § 207(j)(6), which addresses a former employee's service as an expert witness for persons other than the United States.

5. The Designated Agency Ethics Official at the National Archives advised Mr. Leonard that because of the fact that the government interviewed him in connection with its case in 2006, the applicable ethics standards, as well as 18 U.S.C. § 207 (j)(6), might require a Court Order for him to serve as an expert witness for the defense at trial.

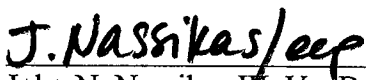
6. Similarly, the OPM informed Mr. Leonard that while it did not object to his service as an expert witness for the defense in this case, any issues that might arise under the applicable regulations would be resolved by a Court Order authorizing his testimony.

7. Mr. Leonard is willing to testify as an expert for the defense, but it is obviously a prerequisite that he do so in accordance with all of the ethical standards and obligations to which he is subject because of both his current and former government service. An Order from this

Court authorizing his expert testimony would satisfy those obligations, and the defendants respectfully request that the Court issue such an Order.

8. Defense counsel has conferred with counsel for the United States regarding this motion, and counsel for the United States objects.

Respectfully submitted,



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Dated: March 19, 2008


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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was sent by facsimile to James L. Trump and W. Neil Hammerstrom of the U.S. Attorney's Office, Eastern District of Virginia, on March 19, 2008.

Handwritten signature of Erica E. Paulson in cursive script, underlined.

Erica E. Paulson

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