

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

Alexandria Division

UNITED STATES OF AMERICA	)	CRIMINAL NO. 1:05CR225
	)	
v.	)	(Hon. T. S. Ellis III)
	)	
STEVEN J. ROSEN,	)	
	)	
KEITH WEISSMAN,	)	
	)	
Defendants.	)	

MOTION TO DISMISS SUPERSEDING INDICTMENT

The United States of America, by its undersigned attorneys, respectfully submits this Motion pursuant to Rule 48(a), Fed. R. Crim. P., to Dismiss Counts One and Three of the Superseding Indictment currently pending against the defendants.

The Attorney General's Guidelines for Prosecutions Involving Classified Information require, *inter alia*, that the government consider the likelihood that classified information will be revealed at trial, any damage to the national security that might result from a disclosure of classified information, and the likelihood that the government would prevail at trial. These considerations are not static; they require assessment and reassessment by the Government throughout the pendency of a case.

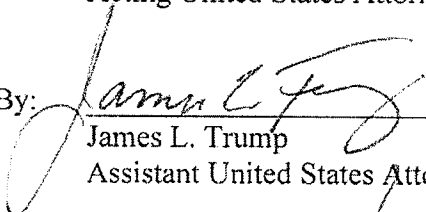
The landscape of this case has changed significantly since it was first brought. The pleadings filed in this Court and in the Court of Appeals for the Fourth Circuit document the Government's disagreement with some of the legal rulings in this case. In addition to adjusting to the requirement of meeting an unexpectedly higher evidentiary threshold in order to prevail at trial, the Government must also assess the nature, quality, and quantity of evidence - including

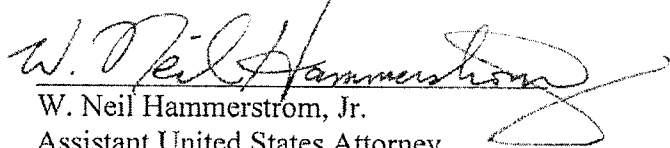
information relevant to prosecution and defense theories expected at trial. In the proper discharge of our duties and obligations, we have re-evaluated the case based on the present context and circumstances, and determined that it is in the public interest to dismiss the pending superseding indictment.


Wherefore, based on the foregoing information, the government respectfully requests that Counts 1 and 3 of the superseding indictment be dismissed with prejudice.

Respectfully submitted,

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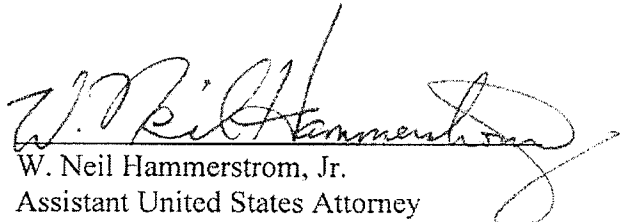
Filed: May 1, 2009

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing "Motion to Dismiss Superseding Indictment" was sent by electronic mail this 1st day of May 2009 to:

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