



U.S. Department of Justice

United States Attorney  
Southern District of New York

---

*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

August 15, 2011

Peggy Cross, Esq.  
Philip Weinstein, Esq.  
Federal Defenders of New York  
52 Duane Street, 10<sup>th</sup> Floor  
New York, NY 10007

Re: United States v. Hector Xavier Monsegur, S1 11 Cr. 666 (LAP)

Dear Ms. Cross and Mr. Weinstein:

On the understandings specified below, the Office of the United States Attorney for the Southern District of New York ("this Office") will accept a guilty plea from Hector Xavier Monsegur, a/k/a "Sabu," a/k/a "Xavier DeLeon, a/k/a "Leon" ("the defendant") to the above-referenced superseding Information ("the Superseding Information"), which, as set forth below, incorporates all of the charges previously filed against the defendant in the original Information, 11 Cr. 666 (LAP), as well as the charges that were transferred to the Southern District of New York from other districts pursuant to Rule 20 of the Federal Rules of Criminal Procedure, specifically:

1. A one-count Information initially filed in the Eastern District of California under the docket number 2:11-Cr-0332-MCE, which was transferred to the Southern District of New York and assigned docket number 11 Cr. 693 (LAP);
2. A two-count Information initially filed in the Central District of California under the docket number 11 Cr. 0766, which was transferred to the Southern District of New York and assigned docket number 11 Cr. 694 (LAP);
3. A one-count Information initially filed in the Northern District of Georgia under docket number 1:11-Cr-379, which was transferred to the Southern District of New York and assigned docket number 11 Cr. 695 (LAP); and
4. A one-count Information initially filed in the Eastern District of Virginia under docket number 1:11-Cr-381, which was transferred to the Southern District of New York and assigned docket number 11 Cr. 696 (LAP) (collectively, the "Transferred Charges").

Peggy Cross, Esq.  
Philip Weinstein, Esq.  
August 15, 2011  
Page 2 of 11

Charges in the Superseding Information

The Superseding Information charges the defendant with twelve counts, as follows:

Count One: Conspiracy to Engage in Computer Hacking – Anonymous

Count One of the Superseding Information charges the defendant with conspiracy to engage in computer hacking as part of the group “Anonymous,” in violation of Title 18, United States Code, Section 1030(b). This charge carries a maximum sentence of 10 years’ imprisonment, a maximum term of three years’ supervised release, a maximum fine, pursuant to Title 18, United States Code § 3571 of the greatest of \$250,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to a person other than the defendant as a result of the offense, and a mandatory \$100 special assessment.

Count Two: Conspiracy to Engage in Computer Hacking – Internet Feds

Count Two of the Superseding Information charges the defendant with conspiracy to engage in computer hacking as part of the group “Internet Feds,” in violation of Title 18, United States Code, Section 1030(b). This charge carries a maximum sentence of 10 years’ imprisonment, a maximum term of three years’ supervised release, a maximum fine, pursuant to Title 18, United States Code § 3571 of the greatest of \$250,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to a person other than the defendant as a result of the offense, and a mandatory \$100 special assessment.

Count Three: Conspiracy to Engage in Computer Hacking – LulzSec

Count Three of the Superseding Information charges the defendant with conspiracy to engage in computer hacking as part of the group “LulzSec,” in violation of Title 18, United States Code, Section 1030(b). This charge carries a maximum sentence of 10 years’ imprisonment, a maximum term of three years’ supervised release, a maximum fine, pursuant to Title 18, United States Code § 3571 of the greatest of \$250,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to a person other than the defendant as a result of the offense, and a mandatory \$100 special assessment.

Count Four: Substantive Computer Hacking – HBGary

Count Four of the Superseding Information charges the defendant with computer hacking of HBGary, in violation of Title 18, United States Code, Sections 1030(a)(5)(A), 1030(c)(4)(B)(i), and 2. This charge carries a maximum sentence of 10 years’ imprisonment, a

Peggy Cross, Esq.  
Philip Weinstein, Esq.  
August 15, 2011  
Page 3 of 11

maximum term of three years' supervised release, a maximum fine, pursuant to Title 18, United States Code § 3571 of the greatest of \$250,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to a person other than the defendant as a result of the offense, and a mandatory \$100 special assessment.

Count Five: Substantive Computer Hacking – Fox

Count Five of the Superseding Information charges the defendant with computer hacking of Fox, in violation of Title 18, United States Code, Sections 1030(a)(5)(A), 1030(c)(4)(B)(i), and 2. This charge carries a maximum sentence of 10 years' imprisonment, a maximum term of three years' supervised release, a maximum fine, pursuant to Title 18, United States Code § 3571 of the greatest of \$250,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to a person other than the defendant as a result of the offense, and a mandatory \$100 special assessment.

Count Six: Substantive Computer Hacking – Sony Pictures

Count Six of the Superseding Information charges the defendant with computer hacking of Sony Pictures, in violation of Title 18, United States Code, Sections 1030(a)(5)(A), 1030(c)(4)(B)(i), and 2. This charge carries a maximum sentence of 10 years' imprisonment, a maximum term of three years' supervised release, a maximum fine, pursuant to Title 18, United States Code § 3571 of the greatest of \$250,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to a person other than the defendant as a result of the offense, and a mandatory \$100 special assessment.

Count Seven: Substantive Computer Hacking – PBS

Count Seven of the Superseding Information charges the defendant with computer hacking of PBS, in violation of Title 18, United States Code, Sections 1030(a)(5)(A), 1030(c)(4)(B)(i), and 2. This charge carries a maximum sentence of 10 years' imprisonment, a maximum term of three years' supervised release, a maximum fine, pursuant to Title 18, United States Code § 3571 of the greatest of \$250,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to a person other than the defendant as a result of the offense, and a mandatory \$100 special assessment.

Count Eight: Substantive Computer Hacking – Infragard-Atlanta

Count Eight of the Superseding Information charges the defendant with computer hacking of Infragard-Atlanta, in violation of Title 18, United States Code, Sections 1030(a)(5)(A),

Peggy Cross, Esq.  
Philip Weinstein, Esq.  
August 15, 2011  
Page 4 of 11

1030(c)(4)(B)(i), and 2. This charge carries a maximum sentence of 10 years' imprisonment, a maximum term of three years' supervised release, a maximum fine, pursuant to Title 18, United States Code § 3571 of the greatest of \$250,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to a person other than the defendant as a result of the offense, and a mandatory \$100 special assessment.

Count Nine: Computer Hacking in Furtherance of Fraud

Count Nine of the Superseding Information charges the defendant with computer hacking in furtherance of fraud, in violation of Title 18, United States Code, Sections 1030(a)(4), (c)(3)(A) and 2. This charge carries a maximum sentence of 5 years' imprisonment, a maximum term of three years' supervised release, a maximum fine, pursuant to Title 18, United States Code § 3571 of the greatest of \$250,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to a person other than the defendant as a result of the offense, and a mandatory \$100 special assessment.

Count Ten: Conspiracy to Commit Access Device Fraud

Count Ten of the Superseding Information charges the defendant with conspiracy to commit credit card fraud in violation of Title 18, United States Code, Section 1029(b)(2). This charge carries a maximum sentence of 7 1/2 years' imprisonment, a maximum term of three years' supervised release, a maximum fine, pursuant to Title 18, United States Code § 3571 of the greatest of \$250,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to a person other than the defendant as a result of the offense, and a mandatory \$100 special assessment.

Count Eleven: Conspiracy to Commit Bank Fraud

Count Eleven of the Superseding Information charges the defendant with conspiracy to commit bank fraud in violation of Title 18, United States Code, Section 1349. This charge carries a maximum sentence of 30 years' imprisonment, a maximum term of five years' supervised release, a maximum fine, pursuant to Title 18, United States Code § 3571 of the greatest of \$1,000,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to a person other than the defendant as a result of the offense, and a mandatory \$100 special assessment.

Peggy Cross, Esq.  
Philip Weinstein, Esq.  
August 15, 2011  
Page 5 of 11

Count Twelve: Aggravated Identity Theft

Count Twelve of the Superseding Information charges the defendant with aggravated identity theft in violation of Title 18, United States Code, Section 1028A. This charge carries a mandatory sentence of two years' imprisonment, to run consecutive to any other sentence imposed on the defendant, a maximum term of one year of supervised release, a maximum fine pursuant to Title 18, United States Code, Section 3571 of the greatest of \$250,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to a person other than the defendant as a result of the offense, and a mandatory \$100 special assessment.

The total maximum sentence of incarceration on all counts is 122 and one-half years' imprisonment, with a mandatory minimum sentence of 2 years' imprisonment.

It is further understood that the defendant shall make restitution in an amount to be specified by the Court in accordance with 18 U.S.C. §§ 3663, 3663A, and 3664. This amount shall be paid according to a plan established by the Court.

The defendant furthermore admits the forfeiture allegations with respect to Counts One through Eleven of the Superseding Information and agrees to forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(2), any property constituting, or derived from, proceeds obtained directly or indirectly as a result of such violations, including but not limited to a sum of money representing the amount of proceeds obtained as a result of the said offenses (the "Money Judgment"), and pursuant to 18 U.S.C. § 1029(c), any personal property used or intended to be used to commit the offense alleged in Count Ten of the Superseding Information. It is further understood that any forfeiture of the defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon him in addition to forfeiture.

At the time of sentencing, the Government will move to dismiss any open Counts against the defendant, and will file a *nolle prosequi* dismissing each of the Transferred Charges.

It is understood that the defendant (a) shall truthfully and completely disclose all information with respect to the activities of himself and others concerning all matters about which this Office inquires of him, which information can be used for any purpose; (b) shall cooperate fully with this Office, the Federal Bureau of Investigation and any other United States Attorney's Office, Department of Justice component, or law enforcement agency designated by this Office, including but not limited to the United States Attorney's Offices for the Eastern District of Virginia; the Northern, Eastern, Central and Southern Districts of California; the Northern District of Georgia; and the Computer Crimes and Intellectual Property Section of the

Peggy Cross, Esq.  
Philip Weinstein, Esq.  
August 15, 2011  
Page 6 of 11

Department of Justice; (c) shall attend all meetings at which this Office requests his presence; (d) shall provide to this Office, upon request, any document, record, or other tangible evidence relating to matters about which this Office or any designated law enforcement agency inquires of him; (e) shall truthfully testify before the grand jury and at any trial and other court proceeding with respect to any matters about which this Office may request his testimony; (f) shall bring to this Office's attention all crimes which he has committed, and all administrative, civil, or criminal proceedings, investigations, or prosecutions in which he has been or is a subject, target, party, or witness; (g) shall commit no further crimes whatsoever; and (h) shall provide notice to this Office prior to discussing the conduct covered by Counts One through Twelve of the Superseding Information with anyone other than this Office, the FBI, and the defendant's attorneys. Moreover, any assistance the defendant may provide to federal criminal investigators shall be pursuant to the specific instructions and control of this Office and designated investigators.

It is understood that this Office cannot, and does not, agree not to prosecute the defendant for criminal tax violations. However, if the defendant fully complies with the understandings specified in this Agreement, no testimony or other information given by him (or any other information directly or indirectly derived therefrom) will be used against him in any criminal tax prosecution. Moreover, if the defendant fully complies with the understandings specified in this Agreement, he will not be further prosecuted criminally by (a) this Office; (b) the United States Attorney's Offices for each of the other 93 judicial districts of the United States; and (c) the Criminal Division of the United States Department of Justice for any crimes, except for criminal tax violations, related to:

(i) his participation, in 2010 and 2011, in computer hacking and unauthorized intrusions as part of Anonymous, as charged in Count One of the Superseding Information, including but not limited to, for example, DDoS attacks against, hacks of, and/or unauthorized access to, the computer systems of PayPal, Mastercard, Visa, and of the Governments of Tunisia, Algeria, Yemen, and Zimbabwe.

(ii) his participation, in 2011, in computer hacking and unauthorized intrusions as part of Internet Feds, including but not limited to, for example, DDoS attacks against, hacks of, and/or unauthorized access to, the computer systems of HB Gary, Fox, and the Tribune Company, as charged in Counts Two, Four, and Five of the Superseding Information, and in Information 11 Cr. 693 (LAP), which was transferred to the Southern District of New York from the Eastern District of California pursuant to Fed. R. Crim. P. 20, and in Information 11 Cr. 694 (LAP), which was transferred to the Southern District of New York from the Central District of California pursuant to Fed. R. Crim. P. 20;

Peggy Cross, Esq.  
Philip Weinstein, Esq.  
August 15, 2011  
Page 7 of 11

(iii) his participation, in 2011, in computer hacking and unauthorized intrusions as part of LulzSec, including but not limited to, for example, DDoS attacks against, hacks of, and/or unauthorized access to, the computer systems of PBS, Nintendo, the U.S. Senate, Bethesda Softworks, Infragard-Atlanta, Sony Pictures, and Sony Music, as charged in Counts Three, Six, Seven, and Eight of the Superseding Information, and in Information 11 Cr. 696 (LAP), which was transferred to the Southern District of New York from the Eastern District of Virginia pursuant to Fed. R. Crim. P. 20, and in Information 11 Cr. 695 (LAP), which was transferred to the Southern District of New York from the Northern District of Georgia pursuant to Fed. R. Crim. P. 20, and in Information 11 Cr. 694 (LAP), which was transferred to the Southern District of New York from the Central District of California pursuant to Fed. R. Crim. P. 20;

(iv) his participation, in 2010, in the computer hacking and unauthorized intrusion of an automobile parts company for the purpose of fraudulently obtaining automobile engines, as charged in Count Nine of the Superseding Information;

(v) his participation, in 2010 and 2011, in a credit card fraud conspiracy that involved the unauthorized receipt, use and transfer of credit card information of other people, as charged in Count Ten of the Superseding Information;

(vi) his participation, in 2010, in a bank fraud conspiracy that involved the unauthorized receipt, use and transfer of bank account and identifying information of other people, as charged in Count Eleven of the Superseding Information;

(vii) his participation, in 2010 and 2011, in the unauthorized use of the identifying information of other people to conspire to commit access device fraud and bank fraud, as charged in Count Twelve of the Superseding Information;

(viii) his participation, from 1999 through 2010, in other computer hacking and unauthorized intrusions not charged in the Superseding Information, including, for example, hacking the website of an online casino, hacking and defacing certain some of which are outside of the statute of limitations;

(ix) his unauthorized use, in 2010, of his former employer's credit card to make unauthorized purchases, totaling approximately \$15,000;

(x) his attempt, in or about 2003, to sell four pounds of marijuana, which is barred by the statute of limitations;

(xi) his attempt, in or about 2010, to sell one pound of marijuana;

Peggy Cross, Esq.  
Philip Weinstein, Esq.  
August 15, 2011  
Page 8 of 11

(xii) his possession of a handgun in or about June 2010, for which there is no federal jurisdiction;

(xiii) his purchase of various electronics and jewelry, in or about 2010, that he believed at the time to have been stolen;

(xiv) his personal use of marijuana; and

(xv) his referral, from in or about 2009 up to and including in or about 2011, of people interested in illegally buying prescription medications and marijuana to sellers of such medications and marijuana;

to the extent that he has disclosed such participation in each of the foregoing to this Office as of the date of this Agreement. The Tax Division of the Department of Justice and the Internal Revenue Service are not bound by the terms of this Agreement, with respect to any violations of the Internal Revenue Code. Attached as Exhibit A is a copy of the letter to Preet Bharara, United States Attorney for the Southern District of New York, from Lanny A. Breuer, Assistant Attorney General, Criminal Division, Department of Justice, authorizing this agreement.

It is understood that all of the conduct set forth in subsections (ix) through (xv) of the preceding paragraph constitutes either relevant conduct, pursuant to United States Sentencing Guidelines ("U.S.S.G.") Section 1B1.3, or other conduct of the defendant, pursuant to U.S.S.G. § 1B1.4, that the Court may consider at the time of sentencing.

This Agreement does not provide any protection against prosecution for any crimes except as set forth above. It is understood that this Agreement binds (a) this Office; (b) the United States Attorney's Offices for each of the other 93 judicial districts of the United States; and (c) the Criminal Division of the United States Department of Justice, but does not bind any state or local prosecuting authority. This Office will, however, bring the cooperation of the defendant to the attention of other prosecuting offices, if requested by him.

It is understood that, should the defendant commit any further crimes or should it be determined that he has given false, incomplete, or misleading testimony or information, or should he otherwise violate any provision of this Agreement, the defendant shall thereafter be subject to prosecution for any federal criminal violation of which this Office has knowledge, including perjury and obstruction of justice. Any such prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against the defendant, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecution. It is the intent of this Agreement to



Peggy Cross, Esq.  
Philip Weinstein, Esq.  
August 15, 2011  
Page 9 of 11

waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

It is understood that in the event that it is determined that the defendant has committed any further crimes, given false, incomplete, or misleading testimony or information, or otherwise violated any provision of this Agreement, (a) all statements made by the defendant to this Office or other designated law enforcement agents, and any testimony given by the defendant before a grand jury or other tribunal, whether prior to or subsequent to the signing of this Agreement, and any leads from such statements or testimony shall be admissible in evidence in any criminal proceeding brought against the defendant; and (b) the defendant shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, or any other federal rule that such statements or any leads therefrom should be suppressed. It is the intent of this Agreement to waive all rights in the foregoing respects.

It is understood that the defendant's truthful cooperation with this Office is likely to reveal activities of individuals who might use violence, force, and intimidation against the defendant, his family, and loved ones. Should the defendant's cooperation present a significant risk of physical harm, this Office, upon the written request of the defendant, will take steps that it determines to be reasonable and necessary to attempt to ensure his safety and that of his family and certain loved ones identified to this Office. These steps may include application to the Witness Security Program of the United States Marshal's Service, whereby the defendant, his family, and loved ones, if approved, could be relocated under a new identity. It is understood, however, that the Witness Security Program is under the direction and control of the United States Marshal's Service and not of this Office.

It is understood that the sentence to be imposed upon the defendant is within the sole discretion of the Court. This Office cannot, and does not, make any promise or representation as to what sentence the defendant will receive, and will not recommend any specific sentence to the Court. However, this Office will inform the Probation Department and the Court of (a) this Agreement; (b) the nature and extent of the defendant's activities with respect to this case and all other activities of the defendant which this Office deems relevant to sentencing; and (c) the nature and extent of the defendant's cooperation with this Office. In so doing, this Office may use any information it deems relevant, including information provided by the defendant both prior to and subsequent to the signing of this Agreement. In addition, if this Office determines that the defendant has provided substantial assistance in an investigation or prosecution, and if he has fully complied with the understandings specified in this Agreement, this Office will file a motion, pursuant to Section 5K1.1 of the Sentencing Guidelines and 18 U.S.C. §3553(e), requesting the Court to sentence the defendant in light of the factors set forth in Section 5K1.1(a)(1)-(5), and without regard to any otherwise applicable mandatory minimum sentence. It

Peggy Cross, Esq.  
Philip Weinstein, Esq.  
August 15, 2011  
Page 10 of 11

is understood that, even if such a motion is filed, the sentence to be imposed on the defendant remains within the sole discretion of the Court. Moreover, nothing in this Agreement limits this Office's right to present any facts and make any arguments relevant to sentencing to the Probation Office and the Court, or to take any position on post-sentencing motions. The defendant hereby consents to such adjournments of his sentence as may be requested by this Office.

It is understood that, should this Office determine either that the defendant has not provided substantial assistance in an investigation or prosecution, or that the defendant has violated any provision of this Agreement, such a determination will release this Office from any obligation to file a motion pursuant to Section 5K1.1 of the Sentencing Guidelines and 18 U.S.C. §3553(e), but will not entitle the defendant to withdraw his guilty plea once it has been entered.

It is understood that, should this Office determine, subsequent to the filing of a motion pursuant to Section 5K1.1 of the Sentencing Guidelines and/or 18 U.S.C. §3553(e), that the defendant has violated any provision of this Agreement, this Office shall have the right to withdraw such motion.

It is further understood that this Office will not object to the defendant's continued release on the bail conditions as set forth at the June 8, 2011 hearing, that is, a Personal Recognizance Bond secured by his own signature, and adherence to all other standard conditions of release. This Office reserves the right to move without notice to the defendant for a revocation or modification of the above bail conditions should it determine that the defendant has violated any provision of this Agreement or condition of his release, or should it determine that such a revocation or modification is otherwise appropriate. The defendant hereby consents to any such revocation or modification.

The defendant hereby acknowledges that he has accepted this Agreement and decided to plead guilty because he is in fact guilty. By entering this plea of guilty, the defendant waives any and all right to withdraw his plea or to attack his conviction, either on direct appeal or collaterally, on the ground that the Government has failed to produce any discovery material, *Jencks* Act material, exculpatory material pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), other than information establishing the factual innocence of the defendant, and impeachment material pursuant to *Giglio v. United States*, 405 U.S. 150 (1972), that has not already been produced as of the date of the signing of this Agreement.

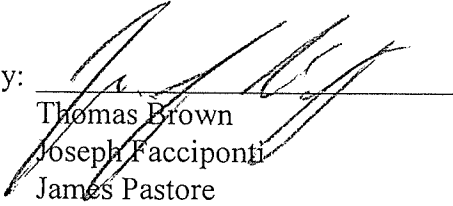
Peggy Cross, Esq.  
Philip Weinstein, Esq.  
August 15, 2011  
Page 11 of 11

This Agreement supersedes any prior understandings, promises, or conditions between this Office and the defendant. No additional understandings, promises, or conditions have been entered into other than those set forth in this Agreement, and none will be entered into unless in writing and signed by all parties.

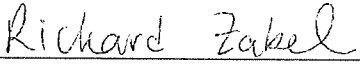
Very truly yours,

PREET BHARARA  
United States Attorney

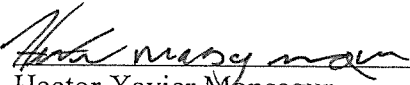
By:

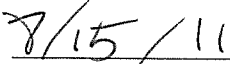
  
Thomas Brown  
Joseph Facciponti  
James Pastore  
Assistant United States Attorneys  
(212) 637-2194/2522/2418

APPROVED:

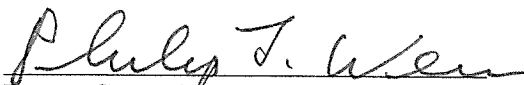
  
RICHARD B. ZABEL  
Chief, Criminal Division


AGREED AND CONSENTED TO:

  
Hector Xavier Monsegur

  
DATE

APPROVED:

  
Peggy Cross, Esq.  
Philip Weinstein, Esq.  
Attorneys for Hector Xavier Monsegur

  
DATE

# Exhibit

A



U.S. Department of Justice

Criminal Division

Assistant Attorney General

Washington, D.C. 20530

AUG 2 - 2011

The Honorable Preet Bharara  
United States Attorney for the  
Southern District of New York  
One St. Andrews Plaza  
New York, NY 10007

Attention: James J. Pastore, Jr.  
Assistant United States Attorney

Re: Global Non-prosecution Agreement for Hector Xavier Monsegur

Dear Mr. Bharara:

This is in response to your request for authorization to enter into a global plea agreement with defendant Hector Xavier Monsegur.

I hereby approve the terms of the Plea Agreement in which the United States agrees not to initiate further proceedings as set out therein.

You are authorized to make this approval a matter of record in this proceeding.

Sincerely,

Lanny A. Breuer  
Assistant Attorney General

**JASON M. WEINSTEIN**  
**DEPUTY ASSISTANT ATTORNEY GENERAL**  
**CRIMINAL DIVISION**