

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA :
 : No. 3:11CR41 (SRU)
v. :
 :
FRANCISCO ILLARRAMENDI : October 26, 2012

**GOVERNMENT’S MOTION TO PROVIDE VICTIM NOTIFICATION
BY WAY OF PUBLICATION ON ITS WEBSITE**

The United States, through the undersigned Assistant United States Attorneys, hereby moves the Court for an order authorizing the government to provide notice to the potential victims in this case by way of publication, pursuant to the Crime Victims’ Rights Act (‘CVRA’), 18 U.S.C. § 3771.

The CVRA provides certain rights to victims in federal criminal proceedings. Among these rights are the right to ‘reasonable, accurate, and timely notice’ of public court proceedings, including trial and sentencing. 18 U.S.C. § 3771(a). The CVRA defines a crime victim as ‘a person directly and proximately harmed as a result of the commission of a Federal offense.’ 18 U.S.C. § 3771(e). The CVRA recognizes that for crimes involving multiple victims, the Court has discretion to adopt procedures that will not unduly interfere with the criminal proceedings:

In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in subsection (a), the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.

18 U.S.C. § 3771(d)(2).

This case involves the defendant’s guilty plea to securities fraud, wire fraud, investment adviser fraud and conspiracy to obstruct justice, all arising out of his management of various hedge funds. The government recently received a letter dated

October 10, 2012, from the court-appointed receiver in the related case brought by the Securities and Exchange Commission (“SEC”) in this district and captioned *SEC v. Illarramendi*, 3:11CV78 (JBA) (hereinafter, the “SEC Action”). The receiver’s letter identified numerous individuals and entities that have submitted claims against the receivership estate during the course of the SEC Action. The list is extensive and includes over 80 claimants, many of which are located overseas. The receiver has advised that there may be yet additional investors that will file claims with the receiver. Moreover, the scheme involved transactions with several entities, including certain pension funds, affiliated with one of the foreign corporate claimants, raising the possibility that the pensioners who were invested in those funds could be victims. The government is continuing to explore whether these claimants are properly characterized as “victims” of the defendant’s fraudulent scheme, as that term is defined in the CVRA, or whether they are excluded from the category of victims.

Given the circumstances, publication on the website of the United States Attorney’s Office is the most practical method of providing notice in this case. The number of potential victims, both known and unknown, the fact that many, if not most, of them are located offshore, and the questions as to their status all counsel in favor of notice by publication. The Court has previously granted similar relief in a case involving numerous unidentified shareholders of a public company whose former President and Chief Financial Officer was charged with participating in an accounting fraud. *See United States v. John Milne*, 3:08CR90 (EBB), Docket No. 45.

Accordingly, the government proposes that the Court grant it permission to publish the required notice on the website of the U.S. Attorney’s Office for the District of

Connecticut. The government will post on its website notification of the upcoming proceedings in the case as well as the various rights afforded crime victims under the CVRA and the appropriate points of contact within the U.S. Attorney's Office's Victim-Witness Assistance staff. The section of the government's website where notifications would be published can be found at <http://www.justice.gov/usao/ct/multi-victim-updates.html>. In addition, the government will make efforts to have a notice filed in the SEC Action directing anyone who believes they are a victim under the CVRA to consult the website of the U.S. Attorney's Office for further information.

Notice by publication in the fashion proposed is a reasonable procedure that will give effect to the CVRA and will not unduly complicate or prolong the proceedings. *See* 18 U.S.C. § 3771(d)(2).

Defense counsel in this matter has advised the government that the defendant takes no position with respect to this motion.

WHEREFORE, the United States respectfully requests that the Court authorize the government to publish the above-described notice and otherwise follow the procedures described above to satisfy the government's obligations under 18 U.S.C. § 3771.

A proposed order is submitted with this motion.

Respectfully submitted,

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CERTIFICATION OF SERVICE

I hereby certify that on October 26, 2012, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

/s/ Paul A. Murphy

PAUL A. MURPHY

ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
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ORDER

Pursuant to Title I of the Crime Victims' Rights Act ('CVRA'), 18 U.S.C. § 3771, the United States Attorney's Office for the District of Connecticut seeks an order authorizing the government to provide notice by publication to the large number of potential crime victims in the above-captioned case.

Under section 3771(a)(2) of the CVRA, crime victims have a right to "reasonable, accurate, and timely notice of any public court proceeding." For the reasons set forth in the government's motion, the Court finds that the number of potential victims, their likely locations, and the fact that there may be numerous victims who are unknown to the government, it would be impracticable for the government to identify and locate all the potential victims or to provide them with reasonable, accurate and timely notice by mail. Under such circumstances, section 3771(d)(2) of the CVRA gives the Court the authority to "fashion a reasonable procedure to give effect to [the CVRA] that does not unduly complicate or prolong the proceedings."

The government seeks authorization to provide notice to the potential victims by publication on the website of the U.S. Attorney's Office for the District of Connecticut. Given the large number of potential victims, notification by this procedure is a reasonable method that will give effect to the CVRA and will not unduly complicate or prolong the proceedings.

Accordingly, it is ORDERED that the government proceed with notification in the manner set forth in its motion.

SO ORDERED:

STEFAN R. UNDERHILL
UNITED STATES DISTRICT JUDGE

Dated: Bridgeport, Connecticut

this ____ day or _____, 2012