IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	)	Criminal No. 00-033
	)	
v.	)	Judge Marvin Katz
	)	
MITSUBISHI CORPORATION,	)	Violations: 15 U.S.C. § 1 and 18 U.S.C. § 2 (a)
	)	
Defendant.	)	Filed: 03-06-00

ORDER PROVIDING FOR THE DISCLOSURE AND PROTECTION OF GRAND JURY MATERIALS PURSUANT TO FED. R. CRIM. P. 6(e)(3)(C)

The United States has moved pursuant to Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure for an order, preliminarily to or in connection with the trial in the above-captioned case, (1) authorizing the limited disclosure to counsel for the defendants of grand jury materials that must be disclosed under normal circumstances pursuant to the Jencks Act, 18 U.S.C. § 3500; Rules 16 and 26.2 of the Federal Rules of Criminal Procedure; and Brady v. Maryland, 373 U.S. 83 (1963) and its progeny; and (2) limiting the kind and extent of disclosure of these materials, the purposes for which such disclosure may be made, and the use of such disclosed materials.

Having considered the representations of the attorneys for the United States and the applicability of Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure, it is hereby

ORDERED that:

1. The attorneys for the United States may disclose to counsel for the defendants grand jury material that must be disclosed under normal circumstances pursuant to the Jencks Act, 18 U.S.C. § 3500; Rules 16 and 26.2 of the Federal Rules of Criminal Procedure; and

Brady v. Maryland, 373 U.S. 83 (1963) and its progeny.

2. Except as permitted by Fed. R. Crim. P. 6(e), this Order, or any other court order, counsel for any party shall not disclose any grand jury materials or the contents thereof to any other person, provided that, for the sole purpose of preparing for trial:

(a) counsel may use their knowledge of grand jury materials to interview prospective witnesses;

(b) counsel may show a prospective witness, or his or her own counsel, documents, and provide a prospective witness, or his or her own counsel, with a transcript of that witness' own testimony;

(c) counsel may allow secretaries, clerical workers, paralegals, contract personnel and experts, retained to assist in the preparation of this case for trial, to view grand jury materials solely for the purpose of preparing for the trial of this case; and

(d) counsel for the United States may show documents and transcripts to employees of the United States solely for the purpose of preparing for the trial of this case.

3. Except as permitted by Fed. R. Crim. P. 6(e), each person to whom grand jury materials have been shown or their contents disclosed pursuant to Paragraph 2 of this Order, shall be informed of his or her responsibilities under this Order by the person making disclosure and shall not discuss with, show or otherwise disclose the contents thereof to anyone other than counsel for the parties or his or her own counsel, who shall not be permitted to further disclose such material.

4. Nothing contained herein shall restrict or prevent any party from offering any materials into evidence or citing any materials in court papers filed in this case.

5. All grand jury materials discussed pursuant to Paragraphs 1 and 2 of this Order and all copies thereof shall either be promptly destroyed or returned to the United States after this case is disposed of by trial, appeal, if any, or other resolution of the charges against the defendants.

6. The parties may apply to the Court for a modification of this Order at any time.

_____

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT

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	)	
Defendant.	)	Filed: 3/6/00

UNITED STATES MOTION FOR AN ORDER PROVIDING
FOR THE DISCLOSURE AND PROTECTION OF
GRAND JURY MATERIALS PURSUANT TO FED. R. CRIM. P. 6(e)(3)(C)

The United States, by its attorneys, moves this Court pursuant to Federal Rule of Criminal Procedure 6(e)(3)(C) for an order permitting it to disclose certain grand jury materials that must be disclosed under normal circumstances pursuant to the Jencks Act, 18 U.S.C. § 3500; Rules 16 and 26.2 of the Federal Rules of Criminal Procedure; and Brady v. Maryland, 373 U.S. 83 (1963), and its progeny, and limiting further disclosure and use of the grand jury materials disclosed. In support of this motion, the United States represents that:

1. The United States investigation of price fixing and related offenses is continuing;

2. For the purpose of expediting the trial of this case, the United States desires to disclose to the defendants certain materials produced to the grand jury or its agents which may be relevant to the charges in this case; and

3. Allowing limited disclosure of grand jury materials in preparation for or use by the parties at trial would not unduly prejudice the United States continuing criminal investigation nor frustrate the broad societal interest in grand jury secrecy.

A memorandum in support of this motion and a proposed order are attached to this motion.

Dated:

Respectfully submitted,

_____

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Defendant.	)	Filed: 3/6/00

UNITED STATES MEMORANDUM IN SUPPORT OF MOTION FOR AN ORDER PROVIDING FOR THE DISCLOSURE AND PROTECTION OF GRAND JURY MATERIALS PURSUANT TO FED. R. CRIM. P. 6(e)(3)(C)

Fed. R. Crim. P. 6(e)(3)(C) provides a general rule of grand jury secrecy for "matters occurring before the grand jury," but permits disclosure "directed by a court preliminarily to or in connection with a judicial proceeding . . . in such manner, . . . time, and . . . conditions as the court may direct." Although the general rule of secrecy continues beyond the time that criminal proceedings are completed, the need for secrecy is greater where disclosure may prejudice a continuing investigation. Douglas Oil Co. v. Petrol Stops Northwest, 441 U.S. 211, 219, n.10 (1979); United States v. Proctor & Gamble Co., 356 U.S. 677, 681-82 n.6 (1958).

The proposed order permits the disclosure of grand jury materials that must be disclosed under normal circumstances pursuant to the Jencks Act, 18 U.S.C. § 3500; Rules 16 and 26.2 of the Federal Rules of Criminal Procedure; and Brady v. Maryland, 373 U.S. 83 (1963), and its progeny, but protects the material disclosed from unnecessary further disclosure which could

prejudice the United States continuing criminal investigation and frustrate the broad societal interest in grand jury secrecy.

Dated:

Respectfully submitted,

_____

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Defendant.	)	Filed: 3-6-00

CERTIFICATE OF SERVICE

This is to certify that on the 6th day of March 2000, a copy of the Government's Motion for an Order Providing for the Disclosure and Protection of Grand Jury Materials Pursuant to Fed. R. Crim. P. 6(e)(3)(C), Memorandum in Support of Motion, and proposed Order, has been mailed to counsel of record for the defendant as follows:

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