

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

NOLLE PROSEQUI

-v.- :

05 Cr. 518-03 (SAS)

DAVID PINKERTON, :

Defendant. :

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1. The filing of this nolle prosequi will dispose of this case with respect to David Pinkerton.

2. On May 12, 2005, Indictment 05 Cr. 518 (SAS) (the "Indictment") was filed and sealed, charging Viktor Kozeny, Frederic Bourke and David Pinkerton in twenty-seven total counts. Pinkerton was charged in the following seven counts of the Indictment:

Count One, which charged Pinkerton with conspiracy to violate the Foreign Corrupt Practices Act ("FCPA") and the Travel Act, in violation of Title 18, United States Code, Section 371;

Count Five, which charged Pinkerton with a violation of the FCPA, in violation of Title 15, United States Code, Section 78dd-2 and Title 18, United States Code, Section 2;

Counts Eighteen and Nineteen, which charged Pinkerton with violations of the Travel Act, in violation of Title 18, United States Code, Sections 1952 and 2;

Count Twenty-One, which charged Pinkerton with conspiracy to

launder money, in violation of Title 18, United States Code, Section 1956(h);

Count Twenty-Four, which charged Pinkerton with money laundering, in violation of Title 18, United States Code, Sections 1956(a)(2)(A) and 2; and

Count Twenty-Seven, which charged Pinkerton with making false statements, in violation of Title 18, United States Code, Section 1001.

The Indictment also included a Forfeiture Allegation that named all three defendants including Pinkerton. On October 6, 2005, the Indictment was unsealed.

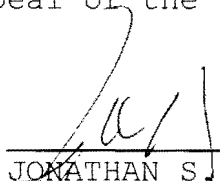
3. On June 21, 2007, the Honorable Shira A. Scheindlin issued an Opinion and Order (the "June 21, 2007 Order") dismissing all but the false statements count against David Pinkerton and a similar count against Pinkerton's co-defendant Frederic Bourke, Jr. as barred by the statute of limitations. On July 16, 2007, on the Government's motion for reconsideration, the District Court issued a Memorandum Opinion and Order reinstating the two conspiracy counts (Counts One and Twenty-One) and one of the FCPA substantive counts that did not name Pinkerton (Count Eleven).

4. On July 19, 2007, the Government filed a notice of appeal from the June 21, 2007 Order. That appeal has been fully briefed and argued and is currently pending in the Second Circuit

Court of Appeals.

5. Based upon a review of the evidence and information pertaining to this defendant acquired since the filing of the Indictment, the Government has concluded that further prosecution of David Pinkerton in this case would not be in the interest of justice.

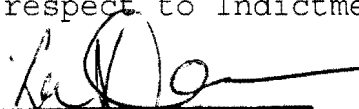
6. In light of the foregoing, I recommend that an order of nolle prosequi be filed as to defendant David Pinkerton with respect to Indictment 05 Cr. 518 (SAS). This nolle prosequi will dispose of all counts in the Indictment against Pinkerton, whether or not those counts would have been reinstated as a result of the Government's appeal of the June 21, 2007 Order.

  
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JONATHAN S. ABERNETHY  
Assistant United States Attorney  
(212) 637-2232

Dated: New York, New York  
June 30, 2008

Upon the foregoing recommendation, I hereby direct, with leave of the Court, that an order of nolle prosequi be filed

as to defendant David Pinkerton with respect to Indictment 05 Cr.  
518 (SAS).

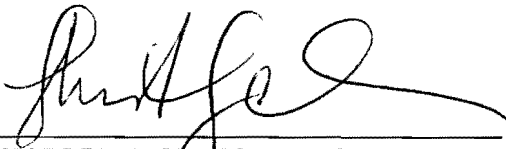
By:  6/30/08  
**Acting United States Attorney**  
**Pursuant to 28 C.F.R. SO. 131**

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MICHAEL J. GARCIA  
United States Attorney  
Southern District of New York

Dated: New York, New York  
June 30, 2008

SO ORDERED:

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HONORABLE SHIRA A. SCHEINDLIN  
United States District Judge  
Southern District of New York

Dated: New York, New York  
July 1, 2008