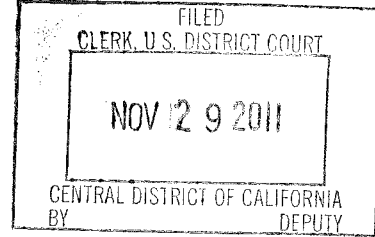


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10 Attorneys for Plaintiff  
 11 UNITED STATES OF AMERICA

12  
 13 UNITED STATES DISTRICT COURT

14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

CR 11 01137

15 UNITED STATES OF AMERICA, )  
 )  
 16 Plaintiff, )  
 )  
 17 v. )  
 )  
 18 MARK PETER WILLEMS, et al., )  
 )  
 19 Defendants. )  
 )  
 20 )  
 )  
 21 )  
 )  
 22 )

No. CR \_\_\_\_\_  
EX PARTE APPLICATION TO FILE  
INDICTMENT AND ARREST WARRANTS  
UNDER SEAL; MEMORANDUM OF  
POINTS AND AUTHORITIES;  
DECLARATION OF KEVIN S.  
ROSENBERG  
 [UNDER SEAL]  
 [APPLICATION AND ORDER SEALING  
 FILING CONTAINED WITHIN THIS  
 PLEADING]

23 The United States of America hereby applies to this Court  
 24 for an order permitting it to file the indictment and arrest  
 25 warrants, as well as all accompanying documents, in the above-  
 26 captioned proceeding under seal. In addition, the request to  
 27 ///

1 seal would apply to the attached Memorandum of Points and  
2 Authorities and Declaration of Kevin S. Rosenberg which serve as  
3 a basis for the application.

4 DATED: November 29, 2011

Respectfully submitted,

5 ANDRÉ BIROTTE JR.  
6 United States Attorney

7 ROBERT E. DUGDALE  
8 Assistant United States Attorney  
9 Chief, Criminal Division

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11 KEVIN S. ROSENBERG  
12 Assistant United States Attorney

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Attorneys for Plaintiff  
United States of America

1                                   MEMORANDUM OF POINTS AND AUTHORITIES

2           In this application, the United States asks this Court to  
3 seal the indictment and arrest warrants of the defendants charged  
4 in this case. The Ninth Circuit has held that federal district  
5 courts have the inherent power to seal indictments, affidavits  
6 filed with complaints, arrest warrants and search warrants in  
7 appropriate circumstances. Offices of Lakeside Non-Ferrous  
8 Metals, Inc. v. United States, 679 F.2d 778, 779 (9th Cir. 1982);  
9 United States v. Agosto, 600 F.2d 1256, 1258 (9th Cir. 1979).

10 This inherent power may appropriately be exercised when  
11 disclosure of the indictment would disclose facts which would  
12 interfere with an ongoing criminal investigation or would  
13 preclude apprehension of persons to be arrested who remain at-  
14 large. Shea v. Gabriel, 520 F.2d 879, 882 (1st Cir. 1979).

15           In the present case, as is set forth in attached Declaration  
16 of Kevin S. Rosenberg, the disclosure of the indictment and  
17 arrest warrants would directly harm the government's ongoing  
18 investigation of this matter by prematurely disclosing the  
19 existence, scope, and nature of the investigation and potentially  
20 thwart the government's efforts to apprehend the indicted  
21 defendants, two of whom reside outside the United States.

22           Accordingly, the government requests this Court to enter an  
23 order sealing the indictment and arrest warrants, the supporting  
24 documentation, as well as this application, memorandum and  
25 Declaration until the first defendant is arrested on indictment.

1                                    DECLARATION OF KEVIN S. ROSENBERG

2            I, Kevin S. Rosenberg, hereby declare as follows:

3            1.    I am an Assistant United States Attorney in the Central  
4 District of California. I am one of the prosecutors assigned to  
5 this case.

6            2.    The charges in this case involve a world-wide effort to  
7 distribute controlled substances and launder drug proceeds. Law  
8 enforcement agents believe that six of the eight defendants  
9 reside outside of this District in various cities around the  
10 United States. Law enforcement agents also believe that the two  
11 lead defendants reside outside the United States. Law  
12 enforcement agents are working closely with their foreign and  
13 domestic counterparts to coordinate the arrest of the defendants,  
14 however, no exact date has been formulated at this time. As  
15 such, the government's investigation is not public knowledge at  
16 this time. Therefore, I am requesting that this Court seal the  
17 indictment and arrest warrants because the charged defendants  
18 have not been taken into custody on the indictment. Based upon  
19 my experience and conversations with the case agents, I believe  
20 that the likelihood of apprehending the defendants at large might  
21 be seriously jeopardized if the indictment and arrest warrants in  
22 this case were made publicly available before the defendants are  
23 taken into custody on the indictment. This is especially true  
24 where the lead defendants reside outside the United States.

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1 3. It is therefore respectfully requested that this Court  
2 issue an order sealing the indictment, arrest warrants, and all  
3 the accompanying documents pertaining to this application in this  
4 case until further order for the court. I further request that  
5 the indictment automatically unseal upon first defendant's  
6 arrest.

7 I declare under penalty of perjury under the laws of the  
8 United States of America that the foregoing is true and correct.

9 Executed this 29th day of November 2011, at Los Angeles,  
10 California.

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13 KEVIN S. ROSENBERG  
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