



Appeal in Insider Trading Case Centers on Wiretap

McNabb Associates, P.C. (International and Transnational Criminal Defense Lawyers)

Submitted at 11:45 AM October 24, 2012

The New York Times on October 23, 2012 released the following:

“BY PETER LATTMAN

In March 2008, the Justice Department made an extraordinary request: It asked a judge for permission to record secretly the phone conversations of Raj Rajaratnam, a billionaire hedge fund manager.

The request, which was granted, was the first time the government had asked for a wiretap to investigate insider trading. Federal agents eavesdropped on Mr. Rajaratnam for nine months, leading to his indictment — along with charges against 22 others — and the biggest insider trading case in a generation.

On Thursday, lawyers for Mr. Rajaratnam, who is serving an 11-year prison term after being found guilty at trial, will ask a federal appeals court to reverse his conviction. They contend that the government improperly obtained a wiretap in violation of Mr. Rajaratnam’s constitutional privacy rights and federal laws governing electronic surveillance.

Such a ruling is considered a long shot, but a reversal would have broad implications. Not only would it upend Mr. Rajaratnam’s conviction but also affect the prosecution of Rajat K. Gupta, the former Goldman Sachs director who was convicted of leaking boardroom secrets to Mr. Rajaratnam. Mr. Gupta is scheduled to be sentenced on Wednesday.

A decision curbing the use of wiretaps would also affect the government’s ability to police Wall Street trading floors, as insider trading cases and other securities fraud crimes are notoriously difficult to build without direct evidence like incriminating telephone conversations.

“Wiretaps traditionally have been used in narcotics and organized crime cases,” said Harlan J. Protass, a criminal defense lawyer in New York who is not involved in the Rajaratnam case. “Their use today in insider trading investigations indicates that the government thinks there may be no bounds to the types of white-collar cases in which they can be used.”

More broadly, Mr. Rajaratnam’s appeal is being closely watched for its effect on the privacy protections of defendants regarding wiretap use. Three parties have filed “friend-of-the-court” briefs siding with Mr. Rajaratnam. Eight former federal judges warned that allowing the court’s ruling to stand “would pose a grave threat to the integrity of the warrant process.” A group of defense lawyers said that upholding the use of wiretaps in this case would “eviscerate the integrity of the criminal justice system.”

To safeguard privacy protections, federal law permits the government’s use of wiretaps only under narrowly prescribed conditions. Among the conditions are that a judge, before authorizing a

wiretap, must find that conventional investigative techniques have been tried and failed. Mr. Rajaratnam’s lawyers said the government misled the judge who authorized the wiretap, Gerard E. Lynch, in this regard.

They say that the government omitted that the Securities and Exchange Commission had already been building its case against Mr. Rajaratnam for more than a year using typical investigative means like interviewing witnesses and reviewing trading records. Had the judge known about the S.E.C.’s investigation, he would not have allowed the government to use a wiretap, Mr. Rajaratnam’s lawyers argue.

Before Mr. Rajaratnam’s trial, the presiding judge, Richard J. Holwell, held a four-day hearing on the legality of the wiretaps. Judge Holwell criticized the government, calling its decision to leave out information about its more conventional investigation a “glaring omission” that demonstrated “a reckless disregard for the truth.”

Nevertheless, Judge Holwell refused to suppress the wiretaps, in part, he said, because they were necessary to uncover Mr. Rajaratnam’s insider trading scheme. “It appears that the S.E.C., and by inference the criminal authorities, had hit a wall of sorts,” Judge Holwell wrote.

On appeal, Mr. Rajaratnam lawyers argued that the government’s lack of candor should not be tolerated. They described the government’s wiretap application as full of “misleading assertions” and “outright falsity” that made it impossible for Judge Lynch to do his job.

“The government’s self-chosen reckless disregard of the truth and of the critical role of independent judicial review breached that trust and desolated the warrant’s basis,” wrote Mr. Rajaratnam’s lawyers at the law firm Akin Gump Strauss Hauer & Feld.

In their brief to the appeals court, federal prosecutors dispute that they acted with a “reckless disregard for the truth.” Instead, they argue that omitting details of the S.E.C.’s investigation was at most “an innocent mistake rising to the level of negligence.” In addition, they said that the S.E.C.’s inquiry failed to yield sufficient evidence for a criminal case, necessitating the use of a wiretap.

Once Judge Lynch signed off on the wiretap application, the government’s investigation into Mr. Rajaratnam accelerated. The wiretapping of Mr. Rajaratnam’s phone, along with the subsequent recording of his supposed accomplices, yielded about 2,400 conversations. In many of them, Mr. Rajaratnam could be heard exchanging confidential information about technology stocks like Google and Advanced Micro Devices.

Three years ago this month, federal authorities arrested Mr. Rajaratnam and charged him with orchestrating a seven-year insider trading conspiracy. The sprawling case has produced 23 arrests of traders and tipsters, many of them caught swapping secrets with Mr. Rajaratnam about publicly traded companies.

Among the thousands of calls were four that

implicated Mr. Gupta, a former head of the consulting firm McKinsey & Company who served as a director at Goldman Sachs and Procter & Gamble. On one call in July 2008, the only wiretapped conversation between the two men, Mr. Gupta freely shared Goldman’s confidential board discussions with Mr. Rajaratnam. On another, Mr. Rajaratnam told a colleague at his hedge fund, the Galleon Group, “I heard yesterday from somebody who’s on the board of Goldman Sachs that they are going to lose \$2 per share.”

Those conversations set off an investigation of Mr. Gupta. He was arrested in October 2011 and charged with leaking boardroom secrets about Goldman and P.& G. to Mr. Rajaratnam. A jury convicted him in May after a monthlong trial.

On Wednesday at Federal District Court in Manhattan, Judge Jed S. Rakoff will sentence Mr. Gupta. Federal prosecutors are seeking a prison term of up to 10 years. Mr. Gupta’s lawyers have asked Judge Rakoff for a nonprison sentence of probation and community service. One proposal by the defense would have Mr. Gupta living in Rwanda and working on global health issues.

Regardless of his sentence, Mr. Gupta plans to appeal. And because prosecutors used wiretap evidence in his trial, Mr. Gupta would benefit from a reversal of Mr. Rajaratnam’s conviction.

Yet a reversal would not affect the convictions of the defendants in the conspiracy who have pleaded guilty. As part of their pleas, those defendants waived their rights to an appeal.”

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Queens Politician Charged With Alleged Campaign Fraud

McNabb Associates, P.C. (International and Transnational Criminal Defense Lawyers)

Submitted at 4:15 PM October 24, 2012

The Wall Street Journal on October 24, 2012 released the following:

“By Sean Gardiner

A Queens politician was charged Wednesday with fraud in connection with his unsuccessful run for the City Council two years ago and obstruction of justice for allegedly threatening people who cooperated with the investigation.

Albert Baldeo, 52 years old, is accused of using “straw donors” to funnel multiple illegal contributions into his campaign in the fall of 2010 for the City Council’s 28th District, which represents Richmond Hill, South Jamaica and South Ozone Park, according to a criminal complaint unsealed Wednesday by Manhattan United States Attorney Preet Bharara.

The purpose of the alleged scheme, Mr. Bharara said in a statement, was to “fraudulently increase the amount of matching funds provided by the New York City Campaign Finance Board” to Mr. Baldeo’s campaign.

Mr. Baldeo is a Democratic district leader in Queens who lost to Ruben Wills in a November 2010 special election to fill the seat vacated by the death of City Councilman Thomas White Jr.

Mr. Bharara said in a statement that Mr. Baldeo “was so focused on securing a position with the New York City Council that he was willing to break the law to increase his chances.”

Mr. Baldeo reported that he received a total of \$47,803 in campaign donations and sought matching funds on about \$15,000 which, under the city’s complicated calculation system, would have resulted in him receiving about \$90,000 in matching public funds. However, the Campaign Finance Board ruled that Mr. Baldeo was ineligible for those matching funds “due to serious, unresolved questions about the validity of various contributions to the campaign,” the complaint states.

The Federal Bureau of Investigation subsequently pursued an investigation in which they discovered that Mr. Baldeo had “straw donors” fill out campaign contribution cards falsely purporting that they donated their personal money to Mr. Baldeo’s campaign.

“These (donations) were nothing more than funds drawn from his own bank account, disguised as donations from others,” Mary Galligan, FBI Acting Assistant Director-in-Charge of the New York Office, said in a statement.

In at least one instance, Mr. Baldeo’s office manager was provided \$1,375 in cash allegedly by Mr. Baldeo and told to get two money orders totaling that amount. People purporting to be legitimate donors then signed over the money orders to Mr. Baldeo’s campaign.

Mr. Baldeo is also alleged to have provided clients, whom he had provided legal services to in immigration matters, a money order equal to the money they paid him. He instructed them to fill out the money order to his campaign, the complaint states.

Mr. Bharara contends that after learning that the FBI was investigating his campaign donations, Mr. Baldeo instructed some of the straw donors not to cooperate or to lie to investigators, saying they could get in trouble if they told the agents the truth.

When one straw donor refused to lie, Mr. Baldeo is alleged to have faxed a threatening letter to the straw donor’s lawyer, the complaint states. And a person the complaint describes as “a co-conspirator of Baldeo’s not charged” made false allegations to the city’s Administration for Children’s Services that the man had abused his grandchild.

Mr. Baldeo was elected as Democratic Male District Leader in Queens’ District 38, Part B, in September 2010 and still holds that position. The official duties of the district leaders include electing the chair of the county political party, setting the party’s platform, appointing election workers at poll sites and helping to select nominees for civil court judgeships. It’s an unpaid, two-year term.

Mr. Baldeo surrendered to FBI official Wednesday morning and was awaiting an appearance in Manhattan federal court. His lawyer, Henry Mazurek, released a statement saying that the government’s “crusade” against Mr. Baldeo was “vindictive and discriminatory.”

“Albert Baldeo has devoted himself to public service in his Queens neighborhood as a district leader and has built a career as a lawyer representing the most needy in the Guyanese and other immigrant communities in which he serves,” he said.”

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Belgian police chief visit to INTERPOL looks to expand cooperation

McNabb Associates, P.C. (International and Transnational Criminal Defense Lawyers)

Submitted at 3:45 PM October 24, 2012

INTERPOL on October 23, 2012 released the following:

“LYON, France – Identifying further areas of cooperation in which INTERPOL’s global tools and international law enforcement network can further support national and regional security was the focus of a visit to INTERPOL’s General Secretariat headquarters today by Catherine De Bolle, Commissioner General of the Belgian Federal Police.

In meetings with Secretary General Ronald K. Noble and other senior INTERPOL officials, where a range of activities in which Belgium and INTERPOL work closely together was discussed, Commissioner De Bolle highlighted how cases in the areas of drug and vehicle trafficking, maritime piracy and violent crimes demonstrated the value of INTERPOL’s products and services to police in the field.

“I am strongly committed to enhancing information exchange through INTERPOL’s channels and the

use of its global databases by the Belgian police forces,” said Belgium’s Federal Police Chief. “Since crime does not stop at our borders, nor should the response to it. In this respect, the Belgian Federal Police supports efforts by INTERPOL to strengthen professional international police cooperation, including the establishment of the INTERPOL Global Complex for Innovation in Singapore and the development of the West African Police Information System,” added Commissioner De Bolle.

The West African Police Information System (WAPIS), developed by INTERPOL is an EU-funded project initiated during Belgium’s presidency of the Council of the European Union in 2010. The project allows West African police to access and manage in a structured way police data related to organized crime by facilitating the collection, centralization, management, sharing and analysis of police information among countries belonging to the Economic Community of West African States (ECOWAS).

Welcoming the visit to the world police body by Belgium’s Federal Police Commissioner as an opportunity to identify areas where Belgium and

INTERPOL can collaborate ‘even more closely’, INTERPOL Secretary General Noble said: “During its long relationship with INTERPOL, the Belgian Federal Police has demonstrated its leadership in the area of international law enforcement cooperation and it is an essential partner to INTERPOL’s vision for a safer world.”

In this respect, the Head of INTERPOL recalled the ‘exemplary collaborative actions’ taken by Belgium’s Federal Police in the case of a Somali man suspected of maritime piracy who was extradited from the Seychelles to Belgium in May 2012 after a cross-check of his fingerprints against INTERPOL’s databases in March 2011 linked the suspect with the hijack of Belgian vessel MV Pompei in waters off the Seychelles in April 2009.

Immediately after the release of the hijacked vessel in June 2009, Belgian Federal Police conducted an extensive forensic crime scene investigation of the vessel and its results were added to INTERPOL’s maritime piracy and fingerprints databases.

Later, in March 2011, following the arrest of six

BELGIAN page 3

USAID funding for INTERPOL-led wild tiger protection campaign supporting South Asia Wildlife Enforcement Network

McNabb Associates, P.C. (International and Transnational Criminal Defense Lawyers)

Submitted at 4:35 PM October 24, 2012

INTERPOL on October 24, 2012 released the following:

“THIMPU, Bhutan – The US Agency for International Development (USAID) is to provide an additional USD 719,000 in funding towards INTERPOL’s Project Predator to support the South Asia Wildlife Enforcement Network (SAWEN) in protecting wild tigers.

The announcement by the US Ambassador to India and Bhutan, Nancy Powell, was made during the Second Asian Ministerial Conference on Tiger Conservation co-organized by the Royal Government of Bhutan and the Global Tiger Initiative.

Bringing together ministers from the 13 tiger range countries, who collectively endorsed the Saint Petersburg Declaration on Tiger Conservation and Global Tiger Recovery Program (GTRP) in 2010 in Russia, the four-day meeting (21 – 24 October) will focus on key achievements in implementing the 12-year strategy and also issue guidance on continuing momentum and ensure continued high-level political support.

“Protecting our living natural resources, especially endangered species, has increasingly become an issue impacting the security of nations because of massive upsurges in international wildlife trafficking. We need to recognize wildlife crime as

BELGIAN

continued from page 2

Somali nationals in waters off the Seychelles, its police provided INTERPOL with the fingerprints of the individuals to be cross-checked with INTERPOL’s databases. The check revealed that the prints of one of the apprehended individuals matched latent marks seized by Belgian Federal Police on the hijacked Belgian vessel.

“A global collaborative approach to security involving countries sharing intelligence, connecting the dots and maximizing the use of INTERPOL’s global police tools is today key to effectively protecting citizens across regions and worldwide,” concluded Secretary General Noble.

Commissioner De Bolle was accompanied by Dirk Allaerts, Head of Cabinet, Peter De Buysscher, Director of International Police Cooperation, Michel Croquet, Director of Police Information Management and Head of INTERPOL’s National Central Bureau in Brussels, and Alain Barbier, Assistant Director in Brussels at the office of the Special Representative of INTERPOL to the European Union.”

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a serious crime that undermines good governance and rule of law,” said Ambassador Powell.

Project Predator is an INTERPOL initiative designed to support countries in their governance and rule of law with respect to the conservation of wild tigers. The project is developing governmental support by holding high level police, customs and wildlife enforcement seminars and encouraging the use of modern intelligence-led enforcement practices.

The manager of INTERPOL’S Environmental Crime Programme, David Higgins, said: “This additional financial support from USAID will assist INTERPOL’s global and regional networks of national police and enforcement agencies in supporting the tiger range countries in their efforts to stop tiger poaching and the illegal trade in tiger parts and products, and target those criminals who are attempting to undermine efforts to conserve this iconic species.”

Mary Melnyk, USAID’s Senior Advisor, Natural Resources Management for Asia and the Middle East, added; “USAID is supporting INTERPOL not only because of its international network and communications systems to track down criminals, but also to encourage the greater participation of police in cracking down on wildlife crime.”

In 2011 USAID provided USD 600,000 for the launch of Project PREDATOR which during the past year has provided assistance to Bhutan, China, India and Nepal, leading to nearly 40 arrests and the seizure of big cat skins, body parts and other

wildlife products.”

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