JON GOODWIN

December 12, 2007

Mr. Scott J. Drexel, Chief Trial Counsel
Ms. Lisa Stowe, Complaint Analyst
Audit and Review Office of the Chief Trial Counsel
The State Bar of California
1149 South Hill Street
Los Angeles, California 90015-2299

In Re: Inquiry Number: 07-23109
Respondent: Former Assistant U.S. Attorney Miles Frederick Ehrlich; California Bar Number 237954.

Dear Mr. Drexel and Ms. Stowe:

I received your response to my complaint regarding former Assistant United States Attorney Miles Frederick Ehrlich who resigned his position with the Department of Justice (hereinafter referred to as the "DOJ") sometime during the Fall of 2005.

You state your response is predicated on the fact that Mr. Ehrlich didn't represent me and therefore there is no conflict of interest. That's not at all dispositive of the issues I evidenced to the State Bar of California. And given the acts underlying the complaint, committed by Miles Ehrlich, his client(s) and their cohorts, are **criminal** in nature, very disturbing.

I hereby request that the Audit and Review Office of the Chief Trial Counsel of the State Bar of California review my July 31, 2007 complaint in light of the further information and analysis provided herein.

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The Office of the Chief Trial Counsel needs to look at this case from a pedestrian perspective. Herewith is a synopsis of the facts:

1. A crime victim and witness reports the identities and criminal activities (including narcotics trafficking, money laundering, fraud, bribing foreign judicial officials and conspiracy) to a federal prosecutor.
2. The federal prosecutor apparently did not act on the victim's report.
3. Six months after the victim's report the federal prosecutor resigned from the Department of Justice.
4. Thereafter, the victim discovers, coincidentally, that the former federal prosecutor is representing, as a criminal defense attorney, one of the parties the victim identified to the former federal prosecutor as engaged in the criminal activity and is providing advice and counsel to at least one of several of the other perpetrators.

5. And that the former federal prosecutor is colluding with others, waging a campaign of intimidation against the victim; employing, threats, harassment and misleading tactics to dissuade and undermine his attempts to engage law enforcement officials enabling his client, her husband and their cohorts to evade prosecution.

6. The victim reports the foregoing activity to the State Bar of California. Because a large, influential law firm, is in the midst of the case, the State Bar of California attempts to dissuade the victim from furthering his complaint by intentionally misinterpreting the facts?

* * * * *

The case of Miles Ehrlich's successive representation of adverse interests first in the role of a federal prosecutor and thereafter as a criminal defense attorney not only "appears" improper, it is improper. Particularly because Miles Ehrlich was in a position of authority (as a government prosecutor and law enforcement official) that enabled him not to pursue investigating and prosecuting the client(s) he's currently representing.

* * * * *

The criminal activities I reported to Miles Ehrlich (the federal prosecutor) directly affect multiple victims including the government of a foreign country (India), an ally of the United States. By definition, criminal activity affects society as a whole, in this case the People of the United States and the State of California. Moreover, a federal prosecutor, who's sworn to up hold the Constitution and the public trust must not be allowed to engage in representing persons identified to him as committing criminal acts in contravention to laws of the United States, after leaving government service; otherwise, crime victims, witnesses and informants will be reticent to report criminal activity out of fear (1) they will be retaliated against; and (2) their interests have been sold to the higher bidder.

"As officers of the court with responsibilities to the administration of justice, attorneys have an obligation to be professional with clients, other parties and counsel, the courts and the public. This obligation includes civility, professional integrity, personal dignity, candor, diligence, respect, courtesy, and cooperation, all of which are essential to the fair administration of justice and conflict resolution."[1]

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The public trust is at stake.

[1] *California Attorney Guidelines for Civility and Professionalism*, The State Bar of California, July 20, 2007, p. 3.

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Miles Ehrlich represented the People of the United States of America, which I am one, when he obtained from me **sensitive, confidential information** regarding criminal acts committed by the individuals and entities I identified to him on May 9, 2005. Which individuals and entities have **interests that are materially adverse** to the interests of the People of the United States of America, the People of the State of California, and other victims, including me and the Republic of India, a sovereign nation. Before? After leaving his position, as an Assistant United States Attorney (hereinafter "AUSA"), Miles Ehrlich has provided advice and counsel to at least one of the individuals I identified to him, Marcia Ann Bruggeman Hatch. And, as evidenced in my July 31, 2007 complaint, has obviously provided advice and counsel to Marcia Bruggeman Hatch's husband, Seamus John Paul Hatch regarding **the same** or **substantially similar matters in which he represented the people of the United States of America as an AUSA.**

As a victim and a U.S. citizen i.e., one of the People of the United States of America, I expect that law enforcement authorities and government prosecutors will not assist the very criminals I identified to them to evade justice and continue to harm the victims of their criminal behavior. Yet this is exactly what Miles Ehrlich has done; heretofore with impunity.

Herewith, I've provided additional factual information, identified relevant law and provided analysis and discussion regarding **Miles Ehrlich's clear breaches of his professional obligations and the law.**

FACTS

Let's review the facts I evidenced to you in my July 31, 2007 Complaint:

1. On May 9, 2005 **while Miles Ehrlich was employed as an AUSA in the U.S. Attorney's San Francisco office,** he **obtained highly sensitive, confidential information from me**, including:

   (a) details regarding criminal activity, specifically: **narcotics trafficking, conspiracy to launder money, identity theft, theft of electronic information, fraud and bribery of judicial officers in the Republic of India;**

   (b) the identities of the entities and individuals variously involved in the foregoing activities, specifically: Heller Ehrman LLP, Marcia Ann Bruggeman Hatch, Esq. (an employee of Heller Ehrman LLP), a cohort of Marcia Bruggeman Hatch's, "Scottie" who purportedly heads a narcotics trafficking ring, Seamus John Paul Hatch (a citizen of the United Kingdom who is Marcia Bruggeman Hatch's husband), Michael Douglas Bock (Seamus Hatch's 'business partner') and Aran Strategic Finance LLC, a company owned by Michael Bock and Seamus Hatch; and

   (c) the general nature of evidence in my possession including witness affidavits.

   The foregoing are hereinafter collectively referred to as the "**May 9, 2005 Criminal Matters**."

2. I'm a victim of financial and other crimes perpetrated by the individuals I identified to Miles Ehrlich on May 9, 2005. Other victims include the People of the United States of America, the People of the State of California, several individuals and entities as well as the sovereign nation of the Republic of India.

3. I'm a material fact witness and informant regarding the crimes I reported to Miles Ehrlich, a victim of the reported activity and a citizen of the United States of America i.e., one of "the People."

4. Under the direction of Miles Ehrlich and other attorneys, the perpetrators of the criminal activity I reported to Miles Ehrlich have employed tactics of extortion, intimidation, threatening and misleading behavior, in an attempt to dissuade, prevent and undermine my attempts to communicate with law enforcement officials regarding the May 9, 2005 Criminal Matters in order to evade investigation and prosecution for their illegal acts.

   The foregoing occurred both before and after I learned Miles Ehrlich was providing advice and counsel to the individual(s) I identified to him. I believe

Miles Ehrlich's client(s) and/or the other perpetrators of the crimes I identified to him will, if given the opportunity, murder me.

5. When I communicated with Miles Ehrlich on May 9, 2005 regarding the May 9, 2005 Criminal Matters he was admitted to practice in Pennsylvania and multiple Federal District Courts and Courts of Appeal, including Federal District Courts in California, in which he actually practiced before being admitted to the California Bar on October 27, 2005.

6. During the Fall of 2005 Miles Ehrlich **quit his job as an AUSA** variously representing the United States government and the People of the United States of America.

7. **In early 2006**, Miles Ehrlich began operating **a private criminal defense law firm** in Berkeley, California.

8. In November, 2006 I discovered, by happenstance, Miles Ehrlich had undertaken representing Marcia Bruggeman Hatch, in the capacity of a private criminal defense lawyer. Marcia Bruggeman Hatch is one of the individuals I identified to Miles Ehrlich on May 9, 2005 as having been a primary party involved in the May 9, 2005 Criminal Matters.

9. In December, 2006 I discovered, by happenstance, that Miles Ehrlich was providing advice and counsel to Seamus John Paul Hatch and/or Aran Strategic Finance, LLC., in the capacity of a private criminal lawyer. Seamus Hatch and Aran Strategic Finance, LLC were also parties I identified to Miles Ehrlich on May 9, 2005, as having been primary parties engaged in the May 9, 2005 Criminal Matters.

Additional Facts

10. Prior to resigning his position as an AUSA, Miles Ehrlich was admitted to practice, and in fact did practice law, in several Federal District Courts and Circuit Courts of Appeal, including Federal courts in California.

11. "The United States wins its point whenever justice is done its citizens in the courts."[2] As an criminal prosecutor, an AUSA, Miles Ehrlich represented the People of the United States of America who elect representatives, pursuant to the Constitution, to promulgate legislation to protect their collective and individual interests. For further clarification on this see 28 C.F.R. §77.2; and "UNITED STATES ATTORNEYS," herein.

[2] This quotation from former Solicitor General Lehmann is inscribed in the Rotunda of the Justice Department building.

12. Subsequent to resigning from the United States Attorney's office, Miles Ehrlich has continued to practice law in the Federal courts, **not as a prosecutor,** but **as a criminal defense attorney**. And Miles Ehrlich became subject to laws, regulations and rules governing the activities of former Government Employees and Attorneys for the Government.

13. The individual Marcia Bruggeman Hatch presented, to a company I own an equity interest in, to launder money derived from illegal activities allegedly reside(s) in Berkeley, California.

14. **Seamus Hatch**, one of the parties involved in the May 9, 2005 Criminal Matters who I identified to Miles Ehrlich **has a personal relationship with Nicole Barrett**, an AUSA or former AUSA who worked out of the San Francisco U.S. Attorney's office.

15. In a news article dated November 23, 2005, by Justin Scheck of **The Recorder**, entitled "Two AUSAs to Start New Trial Firm" Miles Ehrlich is quoted, stating that **for two years prior to resigning his post as an AUSA he'd been contemplating leaving and starting his own criminal defense practice** with former Assistant U.S. Attorney Ismail Ramsey.

16. As a citizen of the United States and resident of California, Miles Ehrlich is subject to both the United States Code and the laws of the State of California.

17. As an attorney licensed to practice law in the State of California, Miles Ehrlich is subject to the California Business and Professions Code (hereinafter referred to as the "CB&PC"), Rules of Professional Conduct of the State Bar of California and the California State Bar Act as well as numerous other laws, regulations and rules governing or affecting the practice of law in California.

Note: I'm in possession of additional evidence supporting my complaint and am very concerned, that evidence could be compromised if provided directly to the State Bar of California, and not through a law enforcement agency with the capability to analyze and preserve its probative value.

UNITED STATES ATTORNEYS

Pursuant to the Constitution, the People of the Untied States have delegated to Congress, the legislative branch of the United States Government, the responsibility of enacting statutes authorizing: 1) the appointment of United States Attorneys by the President "with the advice and consent of the Senate;"[3] and 2) granting authority to United States Attorneys to investigate and prosecute criminal matters affecting the collective interests of the People (citizens) of the United States of America. "The United States Attorney

[3] Title 28, United States Code, Section 541.

serves as the chief law enforcement officer in each judicial district and is responsible for coordinating multiple agency investigations within that district." [4]

Assistant United States Attorneys (hereinafter referred to as "AUSAs") are appointed by the Attorney General pursuant to 28 U.S.C. Sec. 542 and are responsible to the Attorney General and USA in their judicial district. Pursuant to statutory authority, USAs and AUSAs: (i) represent the People of the United States of America as criminal prosecutors; (ii) represent the Executive Branch of the United States Government in civil litigation; (iii) act as law enforcement officers managing investigations conducted by the Department of Justice in their judicial districts; and (iv) manage personnel, department finances and control procurement.

The statutory authority afforded USAa and AUSAs is purposefully broad to enable them to investigate and prosecute criminal matters theoretically free from potentially corrupting influences of all branches of government. "Their professional abilities and the need for their impartiality in administering justice directly affect the public's perception of federal law enforcement and lawyers for the government."[5]

Under the law, crime victims must rely on federal, state and local prosecutor to bring criminal cases as citizens who are prosecutors are not permitted to bring such actions in U.S. courts. Because of the unique responsibilities of a criminal prosecutor the sphere of his representation extends beyond the governmental entity that employs him to the victims of the individuals he's prosecuting. A criminal prosecutor's advocacy is not only for the public at large, to deter criminal behavior, but to obtain justice for crime victims as well. In undertaking prosecutorial action state and local prosecutors client's are generally speaking, the citizenry of the jurisdiction(s) they serve. Even though each USA or AUSA is assigned to a particular judicial district, they typically prosecute cases in multiple districts. The cost of federal criminal investigations and prosecutions is born by federal taxpayers. And the deterrence effect of their enforcement of federal law benefits all of the People of the United States. Therefore, the true client of a USA or AUSA prosecuting a criminal case are the People of the United States of America (sometimes hereinafter collectively referred to as the "United States").

APPLICABLE LAW

At the time I provided Miles Ehrlich the May 9, 2005 Criminal Matters information he was assigned to the U.S. Attorney's office in San Francisco, California where he remained until he resigned during the Fall of 2005. Had he charged or indicted the individuals I identified to him, it would have been highly likely those cases would have been brought in the United States District Court, Northern District of California, in San

[4] Department of Justice, United States Attorney's Manual (USAM), Title 3, Section 2 at 100.
[5] Department of Justice, United States Attorney's Manual (USAM) Title 3 Section 2 at 140.

Francisco. Miles Ehrlich's representation of Marcia Bruggeman Hatch and provision of advice and counsel to Seamus Hatch and/or Aran Strategic Fiance LLC has taken place in California where: 1) Miles Ehrlich, Marcia Bruggeman Hatch and Seamus Hatch reside; 2) Miles Ehrlich's law office is located; and 3) Aran Strategic Finance, LLC maintains an office.

"The State Bar Act found in the Business and Professions Code, Rules of Professional Conduct; various statutes passed by the Legislature, e.g., Civil Code, Code of Civil Procedure, Corporations Code, Education Code, Evidence Code, Government Code, Penal Code, Revenue and Taxation Code, and opinions of the California Appellate Courts form the basis for establishing professional responsibility and conduct of California attorneys. To the extent these sources do not answer a particular question or solve a problem, other sources are explored, including sister state rules, court opinions, federal court opinions and the ABA Rules of professional conduct. The persuasiveness of these collateral sources should depend upon their underlying logic and historical basis." (State Bar Formal Opn. No. 1983-71.) (See, e.g., *Flatt v. Superior Court* (1994) 9 Cal.4th 275 at pp. 282-283; Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1, 8; Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]; People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548].)

Federal District Courts in California publish local rules of court which govern practice before them and provide therein for standards of professional conduct. For example, Rule 11-4 of the local rules for the Northern District of California provides that the attorney must "[b]e familiar and comply with the standards of professional conduct required of members of the State Bar of California." [6]

The Rules of Professional Conduct of the State Bar of California (hereinafter referred to as the "California Rules of Professional Conduct" or "CRPC") govern members of the California Bar practicing inside and outside of the State of California as well as to lawyers from other jurisdictions who are not members of he California Bar while they are engaged in the performance of lawyer functions in the State of California. See CRPC Rule 1-100.

Pursuant to 28 U.S.C. §530B(a) "[a]n attorney for the Government shall be subject to State laws and rules, and local Federal court rules, governing attorneys in each State where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State." Where there is no pending case, 28 C.F.R. §77.4(c) directs that an attorney for the Government "comply with the ethical rules of the attorney's state of licensure, unless application of traditional choice-of-law principles directs the attorney to comply with the ethical rule of another jurisdiction or court, such as the ethical rule adopted by the court in which the case is likely to be brought."

[6] Northern District of California, Civil L.R. 11-4.

In addition to 18 U.S.C. §207, the American Bar Association Model Rules of Professional Conduct (hereinafter refereed to as the "ABA Rules"), and court decisions restrict the conduct of attorneys who are former government employees and their firms and affiliates. And it should be noted, **there is nothing in 18 U.S.C. §207 which prevents courts and bar associations from holding former government employees to standards more demanding than the minimal requirements of the criminal law.** See 5 C.F.R. 2637.101(c)(9).

NATURE OF UNDERLYING ISSUES;
AND RELATIONSHIPS OF THE VICTIM/WITNESS PARTIES

Narcotics trafficking is a crime under 21 U.S.C. § 841 and the Health and Safety Code Division 10: California Uniform Controlled Substances Act. Money laundering and conspiracy to launder money are federal offenses under 18 U.S.C. § 1956 and under the California Control of Profits of Organized Crime Act (see section 186 of the California Penal Code). Bribing foreign judicial officials is a crime, under 15 U.S.C. §§ 78dd-1, et seq, the Foreign Corrupt Practices Act (1978) as amended by the International Anti-Bribery and Fair Competition Act of 1998. The foregoing are considered crimes against the People of the United States and the People of the State of California. The crimes of fraud, identity theft, and theft of electronic information were committed variously, against me, entities in which I own interests and other individuals. Bribing judicial officials of the Republic of India, a sovereign nation, is a crime in that country.

As averred in my July 31, 2007 complaint and above, I'm a citizen of the United States and a material fact witness for the the People of the United States regarding the crimes I alleged to Miles Ehrlich in his capacity as an attorney for the People of the United States. For a multitude of reasons, including the preservation of the public's trust and the administration of justice, it's in the United State's, and the State of California's interest to protect witnesses to criminal activities affecting the interests of citizens.

The interests of the People of the State of California, the People of the United States, my interests as well as the interests of the other victims of the crimes I reported to Miles Ehrlich, including the Republic of India are, closely allied and inextricably intertwined.

EXTORTING, THREATENING, HARASSING AND RETALIATING AGAINST
A WITNESS / VICTIM / INFORMANT

I'm a material fact witness, a victim and informant. I'm in possession of significant documentary and electronic evidence including witness affidavits regarding the May 9, 2005 Criminal Matters, as well as other activities of the individuals I identified to Miles Ehrlich on May 9, 2005 and in November 2006 to another Assistant U.S. Attorney. Miles Ehrlich is aware I reported the May 9, 2005 Criminal Matters and his client, Marcia Bruggeman Hatch and the other parties including, Michael Douglas Bock and

Heller Ehrman LLP, who I also identified to Miles Ehrlich are aware of my possession of sensitive information regarding their guilt, knowledge and/or complicity, as the case may be, in the May 9, 2005 Criminal Matters. Certainly, they've also communicated to their narcotics trafficking associates the fact that I reported the May 9, 2005 Criminal Matters to the DOJ and presumably know that upon discovering Miles Ehrlich "switched sides" that I re-reported the May 9, 2005 Criminal Matters to the Department of Justice.

Prior to my discovering, **by happenstance**, that Miles Ehrlich was representing Marcia Bruggeman Hatch and providing advice and counsel to Seamus Hatch or Aran Strategic Finance, LLC, his client(s) and their cohorts, acting in collusion, employed tactics of extortion, threatening, harassing, intimidating and misleading behavior to intentionally dissuade, hinder, impede, delay, and prevent my attempts to communicate with law enforcement officials regarding the crimes I reported to him on May 9, 2005.

Miles Ehrlich, in collusion with his client(s), the other parties I identified to him on May 9, 2005, their agents and criminal defense lawyers, have engaged in harassing, intimidating and misleading behavior to intentionally dissuade, hinder, impede, delay, prevent, malign and undermine my attempts and the effectiveness of those attempts to communicate with law enforcement officials regarding their criminal activity.

For the past four years, the foregoing behavior of the individuals and entities I complained about to Miles Ehrlich have disrupted my career, interfered with my livelihood, interfered with personal relationships, including my relationship with my son and caused me to live in a constant state of fear, periodically moving from location-to-location to avoid the possibility of being physically harmed by them for:

1) refusing to cooperate in their illegal schemes and activities;
2) reporting the May 9, 2005 Criminal Matters to the DOJ; and
3) possessing evidence of their criminal acts.

I have copious evidence supporting foregoing contentions, and additional evidence can be obtained through investigation. Based on the persistent pattern of their actions, I believe Miles Ehrlich's client(s) and/or the other perpetrators of the crimes I identified to him will, if given the opportunity, murder me.

Discussion

California Penal Code ¤ 136 "Intimidation of Witnesses and Victims; Offenses; Penalties; Enhancement; Aggravation" as well as 18 U.S.C. §§ 1512; 1513, "Tampering with a witness, victim, or an informant" and "Retaliating against a witness, victim, or an informant," respectively criminalize the activities, Miles Ehrlich, his criminal defense attorney colleagues, his client(s) and their cohorts, whom I identified to Miles Ehrlich on May 9, 2005 have engaged in against me, my interests as well as the interests of the other individual and entity victims including the United States and the State of California.

Confederating, in contravention to California Penal Code ¤ 182 and 18 U.S.C. § 371 Miles Ehrlich, his criminal defense attorney counterparts, his client(s) and their cohorts have perverted or obstructed justice and the due administration of laws in order to evade prosecution thereby cheating me and other victims of remedies to recover money and property stolen or fraudulently obtained by Seamus Hatch, Michael Bock and entities they control. The monetary damages to me alone from their illegal activities exceed $25 million.

CONFIDENTIAL, NONPUBLIC AND PRIVILEGED NATURE OF THE MAY 9, 2005 CRIMINAL MATTERS INFORMATION

As averred above and in my July 31, 2007 complaint, acting in the dual capacity as an attorney and law enforcement official for the United States, Miles Ehrlich obtained sensitive information from me, a material fact witness and victim, regarding the **May 9, 2005 Criminal Matters.**

I believed the information I supplied Miles Ehrlich would be held in confidence by him and the Department of Justice for the following reasons:

1) the information had not been disseminated to the general public;

2) to my knowledge, an investigation into the activities I reported to him had not commenced;

3) the information detailed very serious criminal activity including, but not limited to, the identity of and links to a criminal narcotics trafficking organization operating in the San Francisco Bay Area, which information, if obtained by the individuals I identified to Miles Ehrlich, would be adverse to an investigation and prosecution by the United States of the May 9, 2005 Criminal Matters;

4) that in any event, given because I am a material fact witness, the United States would have an interest in protecting my safety and the safety of my family from those involved in the May 9, 2005 Criminal Matters.

Thus, when I divulged the May 9, 2005 Criminal Matters, I reasonably expected Miles Ehrlich would maintain the information in confidence to preserve the United States' interests and protect the rights and safety of witnesses and victims related to the case. In fact, my recollection is that I observed to Miles Ehrlich that the information was sensitive, because Heller Ehrman LLP, a major law firm was involved as well as a criminal narcotics trafficking organization and that he should therefore maintain the information in confidence.

The Doctrine of Law Enforcement Investigative Privilege

Insight regarding the DOJ's policies concerning the dissemination of information regarding criminal activity and investigations can be found in the "Frequently Asked

Questions" section of the Federal Bureau of Investigation's (hereinafter referred to as the "FBI") website[7] under the heading:

> **"Can I obtain detailed information about a current FBI investigation I see in the news?"** (emphasis added)

To wit the response is:

> "**No. Such information is protected from public disclosure, in accordance with current law and DOJ and FBI policy.** This policy preserves the integrity of the investigation and the privacy of individuals involved in the investigation prior to any public charging for violations of the law. It also serves to protect the rights of people not yet charged with a crime" (emphasis added).

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According to the DOJ's United States Attorney's Manual, (hereinafter referred to as "USAM") Chapter 3-15.120 "information security involves the control and safeguarding of Limited Official Use (LOU) information... Other departments and agencies entrust LOU information... to the USAOs (U.S. Attorney's Offices) during investigations and litigation. It is important that USAOs protect LOU information... and any materials developed using such information, in the same manner as the originators. **All LOU information... must be protected to prevent disclosure to individuals not authorized access to the information"** (emphasis added).

USAM Chapter 3-15.120(A) defines Limited Official Use (Sensitive) Information, also referred to as "sensitive," and establishes procedures for its protection as follows:

> "LOU information includes, but is not limited to grand jury information, **informant and witness information**, **investigative material**, Federal tax and tax return information, Privacy Act information, **and information which can cause risk to individuals or could be sold for profit...** The information should be labeled or identified by placing the caveat 'Limited Official Use' on the first page, by a notation in a covering memorandum, or by affixing an LOU label or cover sheet to the material to ensure recipients are aware the information requires protection. Provided the USAO has minimum physical security safeguards in place, sensitive information may be stored, when not in use, in locked offices, desks, or cabinets. **Secure telephone and facsimile equipment should be used whenever possible to protect sensitive information, particularly investigative, informant, witness, or Title III information"** (emphasis added)**.**

As averred herein and evidenced in my July 31, 2007 complaint, I'm an informant and material fact witness who provided LOU information to Miles Ehrlich in his capacity as an attorney for the United States, which information, according to **USAM Chapter 3-**

[7] See http://www.fbi.gov/aboutus/faqs/faqsone.htm (November, 2007)

15.120 the United States seeks to protect from disclosure. The May 9, 2005 Criminal Matters information I provided Miles Ehrlich was of a character the United States regards not only as confidential but so sensitive as to require the protection of it from individuals, within the DOJ and the U.S. Government, without authority to access it.

5 C.F.R. § 2635.703(b) defines nonpublic information as information that which the employee gains by reason of Federal employment and that he knows or reasonably should know has not been made available to the general public. It includes information that he knows or reasonably should know:

(1) **"Is routinely exempt from disclosure under 5 U.S.C. 552 or otherwise protected from disclosure by statute, Executive order or regulation;**

(2) Is designated as confidential by an agency; or

(3) Has not actually been disseminated to the general public and is not authorized to be made available to the public on request" (emphasis added).

Information of the character of the May 9, 2005 Criminal Matters information is routinely exempt from disclosure under **5 U.S.C. 552**, the Freedom of Information Act.

5 U.S.C. 552(b)(7) mandates the nondisclosure of "**records or information compiled for law enforcement purposes**, but only to the extent that the production of such law enforcement records or information (A) **could reasonably be expected to interfere with enforcement proceedings**, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) **could reasonably be expected to disclose the identity of a confidential source**, including a State, local, or foreign agency or authority or any private institution **which furnished information on a confidential basis**, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) **could reasonably be expected to endanger the life or physical safety of any individual**" (emphasis added).

5 U.S.C. 552(c)(1) provides an exemption to the disclosure of information, under the Freedom of Information Act, whenever a request is made involving access to records or information compiled for law enforcement purposes. Pursuant to 5 U.S.C. 552a(J); heads of U.S. Government agencies may promulgate rules to exempt information from disclosure under 5 U.S.C. 552.

5 U.S.C. 552a(J)(2) characterizes information that may be exempted from disclosure as that which is: "maintained by an agency or component thereof **which performs as its principal function any activity pertaining to the enforcement of criminal laws**, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) **information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual**; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision" (emphasis added).

Former Attorney's General Janet Reno, John Ashcroft and Alberto Gonzales, and their predecessors, have sought to protect the information described in 5 U.S.C. 552a(J)(2) through the adoption of a multitude of rules governing such information as described above and elucidated more fully in the USAM, FBI manuals and DOJ memoranda. For example, pursuant to USAM Chapter 1-3.100, "Prior Approval Requirements, the Deputy Attorney General must approve any disclosure of information by DOJ employees which would be in violation of 28 C.F.R. Sec. 16.26(b) which sets out those interests that the DOJ must protect." See also USAM 1-6.420; .440.

28 C.F.R. 16, "Judicial Administration— Production or Disclosure of Material or Information," further supports the fact that the May 9, 2005 Criminal Matters information was confidential information of the United States which, is not authorized to be made available to the public on request. These regulations strictly prohibit the disclosure of information where the disclosure would reveal investigatory records compiled for law enforcement purposes and would interfere with enforcement proceedings or disclose investigative techniques and procedures such that their effectiveness would be impaired. See 28 C.F.R. § 16.26(5).

Pursuant to **28 C.F.R. 16.26(b)(4)**, considerations in determining whether production or disclosure should be made pursuant to a demand:

> "among the demands in response to which disclosure will not be made by any Department official are those demands with respect to which... disclosure would reveal a confidential source or informant, **unless the investigative agency and the source or informant have no objection**" (emphasis added).

Stating the obvious, I would never have released Miles Ehrlich to use the information I provided him to represent and provide advice and counsel to the individuals I identified to him as primary actors involved in the May 2005 Criminal Matters. Moreover, because

of the nature of the criminals acts, i.e. narcotics trafficking, money-laundering, bribery of judicial officials, and conspiracy by members of a large law firm, for example, had I realized at the time I imparted the information regarding the May 9, 2005 Criminal Matters to him, he would resign his position as an AUSA and provide representation, advice and counsel to at least one of the individuals I identified to him, I would never have divulged the May 9, 2005 Criminal Matters information.

Courts have upheld the law enforcement investigative privilege from disclosure of such records. See e.g., *Maroscia v. Levi*, 569 F.2d 1000, 1002 (7th Cir. 1977); *NLRB v. Robbins Tire and Rubber Co.*, 437 U.S. 214, 242-43 (1978); *Barney v. IRS*, 618 F.2d 1268, 1273-74 (8th Cir. 1980) (italics added*)*. The law enforcement privilege presumptively protects investigative files and testimony about investigative files from disclosure. See *In re Sealed Case*, 856 F.2d 268, 272 (D.C. Cir. 1988); Friedman v. Bache Halsey Stuart Shields, Inc., 738 F.2d 1336, 1341 (D.C. Cir. 1984); *Black v. Sheraton Corp. of America*, 564 F.2d 531, 545 (D.C. Cir. 1977) (italics added*)*. The privilege is designed "to prevent disclosure of law enforcement techniques and procedures, to preserve the confidentiality of sources, to protect witness and law enforcement personnel, to safeguard the privacy of individuals involved in an investigation, and otherwise to prevent interference with an investigation." See *In re Department of Investigation of the City of N.Y.*, 856 F.2d 481, 484 (2d Cir. 1988); accord *United States v. Winner*, 641 F.2d 825, 831 (10th Cir. 1981) (quoting *Black* See also, 564 F.2d at 831) (italics added*)*.

A competent prosecutor would not disclose the information Miles Ehrlich obtained from me unless he was: a) certain such disclosure would further the U.S. Government's ability to enhance the outcome of a prosecution; or b) compelled by law to disclose. Even in these instances, he would only disclose portions of the information that would aid his case or provide the defense exculpatory evidence as required by law. See e.g., 28 C.F.R. § 16.26(a).

Had Miles Ehrlich or another prosecutor opened a formal investigation regarding the May 9, 2005 Criminal Matters or sought indictments from a grand jury, based on the information I provided, he would not have disclosed the May 9, 2005 Criminal Matters to the perpetrators I identified to him; nor would he (or another prosecutor) have disclosed the source of the information until such time as he was obligated. Such law enforcement investigative privilege is deeply-rooted in criminal investigatory and prosecutorial procedure. Without such secrecy, an investigation into the May 9, 2005 Criminal Matters could become impaired, witnesses tampered with and retaliated against (which has occurred), etc. to the disadvantage of Miles Ehrlich's former client, the United States.

The May 9, 2005 Criminal Matters information was of a character Miles Ehrlich's client, the DOJ considers secret, confidential and protected by law enforcement investigative privilege, securing it in such manner to avoid its dissemination in order

to protect witnesses, investigative methods, accused parties and to preserve deliberative process and evidentiary privilege regarding such information.

*** * * * ***

Attorney-Client Secrets and Confidences

"The integrity of the legal profession requires at all times the protection of a client who depends upon and confides in the attorney." (Cal State Bar Formal Opn. No. 1981-58 (1981)). Whenever an attorney-client relationship exists the duty of confidentiality protects all information regarding the representation, irrespective of the source of the information. See *Commercial Standard Title Co., Inc. v. Superior Court of San Diego County* (4th Dist. 1979) 92 Cal.App.3d 934, 155 Cal.Rptr. 393 (italics added).

Pursuant to **CB&PC ¤ 6068(e)(1)**, it is the duty of an attorney "to maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets, of his or her client." The Rules of Professional Conduct of the State Bar of California (hereinafter referred to as the "California Rules of Professional Conduct" or "CRPC") provide only two exceptions to this rule: 1) upon the informed (written) consent of the client; and 2) to " prevent a criminal act that the member reasonably believes is likely to result in death of, or substantial bodily harm to, an individual." (CRPC 3-100).

"In the context of the CB&PC section 6068, subdivision (e), 'secret' is not limited to attorney-client communications. 'This ethical precept, unlike the evidentiary privilege, exists without regard to the nature or source of information or the fact that others share the knowledge.' [Citation.] Any 'information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would likely be detrimental to the client' is a secret which must be preserved. [Citation.] Both 'confidences' and 'secrets' are privileged communications. [Citation.]." (Cal. State Bar Formal Opn. No. 1981-58.)

The "Committee has interpreted the first part of CB&PC section 6068 (e) ('to maintain inviolate the confidence . . . of his or her client') to mean that an attorney may not do anything to breach the trust reposed in the attorney by the client." (Cal. State Bar Formal Opn. No. 1986-87; Anderson v. Eaton (1930) 211 Cal. 113, italics added.)

The relationship between attorney and client is a fiduciary relationship of the very highest character. [citation] [citation] [citation] "Hence, the actual use or misuse of confidential information is not determinative." (Cal. State Bar Formal Opn. No. 1993-133)

"Client secrets means any information obtained by the lawyer during the professional relationship, or relating to the representation, which the client has requested to be inviolate or the disclosure of which might be embarrassing or detrimental to the client. [Citation.]" (Cal. State Bar Formal Opn. No. 1993-133)

As an attorney, Miles Ehrlich has continuing duties to his former clients, the People of the United States, that prevent the disclosure or misuse of sensitive, confidential and non-public information beyond the termination of his employment as an AUSA.

"The duty to honor the secrets and confidences of a client also applies to former clients and only the client can release the attorney from this duty." Cal. State Bar Formal Opn. No. 1992-126). See also *Commercial Standard Title Co.,* supra, 92 Cal. App. 3d at p. 945; *Woods v. Superior Court* (1983) 149 Cal.App.3d 931; *David Welch Co. v. Erskine & Tulley* (1st Dist. 1988) 203 Cal.App.3d 884, 250 Cal.Rptr. 339; and *Earl Scheib, Inc. v. Superior Court* (2nd. Dist. 1967) 253 Cal.App.2d 703, 708, 61 Cal.Rptr. 386 (italics added).

"[T]he attorney's duty to maintain client confidences and secrets inviolate is broader in scope than the attorney-client privilege." [Citation.] (Cal. State Bar Formal Opn. No. 1993-133).

Discussion

Miles Ehrlich directly and personally represented the People of the United States when he obtained from me the May 9, 2005 Criminal Matters information, which information, the DOJ, a delegated law enforcement arm of the executive branch of the United States government and custodian of sensitive, confidential information regarding criminal matters affecting the People of the United States, seeks to protect as secret and confidential in order to preserve law enforcement privilege, attorney-client privilege, the identities of informants, the rights of witnesses, and victims as well as the rights of the accused.

The California Rules of Professional Conduct, the CB&PC, case law and the State Bar of California Standing Committee on Professional Responsibility and Conduct opinions:

1) require that an attorney protect the secrets and confidences of his or her client, inviolate; and

2) provide that the duty to protect such secrets and confidences survives the termination of the attorney-client relationship;

No relevant exceptions to Miles Ehrlich's duty to protect the May 9, 2005 Criminal Matters information on behalf of his client in criminal matters, the People of the United States exist in federal or California law.

Considering the foregoing, the factual information regarding the May 9, 2005 Criminal Matters, and Miles Ehrlich's opinions thereon are the secret, confidential information of the United States subject to law enforcement, deliberative process and evidentiary privilege. Miles Ehrlich is therefore required to maintain the May 9, 2005 Criminal Matters information "inviolate" even after his employment and client-attorney relationship were terminated in the Fall of 2005.

CONFLICT OF INTEREST; MILES EHRLICH'S REPRESENTATION OF MATTERS ADVERSE TO THE U.S. GOVERNMENT, HIS FORMER CLIENT

"The paramount concern is the preservation of public trust in the scrupulous administration of justice and the integrity of the bar."
(*Comden*, supra, 20 Cal.3d, p. 915, emphasis added.)

One of the issues discussed about in herein and in my July 31, 2007 complaint involves Miles Ehrlich's successive representation of clients whose interests are adverse. In such cases, attorneys must not undertake representation of a prospective client if "the attorney (1) has actual knowledge of material confidential information or (2) is presumed to have acquired confidential information because of the relationship between the prior representation and the current representation." (*Faughn v. Perez* (2006) 145 Cal.App.4th 592, 603, italics added.)

As averred herein, and averred and evidenced, in my July 31, 2007 complaint:

1. Miles Ehrlich participated directly, personally and substantially as an AUSA when he obtained the May 9, 2005 Criminal Matters information from me, which was the secret, confidential and privileged information of his client, the People of the United States.
2. Miles Ehrlich is representing Marcia Bruggeman Hatch and providing advise and counsel to, Seamus Hatch and/or Aran Strategic Finance, LLC who were among several individuals and entities I identified to Miles Ehrlich as being among the primary perpetrators of the May 9, 2005 Criminal Matters.
3. Heretofore, the course of Miles Ehrlich's representation, advice and counsel variously to Marcia Bruggeman Hatch, Seamus Hatch and Aran Strategic Finance, and, I believe in confederation with the other parties I identified to him as well as his criminal defense attorney colleagues, after resigning his position as an AUSA, has been to:
    (A) employ **intimidating, threatening, harassing** and **misleading** tactics, in an attempt to dissuade, me from communicating with law enforcement officials information relating to the May 9, 2005 Criminal Matters;
    (B) to malign my communications in order to undermine my efforts to engage law enforcement officials to assist me and the other victims of his client(s) conduct, including the People of the United States, and the People of the States of California to obtain relief from his client(s) continuing illegal acts.

The matters in which Miles Ehrlich is representing and/or advising the foregoing individuals, as a criminal defense attorney, are the same or substantially similar to the

matters in which he officially, personally and substantially represented the People of the United States.

Statutory Prohibitions Against Former Government Attorneys "Switching Sides"

18 U.S.C. § 207(a)(1) prohibits all former employees from knowingly making, with the intent to influence, any communication to, or appearance before, a department, agency or court of the United States on behalf of anyone other than the United States regarding a particular matter involving specific parties in which they participated personally and substantially while in government.

California Government Code ¤ 87401 prohibits any former state administrative official, after the termination of his or her employment or term of office, from acting for compensation as an attorney for, or otherwise representing, any person (other than the State of California) before any court or state administrative agency or participating in other specified activities if (a) the State of California is a party or has a direct or substantial interest and (b) the proceeding is one in which the former state administrative official participated.

California Government Code ¤ 87402. "No former state administrative official, after the termination of his or her employment or term of office shall for compensation aid, advise, counsel, consult or assist in representing any other person (except the State of California) in any proceeding in which the official would be prohibited from appearing under Section 87401."

Pursuant to 28 U.S.C. § 530B "[a]n attorney for the Government shall be subject to State laws and rules, and local Federal court rules, governing attorneys in each State where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State."

Discussion

Public policy is clear in the context of former government employees **"switching sides"** and representing or advising parties before a court or government agency if the former employee participated in the matter in his official capacity. Both the State of California and the United States preclude such activities to (1) protect confidential information and (2) prevent former government employees from using the knowledge they gained through government service to further their own interests at the expense of the public. As discussed herein, it is in the interest of the United States to protect crime victims, witnesses and informants. And the matter in which Miles Ehrlich is advising his client(s), to enable them to evade prosecution by intimidating, harassing and maligning a witness is adverse to the interests of the State of California and the United States.

18 U.S.C. 207(a) and California Government Code ¤ 87401; 87402 are parallel laws restricting the activities of former United States government and State of California,

respectively. The California statutes prohibit both direct and "behind the scenes" representation. 28 U.S.C. § 530B, the "Citizens Protection Act,"[8] fills gaps regulating federal prosecutors and arguably applies to former prosecutors regarding conflicts.

While I don't have the investigative resources at my disposal to precisely determine the full extent and nature of Miles Ehrlich's activities regarding his representation of Marcia Bruggeman Hatch et al, it appears from the electronic document a third party provided me, which is incomplete, that Miles Ehrlich has represented the interests of Marcia Bruggeman Hatch and provided advice and counsel to Seamus Hatch before a court or administrative agency of either the State of California or the United States or both. Certainly, the State Bar of California with it's investigatory resources could easily determine the extent of Miles Ehrlich's activities in this regard. This being the case, Miles Ehrlich has acted in contravention to 18 U.S.C. 207(a) and/or California Government Code ¤ 87401 as analyzed directly or within the sphere of 28 U.S.C. § 530B.

Further investigation of this is merited particularly given the matters in which Miles Ehrlich "switched sides" are: (1) criminal in nature; (2) the activities of the offending parties have been on-going; and (3) that it is clear from the evidence that, at a minimum, Miles Ehrlich breached (a) American Bar Association Rules of Professional Conduct; and (b) the California Rules of Professional Conduct as more fully elucidated below.

ABA Model Rules of Professional Conduct, Rule 1.11

Rule 1.11 Special Conflicts Of Interest For Former And Current Government Officers And Employees of the ABA Rules clearly prohibits the representation of a client "in connection with a matter[9] in which the lawyer participated personally and substantially, unless the appropriate government agency gives its informed consent, confirmed in writing, to the representation;"[10] or if the lawyer has "confidential government information about a person acquired when the lawyer was a public officer or employee, [he or she] may not represent a private client whose interests are adverse to that person in

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8 Effective April 19, 1999 28 U.S.C. § 530B is the law of the land that government attorneys "shall be subject to State laws and rules and local Federal court rules, governing attorneys in each state where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State."

9 "As used in this Rule, the term 'matter' includes: (1) any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties; and (2) any other matter covered by the conflict of interest rules of the appropriate government agency" ABA Rule 1.11(e).

10 ABA Rule 1.11(a)(2).

a matter in which the information could be used to the material disadvantage of that person." [11]

Discussion

ABA Rule 1.11 was promulgated not only to protect former clients but to prevent the exploitation of public office to the advantage of the former public officer or another client. Paragraphs (c) and (d)(2) apply irrespective of whether a lawyer is adverse to the former client. "This Rule represents a balancing of interests. On the one hand, where the successive clients are a government agency and another client, public or private, the risk exists that power or discretion vested in that agency might be for the special benefit of the other client. A lawyer should not be in a position where benefit to the other client might affect performance of the lawyer's professional functions on behalf of the government. Also, unfair advantage could accrue to the private client by reason of access to confidential government information about the client's adversary obtainable only through the lawyer's government service."[12]

Although California does not have a direct counterpart to ABA Rule 1.11 in the CRPC; the ABA Rules can be of assistance where California has not spoken. In State Comp. Ins. Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644, the Court of Appeal stated that "the ABA Model Rules of Professional Conduct may be considered" to determine an attorney's duties, "particularly in areas where there is no direct authority in California and there is no conflict with the public policy of California. [Citation.]" (Id. at p. 656, italics in the original.) See also, *Flatt*, supra, 9 Cal.4th at pp. 282-283; Ojeda, supra, 8 Cal.App.4th, p. 8; In Lucent Tech. Inc v. Gateway, Inc., 2007 U.S. Dist. Lexis 35502 (S.D. Cal May 15, 2007); Goldberg, supra, 125 Cal.App.4th, p. 752; People v. Donaldson, supra, Cal.App.4th p. 916.

ABA Rule 1.11 is identical to Rule 1.11 of the Pennsylvania Rules of Professional Conduct, Miles Ehrlich's first state of licensure and the only state in which he was licensed at the time he obtained the May 9, 2005 Criminal Matters information. To my knowledge there was no case pending at the time he resigned as an AUSA from the DOJ. This being the case, pursuant to 28 U.S.C. 530B either the Pennsylvania Rules of Professional Conduct or the CRPC would apply. See 28 C.F.R. §77.2(j)(1)(ii) and 28 C.F.R. §77.4(c).

Miles Ehrlich is clearly prohibited under Rule 1.11 of the Pennsylvania Rules of Professional Conduct and ABA Rule 1.11 from representing Marcia Bruggeman Hatch and providing advice and counsel to Seamus Hatch and/or Aran Strategic Finance

[11] ABA Rule 1.11(c).

[12] *Pennsylvania Rules of Professional Conduct*, Supreme Court of Pennsylvania, December 30, 2005, p.33.

because he participated directly, personally and substantially in the matter when he obtained confidential information, subject to law enforcement privilege, regarding 1) the fact that I informed the DOJ of the May 9, 2005 criminal matters information, and 2) the content of the May 9, 2005 Criminal Matters which he could use (read has used) to the material disadvantage of his former client, the People of the United States as well as to the disadvantage of other victims and witnesses.

California Rules of Professional Conduct 3-310(E)

Pursuant to CRPC 3-310(E) "a member shall not, without the informed written consent of the client or former client, accept employment adverse to the client or former client where, by reason of the representation of the client or former client, the member has obtained confidential information material to the employment."

Pursuant to CRPC 3-310(A) an attorney may obtain a written waiver from a former client to represent a client provided, the former client is fully informed of the "relevant circumstances and of the actual and reasonably foreseeably adverse consequences"[13] to the former client of providing such waiver.

Case Law and California State Bar Formal Ethics Opinions

In People ex rel. Dept. of Corporations v. SpeeDee Oil Change Systems, Inc. (1999) 20 Cal.4th 1135, the California Supreme Court stated: "Protecting the confidentiality of communications between attorney and client is fundamental to our legal system. . . . To this end, a basic obligation of every attorney is '[t]o maintain inviolate the confidence, and every peril to himself or herself to preserve the secrets, of his or her client.' [Citation.]" The court added: "A related but distinct fundamental value of our legal system is the attorney's obligation of loyalty. Attorneys have a duty to maintain undivided loyalty to their clients to avoid undermining public confidence in the legal profession and the judicial process. [Citation.]" (Id. at p. 1145.)

In Earl Scheib, Inc., supra, 253 C.A.2d p. 707, the court stated,

> "...the subsequent representation of another against a former client is forbidden not merely when the attorney will be called upon to use confidential information obtained in the course of the former employment, but in every case when, by reason of such subsequent employment he may be called upon to use such confidential information."

"The primary purpose of rule 3-310(E) is to protect the confidential relationship which exists between attorney and client. (Jacuzzi v. Jacuzzi Bros., Inc. (1963) 218 Cal.App.2d 24, 28.) A lawyer is forbidden to do either of two things after severing his or her relationship with a former client. 'He may not do anything which will injuriously affect his former client in any matter in which he formerly represented him nor may he at any

[13] California Rules of Professional Conduct, Rule 3-310(A).

time use against his former client knowledge or information acquired by virtue of the previous relationship.' (Galbraith v. State Bar (1933) 218 Cal. 329, 333.)" (Cal. State Bar Formal Opn. No. 1993-133) (emphasis added).

The facts of this case involve *successive representation*. "Where an attorney's conflict arises from successive representation of clients with potentially adverse interests, 'the chief fiduciary value jeopardized is that of client confidentiality.' [Citation.]" (Forrest v. Baeza (1997) 58 Cal.App.4th 65, 73 [67 Cal.Rptr.2d 857], quoting *Flatt*, supra, 9 Cal.4th, 283)

Proof that an attorney actually possesses confidential information is not required to evidence a breach of CRPC 3-310(E). Rather, the courts have utilized the "substantial relationship" test: " 'When a substantial relationship has been shown to exist between the former representation and the current representation, and when it appears by virtue of the nature of the former representation or the relationship of the attorney to his former client confidential information material to the current dispute would normally have been imparted to the attorney or to subordinates for whose legal work he was responsible, the attorney's knowledge of confidential information is presumed. [Citation.]' " (Rosenfeld Construction Co. v. Superior Court (Sivas)(1991) 235 Cal.App.3d 566 , [286 Cal.Rptr. 609] at p. 574, quoting Global Van Lines, Inc. v. Superior Court (1983) 144 Cal.App.3d 483, 489 [192 Cal.Rptr. 609] (Global).)

This standard, with its conclusive presumption of knowledge of confidential information, is "justified as a rule of necessity" because: " 'it is not within the power of the former client to prove what is in the mind of the attorney. Nor should the attorney have to "engage in a subtle evaluation of the extent to which he acquired relevant information in the first representation and of the actual use of that knowledge and information in the subsequent representation." ' [Citations.] The conclusive presumption also avoids the ironic result of disclosing the former client's confidences and secrets through an inquiry into the actual state of the lawyer's knowledge and it makes clear the legal profession's intent to preserve the public's trust over its own self-interest. [Citations.]" (H.F. *Ahmanson & Co.*, supra, 229 Cal.App.3d, 1453-1455, italics added.)

"Our Supreme Court has declared that 'an attorney is forbidden to do either of two things after severing his relationship with a former client. He may not do anything which will injuriously affect his former client in any manner in which he formerly represented him nor may he at any time use against his former client knowledge or information acquired by virtue of the previous relationship.' ... [T]he prohibition is in the disjunctive: [the attorney] may not use information or 'do anything which will injuriously affect his former client.' " (Brand v. 20th Century Ins. Co./21st Century Ins. Co. (2004)124 Cal.App.4th 594, [Cal.Rptr.3d], quoting Wutchumna Water Co. v. Bailey (1932) 216 Cal. 564, 573-574 [15 P.2d 505].)

Discussion

One factor distinguishing this case from others is that the confidential information of the prior client, is known to me, a witness and crime victim who informed Miles Ehrlich's former client, the People of the United States through Miles Ehrlich of the May 9, 2005 Criminal Matters. To reiterate, the nature of the confidential information Miles Ehrlich obtained from me included:

1. the fact that I reported the criminal activity to law enforcement authorities (directly to Miles Ehrlich in this case);
2. the nature of the criminal activity;
3. the identities of the perpetrators of the criminal activity;
4. the breadth of the evidence in my possession supporting my allegations.

The confidential, privileged information Miles Ehrlich obtained from me included the identities of the parties to the May 9, 2005 Criminal Matters, the specific nature of those crimes as well as the general nature of the evidence in my possession. In addition, Miles Ehrlich was aware I reported the May 9, 2005 Criminal Matters to him. Such information would certainly be helpful to his representation of Marcia Bruggeman Hatch and his provision of advice and counsel to Seamus Hatch and/or Aran Strategic Finance, LLC. For example, their learning that I reported the May 9, 2005 Criminal Matters would be useful to because it would be obvious that their Marcia Bruggeman Hatch's husband's and his cohorts manufacturing accusations to cast me in an unfavorable light and the use of their manufactured statements to attempt to extort a "general release" from me had not prevented me from contacting law enforcement authorities to inform them of their criminal activities. Thus, Miles Ehrlich and his criminal defense attorney colleagues could use their contacts and influence with law enforcement agencies to assist Marcia Bruggeman Hatch et al to evade investigation and prosecution by preempting and delaying my attempts to communicate with law enforcement officials. I believe this was the strategy they were pursuing until I discovered, by happenstance that Miles Ehrlich had "switched sides" and was clandestinely representing Marcia Bruggeman Hatch.

When Miles Ehrlich returned my call to him on November 15, 2006 he did not tell me he was representing Marcia Bruggeman Hatch and providing advice and counsel to Seamus Hatch and/or Aran Strategic Finance. When I asked him for a referral to his successor at the United States Attorney's office he asked me if I could be reached at the telephone number he called me on to wit I responded affirmatively. Miles Ehrlich then told me: "I'll get back to you" and terminated the call. Several hours later I received a harassing telephone call from agents who refused to disclose to me the identity of their client. I believe were employed by the parties to the May 9, 2005 Criminal Matters. These agents wanted to know my location which I refused to provide them. Sometime later, I received

a call from John Daniel Sharp, Esq. who told me that Miles Ehrlich was representing Marcia Bruggeman Hatch and he therefore couldn't help me.

As persons purported to have committed criminal acts against the United States, the State of California and other victims, the interests of Marcia Bruggeman Hatch, Seamus Hatch and Aran Strategic Finance, LLC are by definition adverse to the interests of the People of the United States, victims, witnesses who can provide testimony regarding their illegal acts. Any representation Miles Ehrlich has undertaken, against the witnesses to or negatively parties affected by the May 9, 2005 Criminal Matters, to facilitate the evasion of prosecution or to cover up crimes perpetrated by Marcia Bruggeman Hatch, Seamus Hatch and their cohorts is adverse to the objects of his former client, the People of the United States.

Because I discovered the fact that Miles Ehrlich had undertaken the representation of matters adverse to his former client, the People of the United States, it is my assessment that it is best to disclose these facts in light of his client's and her cohorts continuing pattern of illegal activity. My hope is that by making this information public, it will: 1) dissuade Marcia Bruggeman Hatch, her husband and their cohorts from continuing their criminal enterprises and attacks on me; and 2) counteract any effect Miles Ehrlich and his cohorts have had to impede an investigation of the case by law enforcement authorities.

The application of CRPC Rule 3-310(E) is very straightforward in this case because it can be proven: 1) Miles Ehrlich possessed confidential information of his former client material to the representation of his current client(s); 2) that in obtaining the May 9, 2005 Criminal Matters information from me Miles Ehrlich's involvement was direct and personal; and 3) the matters in which he is representing Marcia Bruggeman Hatch and providing advice and counsel to Seamus Hatch and/or Aran Strategic Fiance, LLC are substantially related because his criminal defense efforts are centered on harassing and retaliating against the witness and victim who reported the criminal activity to him in the first place.

Regarding the possibility Miles Ehrlich obtained a waiver from the United States prior to undertaking representation of Marcia Bruggeman Hatch, et al, I have no information Miles Ehrlich fully informed the People of the United States or the DOJ, the custodian of the May 9, 2005 Criminal Matters information, in writing pursuant to CRPC 3-310(A), and that he was provided a waiver to represent Marcia Bruggeman Hatch and provide advice and counsel to Seamus Hatch and Aran Strategic Finance, prior to his undertaking such activities. Moreover, section 6068, subdivision (e) of the CB&PC, may in fact have precluded Miles Ehrlich from making adequate disclosure under CRPC 3-310(A). If such disclosure is precluded, informed written consent is likewise precluded.

California law is very clear that without informed consent of the former client, an attorney may not represent a successive client with interests adverse to the former client

where the attorney has "obtained confidential information material to the employment."[14] Miles Ehrlich flagrantly disregarded CRPC 3-310(E) when he furtively undertook representing Marcia Bruggeman Hatch and provided advice and counsel to Seamus Hatch and/or Aran Strategic Finance, LLC. Had I not, by happenstance, discovered Miles Ehrlich's involvement in representing and providing advice and counsel to parties to the May 9, 2005 Criminal Matters, his involvement therein would have escaped my detection.

By providing representation to Marcia Bruggeman Hatch and advice and counsel to Seamus Hatch and/or Aran Strategic Finance, LLC, Miles Ehrlich flagrantly breached his professional responsibilities under 3-310(E) of the California Rules of Professional Conduct.

LAWYER SELF-DEALING IN CONFIDENTIAL INFORMATION

California law forbids attorneys from using the confidential information of a client to benefit themselves. See David Welch Co., supra, 203 Cal.App.3d pp. 891-892, where an attorney acquired and used a former client's business clientele to the attorney's advantage. Self-dealing occurs when confidential client information is economically advantageous to the attorney yet unfavorable to the client or former client as the case may be. See e.g., *Tri-Growth Centre City, Ltd. v. Silldorf, Burdman, Duignan & Eisenberg* (4th Dist. 1990) 216 Cal.App.3d 1139, 1152-1154, 265 Cal.Rptr. 330 (italics added) where the defendant used its position as both attorney and partner to acquire confidential information that led his law firm to offer an earlier closing date and ensure its offer on a piece of property.

Miles Ehrlich obtained the May 9, 2005 Criminal Matters from me which became the confidential information of his client, the People of the United States. Subsequent to my identifying the parties to Miles Ehrlich, he undertook representation of Marcia Bruggeman Hatch and has provided counsel and advice to Seamus Hatch and/or Aran Strategic Finance, LLC. Certainly, Miles Ehrlich has been remunerated for his services to these parties.

Pursuant to CRPC Rule 3-300 "[a] member shall not enter into a business transaction with a client; or knowingly acquire an ownership, possessory, security, or other pecuniary interest adverse to a client... "

By undertaking representation of Marcia Bruggeman Hatch and providing advice and counsel to Seamus Hatch and/or Aran Strategic Fiance, LLC, Miles Ehrlich acquired the ability to use the May 9, 2005 Criminal Matters information in a manner detrimental to his former client, the United States Miles Ehrlich has thereby breached his professional responsibilities under CRPC 3-300. (See e.g., *Welch*, supra, 203 Cal.App.3d 884, pp.

[14] HCalifornia Rules of Professional Conduct, Rule 3-310(E)

891-892; Ames v. State Bar (1975) 8 Cal.3d 910, 920; Connor v. State Bar (1990) 50 Cal.3d 1047, 1058; and In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752, 759-760.)

MILES EHRLICH'S DISSEMINATION OF THE MAY 9, 2005 CRIMINAL MATTERS INFORMATION

Miles Ehrlich provided my telephone number to at least one attorney, John Daniel Sharp, Esq. either directly or through agents. John Daniel Sharp, Esq., a criminal defense lawyer, claimed to me that he represents Heller Ehrman LLP and that Miles Ehrlich was representing Marcia Bruggeman Hatch, a Heller Ehrman "shareholder." The telephone number is a number I reserve for personal calls is unlisted and not generally known. Agents working for one or more of the parties to the May 9, 2005 criminal matters telephoned on this number for the purpose of intimidating, threatening and harassing me. For instance, the agents requested I provide them my physical location which I interpreted as a threat given Marcia Bruggeman Hatch's affiliation with a criminal organization. While further investigation is necessary and practical[15]; given the circumstances and the collusion among the various adverse parties and their attorneys it is highly likely that Miles Ehrlich divulged the May 9, 2005 Criminal Matters information to John Daniel Sharp, Esq. and others in contravention to CB&PC ¤ 6068(e)(1), CRPC 3-100 and other laws, analyzed directly or in the sphere of 28 U.S.C. § 530B, regarding the maintenance of sensitive, confidential information by current and former government employees.

PROHIBITED OBJECTIVES OF EMPLOYMENT

Pursuant to CRPC "Rule 3-200 Prohibited Objectives of Employment. A member shall not seek, accept, or continue employment if the member knows or should know that the objective of such employment is: (A) To bring an action, conduct a defense, assert a position in litigation, or take an appeal, without probable cause and for the purpose of harassing or maliciously injuring any person..."

Miles Ehrlich and John Daniel Sharp are aware of my fears for my physical safety as a consequence of Marcia Bruggeman Hatch's and Seamus Hatch's association with the head of a narcotics trafficking organization, I identified to Miles Ehrlich on May 9, 2005 and have used that knowledge to harass and intimidate me from continuing to pursue legal remedies against their clients. It's apparent from the incomplete documents, a third party emailed to me, that Miles Ehrlich and/or John Daniel Sharp have either brought actions or confederated with other parties to the May 9, 2005 Criminal Matters to cause

[15] The California Evidence Code section 956 provides: "There is no [attorney-client] privilege . . . if the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit a crime or fraud."

actions to be advanced in a court with the objective of harassing and maliciously injuring my ability to obtain remedies for the criminal activity that has severely impacted my life.

The foregoing and other activities discussed herein are prohibited objectives of Miles Ehrlich's employment by Marcia Bruggeman Hatch under rule 3-200 of the CRPC.

ADVISING THE VIOLATION OF LAW

Pursuant to CRPC "Rule 3-210, "Advising the Violation of Law... [a] member shall not advise the violation of any law, rule, or ruling of a tribunal unless the member believes in good faith that such law, rule, or ruling is invalid."

Miles Ehrlich's representation of Marcia Bruggeman Hatch and colluding with other parties involved in perpetrating the May 9, 2005 Criminal Matters thus facilitating their efforts to retaliate against me and continue to intimidate, harass and threaten me for the purpose of maliciously injuring me as well as enabling the parties to evade justice is clearly illegal under both California and federal statutes such as 18 U.S.C. §§ 1512; 1513.

DECEIT, COLLUSION, DELAY OF SUIT AND IMPROPER RECEIPT OF MONEY

Pursuant to § 6128 of the California State Bar Act "Deceit, Collusion, Delay of Suit and Improper Receipt of Money as Misdemeanor. Every attorney is guilty of a misdemeanor who either: (a) Is guilty of any deceit or collusion, or consents to any deceit or collusion, with intent to deceive the court or any party... "

By not informing me on November 15, 2006 that he was representing Marcia Hatch, Miles Ehrlich attempted to deceive me into believing he had not undertaken the representation of any of the parties to the May 9, 2005 Criminal Matters when according to John Daniel Sharp, Esq. Miles Ehrlich had in fact undertaken such representation.

Miles Ehrlich consented to and engaged in collusion with John Daniel Sharp, the parties to the May 9, 2005 Criminal Matters and I believe others when he undertook to mislead, intimidate, harass and threaten me to intentionally dissuade, hinder, impede, delay, prevent, malign and undermine my attempts and the effectiveness of those attempts to communicate with law enforcement officials regarding their criminal activity. investigate and prosecute the May 9, 2005 Criminal Matters.

FAILING TO ACT COMPETENTLY

Pursuant to Rule 3-110, "Failing to Act Competently, ...(A) A member shall not intentionally, recklessly, or repeatedly fail to perform legal services with competence. (B) For purposes of this rule, 'competence' in any legal service shall mean to apply the 1) diligence, 2) learning and skill, and 3) mental, emotional, and physical ability reasonably necessary for the performance of such service."

In engaging in the activities described herein Miles Ehrlich has, on his own and in collusion with others, failed to act competently and failed to competently supervise non-attorney employees and/or agents.

SANCTIONS AND DISCIPLINE

As discussed herein and in my July 31, 2007 complaint Miles Ehrlich has undertaken representation of Marcia Bruggeman Hatch and provided advise and counsel to Seamus Hatch or Aran Strategic Finance, LLC, a clear conflict of interest with his former client, the People of the United States. By engaging in the pattern of conduct and discrete activities described herein, Miles Ehrlich has violated and/or colluded with others thereby violating:

1. California Penal Code ¤ 136, and 18 U.S.C. §§ 1512; 1513;
2. California Penal Code ¤ 182 and 18 U.S.C. § 371;
3. § 6128 of the California State Bar Act;
4. his duties as an AUSA, Pennsylvania attorney and California attorney (see §§ 6068 and 6103 of the California State Bar Act);
5. his oaths as an AUSA, Pennsylvania attorney and California attorney (see §§ 6067 and 6103 of the California State Bar Act);
6. ABA Rule 1.11 and Rule 1.11 of the Pennsylvania Rules of Professional Conduct; and
7. CPRC Rules 3-310(E), 3-200, 3-300, 3-110, and 3-210.

It is highly likely that if the Office of the Chief Trial Counsel investigates this case, additional infractions of the law, the CRPC and the ABA Rules will be discovered including that Miles Ehrlich has violated relevant provisions of: 18 U.S.C. § 207; California Government Code ¤ 87401; California Government Code ¤ 87402; CB&PC ¤ 6068(e)(1) and CRPC 3-100.

Miles Ehrlich's conduct has irreparably harmed the administration of justice regarding the May 9, 2005 Criminal Matters and caused significant, irreparable harm to me and his former client, the People of the United States.

The CB&PC ¤ 6077 provides that, for a willful breach of any of the CRPC, the State Bar Board of Governors has the power to discipline attorneys by reproval, public or private, or to recommend to the Supreme Court the suspension from practice for an attorney not exceeding three years. CB&PC ¤ 6077 provides that an attorney may be disbarred or suspended by the Supreme Court for any of the causes set forth in Article 6 (CB&PC ¤ 6100 and following) of the State Bar Act. These causes include the violation by an attorney of his duties as an attorney (see CB&PC ¤ 6103) and acts involving moral

turpitude, dishonesty or corruption (CB&PC 6106). These latter provisions have been interpreted to include situations involving conflicts of interest. Thus, breach of CRPC concerning conflicts of interest may be grounds for the imposition of a broad variety of disciplinary sanctions. See, e.g., Kapelus v. State Bar (1987) 44 Cal.3d 179, 242 Cal.Rptr. 196, 745 P.2d 917 (disbarment); Benson v. State Bar (1975) 13 Cal.3d 581, 119 Cal.Rptr. 297, 531 P.2d 1081 (disbarment); In the Matter of Hindin (Review Dept. 1997) 1997 WL 469424 (disbarment); Rosenthal v. State Bar (1982) 43 Cal.3d 612, 238 Cal.Rptr. 377, 738 P.2d 723 (disbarment); Gendron v. State Bar (1983) 35 Cal.3d 409, 197 Cal.Rptr. 590, 673 P.2d 260, (former CRPC 4-101 (1975)) (public reprimand); Ames, supra, 8 Cal.3d 910, 506 P.2d 625, (private reproval); Lee v. State Bar (1970) 2 Cal.3d 927, 88 Cal.Rptr. 361, 472 P.2d 449 (three years probation, with actual suspension for first year).

PLEA FOR WITNESS / VICTIM / INFORMANT
RELIEF, PROTECTION AND ASSISTANCE

Marcia Bruggeman Hatch, an attorney with a large law firm, Heller Ehrman LLP presented a cohort of hers who is purported to head the aforementioned narcotics trafficking organization, to a merchant banking firm in which I am an equity owner to launder her cohort's organization's money. I believe Seamus Hatch and his business partner, Michael Bock have assisted Seamus Hatch's wife to launder her drug trafficking cohort's organization's illicit money. And I strongly suspect Heller Ehrman LLP and/or entities Heller Ehrman LLP acquired have engaged in using their corporate clients and other organizations to launder money resulting from illegal activity. In addition to my testimony regarding the foregoing, another witness is available who can support this and additional evidence can be obtained through investigation.

The individuals and entities discussed herein have corruptly confederated to harm me, entities in which I own equity interests, through numerous violations of law, regulations and rules. They've operated as a organization with criminal designs and are associated with a criminal narcotics trafficking organization. They have the means to murder me.

I require the assistance of the State Bar of California and law enforcement agencies to: 1) take action to halt the on-going criminal actions and activities of the parties; 2) protect me from further efforts on their part to hinder my communicating with law enforcement officials; 3) protect me from further retaliation; 4) provide me assistance to mitigate the extreme financial damage caused me by their activities; and 5) assist me to obtain restitution for the crimes which I've been a victim.

*** * * * ***

I appreciate your directing me to an attorney. Are you mad (read CRAZY)? Why would I expose myself to a criminal narcotics trafficking organization the purported head of which is affiliated with a Heller Ehrman LLP "shareholder" and some of her cronies?

That is if I could even retain a lawyer in this situation. Law enforcement needs to take action in this case prior to engaging lawyers to sue the lawyer parties.

In case you're unfamiliar with them, Heller Ehrman is the big San Francisco law firm in the midst of being sanctioned for apparently advising Qualcomm, not to comply with a discovery request. Two hundred fifty emails were withheld.

What was the true cost to Broadcom of Heller Ehrman's alleged advice to Qualcomm? Certainly it was more than Broadcom's legal fees. What about he tremendous internal cost to Broadcom to defend itself against Qualcomm and their unscrupulous attorneys? Litigation is very disruptive to companies in many terms. Did Broadcom forego business opportunities as a consequence of the litigation? What impact did this have on Broadcom's shareholders? The cost of attorney misconduct in California, and the U.S. generally, is incalculable in both monetary and social terms. And given my experience so far, it's obvious your organization is ineffective at deterring lawyer misconduct that, like a cancer, gnaws away at the U.S. economy and the social fabric of our country.

Do you realize Heller Ehrman LLP have signed a compact with many other law firms not to sue each other? That makes it quite difficult for surfs like me to sue them. Why don't you put together an anti-trust task force to deal with that? Or would that bring you, the "Office of the Chief Trail Counsel" into disfavor among the multitude of California law firm's who are a party to such agreements and pay you to police them? In addition to me how many other victims of lawyer crimes cannot sue lawyer miscreants because they can't retain a law firm 1) large enough to handle the case and 2) who aren't a party to a compact not to sue the offending law firm?

Because you've put the onus on me, the victim of significant lawyer misconduct to provide you with an analysis of the issues, I'm taking the liberty of publishing this letter. And I'm nearly finished with a manuscript for a book to be published regarding this case. I plan to provide readers a companion website to access to the significant body evidence my investigations have uncovered. It's about time American's and their representatives become informed about the lack of available real remedies to ordinary folks who've been defrauded of all of their money by lawyers, regarding the significant corruption problem existent in the "practice of law."...and the regulation of lawyers?

Do you want to write the ending of my book or shall I?

FURTHER COMMUNICATIONS

I stated in my July 31, 2007 complaint, which Ms. Stowe apparently did not read, I do not have an address you can mail correspondence to because I'm afraid that, like the information I provided Miles Ehrlich, my address will be purposefully misused.

Please do not send another letter to the address you sent your September 21, 2007 response to. The individual whose address you posted the letter to does not want you to

use their address. They too are concerned about the inability of law enforcement personnel to protect sensitive information, control a former AUSAs and that they could become an avenue for the parties to the May 9, 2005 Criminal Matters, I identified to Miles Ehrlich to attempt intimidate me from continuing to try to engage law enforcement authorities to take action regarding the May 9, 2005 Criminal Matters as well as other crimes I suspect they've committed.

If you want to communicate further regarding this matter, you may call me at +1 (212) - or send a fax to +1 (800) - .

Sincerely,

Jon Goodwin

cc: Mr. Edmund G. Brown Jr.
Attorney General, State of California

U.S. Magistrate Judge Barbara Major

Barbara Boxer
United States Senator