



Viktor Bout Statements to U.S. Agents Coerced, Federal Judge Rules

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 10:36 AM August 25, 2011

San Francisco Chronicle on August 24, 2011 released the following:

“Aug. 24 (Bloomberg) — Viktor Bout, a Russian accused of conspiring to sell weapons to a Colombian terrorist group, won a bid to bar from his trial statements he made after U.S. authorities threatened to abandon him in a Thai prison.

U.S. District Judge Shira A. Scheindlin in Manhattan today granted Bout’s request to exclude his comments to Drug Enforcement Administration agents after his arrest in Bangkok, saying the agents ignored Bout’s request for more time to decide whether to talk. Bout, 44, said he was told that if he didn’t speak immediately, he’d be left in a Thai jail to face “heat, hunger, disease and rape,” Scheindlin wrote in her ruling.

“When coupled with the agents’ deceptive suggestion that if Bout ‘cooperated’ he could come back to the United States with them (rather than be ‘abandoned’ in a Thai jail), I find that this credible threat of violence also materially induced Bout to make statements,” Scheindlin said.

Albert Dayan, one of Bout’s attorneys, didn’t immediately return a telephone message left at his office seeking comment on the decision.

“We respectfully disagree with the judge’s opinion and plan to request that it be reconsidered,” Ellen Davis, a spokeswoman for the Manhattan U.S. Attorney’s office, said in a statement. Rocket Launchers

Bout was arrested on March 6, 2008, in a sting operation. The government said undercover agents told Bout they wanted to buy weapons for the Revolutionary Armed Forces of Colombia, or FARC, including surface-to-air missiles, armor-piercing rocket launchers and machine guns. His trial is set for Oct. 11.

Scheindlin, who this month denied a second request by Bout to have the charges dismissed, said in today’s ruling that his “dramatic arrest,” during which he was handcuffed and walked in front of reporters and photographers, along with

denial of his requests for an attorney and contact with his embassy, led him to make involuntary statements.

According to Bout’s version of events, he was taken into custody by 15 to 20 officers at the Sofitel Hotel in Bangkok, and then strip-searched as police looked for evidence in his hotel room, Scheindlin wrote in today’s order. He was then transferred to police headquarters, where he was confronted with 40 to 50 members of the media who took pictures of him, Scheindlin said.

Thai Police Official

A Thai police official then told Bout that U.S. agents wanted to speak with him, and Bout responded that he didn’t want to talk to them, saying that he wanted to meet with an attorney and see a representative of the Russian embassy, requests that were denied, Scheindlin said.

About an hour after his arrest, Bout was placed in a room with six or seven U.S. agents and was advised of his rights, which he said he understood, Scheindlin said. During a 20-minute interview that followed, Bout told the agents several times that he was “not in a very good state of mind” and needed more time before he could speak with them, the judge said.

Bout was handcuffed throughout the interview and repeatedly asked the agents if he could speak with them the next day, Scheindlin said.

Two of the agents said during a May court hearing that they weren’t aware that Bout had asked for an attorney or a representative of the Russian embassy, the judge said. One of the agents, Robert Zachariasiewicz, denied telling Bout that he wouldn’t be able to survive in a Thai jail or that he would be subject to “heat, hunger, disease and rape,” Scheindlin said.

Waive Extradition

Zachariasiewicz admitted that he told Bout that the conditions in a Thai jail may not be “pleasant,” and that he told him he was facing 25 years to life in prison if convicted of the charges, the judge said. Zachariasiewicz also denied that any of the agents asked Bout to waive extradition and said that Thai authorities made it clear

he wasn’t coming with them, Scheindlin wrote.

The agents acknowledged that Bout told them he wasn’t in a good frame of mind and needed more time before he could speak with them, and also that Bout asked for them to come back the next day, Scheindlin said.

“Both agents testified that they told Bout that it was unlikely that the Thai police would permit them to speak with him tomorrow,” the judge said. “I find that the agents’ representation on this point was false and find that it is likely they knew that they would have been permitted to see Bout the next day if they had made that request of the Thai police.”

The agents also weren’t credible when they denied insinuating that Bout might return to the U.S. with them if he cooperated and waived extradition and denied telling Bout that he would face “disease, hunger, heat and rape” in Thai jails, the judge said.

‘Credit Them Fully’

“To the extent that the statements in Bout’s affidavit are uncontradicted I obviously credit them fully,” Scheindlin wrote. “To the extent the statements are contradicted they would ordinarily be entitled to less weight than sworn testimony. However, based on Bout’s uncontradicted description of the events surrounding the arrest, I find his version of the interview more credible than the version advanced by the agents.”

The case is U.S. v. Bout, 08-cr-0365, U.S. District Court, Southern District of New York (Manhattan).”

To find additional federal criminal news, please read [Federal Crimes Watch Daily](#).

Douglas McNabb and other members of the U.S. law firm practice and write extensively on matters involving Federal Criminal Defense, INTERPOL Red Notice Removal, International Extradition and OFAC SDN List Removal.

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Henry Fecker, III, and Steven Steiner Indicted by a Federal Grand Jury in a Fifty-Four Count Federal Indictment

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 8:31 AM August 25, 2011

The U.S. Attorney's Office Southern District of Florida on August 24, 2011 released the following:
"TWO FT. LAUDERDALE MEN INDICTED FOR MONEY LAUNDERING AND OBSTRUCTION OF JUSTICE IN CONNECTION WITH MUTUAL BENEFITS CORPORATION FRAUD

Wifredo A. Ferrer, United States Attorney for the Southern District of Florida, John V. Gillies, Special Agent in Charge, Federal Bureau of Investigation (FBI), Miami Field Office, and José A. Gonzalez, Special Agent in Charge, Internal Revenue Service, Criminal Investigation Division (IRS-CID), announced the unsealing of a fifty-four count indictment against defendants Henry Fecker, III, 57, and Steven Steiner, a/k/a "Steven Steinger,"⁵⁹ for their participation in a scheme to launder and conceal proceeds in connection with the Mutual Benefits Corporation ("MBC") fraud. More specifically, Fecker and Steiner are charged with receiving more than \$10 million into the account of Camden Consulting, a company they controlled, and then hiding and concealing assets from the U.S. Securities and Exchange Commission ("SEC") and the United States District Court. Both defendants were arrested and appeared in court earlier today. A pre-trial detention hearing is scheduled for Tuesday, August 30, 2011 at 1:30 p.m. before U.S. Magistrate Judge Andrea M. Simonton.

As alleged in the indictment, from approximately 1994 to May 2004, MBC purchased life insurance policies and sold them in fractionalized form to investors. MBC and its employees and agents eventually defrauded approximately 30,000 investors by, among other things, misleading them about the accuracy of life expectancies of the insureds and the expenses required to maintain the insurance policies via premium payments. New investor money was thus used to pay premiums on life insurance policies purchased by earlier investors. As the scheme continued, more investor money was required to prevent the Ponzi-scheme from collapsing. After the MBC business collapsed in 2004, investors eventually suffered more than \$830 million in losses.

As charged in the indictment, Steiner was a founder and Vice President of MBC and

was paid by MBC using the account of Camden Consulting. Fecker was the owner of Camden Consulting. In this way, the MBC funds were used to support a lavish lifestyle for Steiner and Fecker, who lived together and jointly owned waterfront homes in Ft. Lauderdale and Camden, Maine, and a luxury apartment in New York City.

According to the indictment, in May 2004, MBC was sued by the SEC in the civil action, *S.E.C. vs. Mutual Benefits Corp., et al.*, No. 04-60573-CIV-MORENO (S.D. Fla.) (the "SEC Fraud Action"). The SEC obtained a restraining order to halt the alleged fraud at MBC, and thereafter a receiver was appointed by the United States District Court for the Southern District of Florida (the "MBC Receiver"), to identify and trace the assets of MBC. Steiner was a named defendant in the SEC Fraud Action and Fecker was a party due to his control of Camden Consulting.

According to the indictment, after 2004 when MBC was shut down, Fecker and Steiner engaged in a series of transactions to hide assets from the SEC and the MBC Receiver by placing funds attributable to Steiner with third parties or in Fecker's name alone, and later by causing third parties to make payments of monies due to Steiner, instead to Fecker. In 2006, for example, Fecker obtained a refinance of the Maine property and placed the proceeds of approximately \$480,000 into a series of certified checks to conceal their existence from authorities. Fecker began cashing these checks in 2008 and continued this through July 2011, using the funds to support a lavish lifestyle for Fecker and Steiner.

To obtain a favorable settlement of their liability with the SEC, the indictment alleges that in 2006 and early 2007, Fecker and Steiner submitted a series of false and misleading documents to conceal their true financial condition. Based on this documentation, around April 2007, the SEC agreed to settle their liability for \$5 million and further agreed to a reduced penalty of \$3.95 million, and the court in the SEC Fraud Action thereafter ordered that these sums be paid by order dated April 10, 2007. The indictment alleges that, to date, Steiner and Fecker have paid only \$750,000.

The indictment further alleges in late 2009, to further conceal assets from the SEC and the SEC receiver, Steiner sold the luxury New York apartment for \$1.3

million, but caused false documents to state that the sales price was \$1.1 million and submitted these documents to the SEC and the MBC Receiver. To further thwart the SEC's efforts to recover assets attributable to MBC, Steiner allegedly provided false and misleading testimony under oath to the MBC Receiver concerning his assets and financial condition.

Previously, in a separate case also in the Southern District of Florida, Steiner was charged in *United States v. Joel Steinger, et al.* (Case No. 08-CR-21158), with conspiracy to commit mail and wire fraud and money laundering, in relation to the MBC fraud scheme. Trial in that matter is scheduled for February 2013 before U.S. District Judge Adalberto Jordan.

United States Attorney Wifredo A. Ferrer stated, "Ponzi-schemes, like the MBC investment scheme, defraud unwitting investors out of their lives savings. These defendants compounded their legal troubles by then laundering the proceeds of the fraud and attempting to hide assets. Such abuse will not be tolerated."

"We will vigorously investigate and prosecute individuals who obstruct justice by making false statements and concealing assets from an agency of the United States attempting to carry out its mission, such as the SEC's efforts to protect investors here," said FBI Special Agent in Charge John V. Gillies.

"We will hold accountable those who engage in the laundering of funds derived from fraud, particularly through concealment and spending of funds through sophisticated transactions, like the ones employed here," said IRS Special Agent in Charge José A. Gonzalez.

Mr. Ferrer commended the investigative efforts of the FBI and the IRS-CID, and the Miami Regional Office of the SEC, which previously brought a civil action against MBC and its principals. The matter is being prosecuted by Assistant U.S. Attorney Jerrob Duffy.

An indictment is only a charging document, and a defendant is presumed innocent unless and until proven guilty."

To find additional federal criminal news, please read [Federal Crimes Watch Daily](#).

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William H. Noble Indicted by a Massachusetts Federal Grand Jury for Allegedly Transporting Child Pornography and Possessing Child Pornography

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 10:06 AM August 25, 2011

The Federal Bureau of Investigation (FBI) on August 24, 2011 released the following:

“Massachusetts Man Arrested and Charged in Child Pornography Case
WASHINGTON—A Lowell, Massachusetts man charged with transportation and possession of child pornography made his initial appearance today in U.S. District Court in Boston, announced Assistant Attorney General Lanny A. Breuer of the Criminal Division, U.S. Attorney Carmen M. Ortiz of the District of Massachusetts, and Special Agent in Charge Richard DesLauriers of the FBI Boston Division.

William H. Noble, 46, of Lowell, was charged in an indictment unsealed yesterday with one count of transportation of child pornography and one count of possession of child pornography. Noble was arrested yesterday in the District of Massachusetts.

According to the indictment, in April 2009, Noble allegedly transported visual depictions of minors engaging in sexually explicit conduct. The indictment also

alleges that Noble possessed additional images of child pornography.

In a separate indictment unsealed in the District of Massachusetts on Aug. 17, 2011, Steven Saunders, 28, was charged with one count of possession of child pornography. Saunders, a current resident of Chula Vista, Calif., and a former resident of Groton, Mass., was arrested on Aug. 17, 2011, in the Southern District of California. According to the indictment, on April 15, 2009, Saunders allegedly possessed visual depictions of minors engaging in sexually explicit conduct.

The maximum sentence for each count of possession of child pornography is 10 years in prison, lifetime supervised release and a \$250,000 fine. The maximum sentence for each count of transportation of child pornography is 20 years in prison, lifetime supervised release and a \$250,000 fine.

These cases are being prosecuted by Trial Attorney Thomas Franzinger of the Criminal Division’s Child Exploitation and Obscenity Section (CEOS) and Assistant U.S. Attorney Michael I. Yoon of District of Massachusetts Major Crimes Unit. The cases are being investigated by the FBI. The Groton Police Department is

also investigating the case against Noble.

These cases were brought as part of Project Safe Childhood. In February 2006, the Department of Justice created Project Safe Childhood, a nationwide initiative designed to protect children from online exploitation and abuse. Led by the U.S. Attorneys’ Offices and the Criminal Division’s CEOS, Project Safe Childhood marshals federal, state, and local resources to better locate, apprehend, and prosecute individuals who exploit children, as well as identify and rescue victims. For more information about Project Safe Childhood, please visit www.projectsafechildhood.gov/.”

To find additional federal criminal news, please read [Federal Crimes Watch Daily](#).

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John Edwards Asks For Delay of His Federal Criminal Trial Date

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 9:12 AM August 25, 2011

CNN on August 24, 2011 released the following:

“John Edwards Charged With Conspiracy, Violating Campaign Contribution Laws
By CNN’s Bill Mears and Ashley Killough

(CNN) – Lawyers for former Democratic vice presidential candidate John Edwards asked Wednesday to delay the start of his federal criminal trial, which is set to begin in October.

Edwards said he needs more time to prepare his defense and called the government’s case against him a “novel legal theory,” according to a filing Wednesday.

The Justice Department brought charges against Edwards in June on allegations of conspiracy, issuing false statements and violating campaign contribution laws. He

subsequently pleaded not guilty.

In the filing Wednesday, lawyers pointed to the need for more time due to Edwards’ position as the sole caretaker of his two young children, ages 11 and 13. They also noted that Edwards’ oldest child will marry in October and has planned a two-week honeymoon.

Edwards’ wife, Elizabeth, passed away in December.

“The Defendant will simply not have the ability to care for his children and work with his attorneys if this case is tried at the October 2011 Criminal Term in light of the absence of his daughter,” the filing said.

The filing also cited the recent hiring of Edwards’ newest attorney, Abbe Lowell, and said Edwards needed more time to prepare with counsel.

Edwards warned that a failure in granting a delay in the trial would result in a “miscarriage of justice.”

A grand jury is investigating whether money given to support Edwards’ mistress, Rielle Hunter, by benefactors of Edwards should have been considered campaign donations, a contention Edwards’ team has disputed. They maintain the money was a gift.

If convicted on all counts, he could face up to 30 years in prison and a fine of up to \$1.5 million.”

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Kenneth Wayne Brown, Duane Milford Stailey, and Sharon Ware Stailey are Indicted by a Dallas Federal Grand Jury and Are Each Charged Conspiracy to Commit Theft From a Program Receiving Federal Funds

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 7:57 AM August 25, 2011

The U.S. Attorney's Office Northern District of Texas on August 24, 2011 released the following:

"FEDERAL GRAND JURY INDICTS ADDITIONAL DEFENDANTS FOR ROLE IN CONSPIRACY TO EMBEZZLE FROM CITY OF GARLAND, TEXAS

Former City of Garland Employee, Patricia Leathers, is Currently Serving a 57-Month Prison Sentence for Her Role in the Conspiracy

DALLAS — A federal grand jury in Dallas has indicted three defendants for their role in a conspiracy to embezzle from the City of Garland, Texas, announced U.S. Attorney James T. Jacks of the Northern District of Texas. Kenneth Wayne Brown, 50, of Denison, Texas; Duane Milford Stailey, 44, and his wife, Sharon Ware Stailey, 45, both of Leonard, Texas, are each charged with one count of conspiracy to commit theft from a program receiving federal funds.

Patricia Leathers, 63, of Rowlett, Texas, a former risk management adjuster for the City of Garland, pleaded guilty in

December 2010 to the same offense. She is presently serving a 57-month sentence at the Federal Medical Center Carswell in Fort Worth, Texas. Leathers was also ordered to pay \$1,968,479 in restitution to the City of Garland. Leathers' sister, Connie M. Powell, 60, of Garland, also pleaded guilty to her role in the conspiracy. She was sentenced to a three-year term of probation and ordered to pay \$64,142 in restitution.

The indictment alleges that from August 1999 through March 2008, the three defendants conspired with each other and others to embezzle from the City of Garland by creating false claims for damage and repairs to personal and real property. The reimbursement checks, issued in the true names of the defendants, as well as fictitious names, were cashed by the defendants who then shared the proceeds with Leathers.

According to the indictment, Brown endorsed and negotiated at least 14 City of Garland checks, totaling more than \$102,000. In addition, Duane and Sharon Stailey fraudulently negotiated and shared in the proceeds of City of Garland checks totaling at least \$482,000 of which they deposited more than \$129,000 into their

joint bank account.

An indictment is an accusation by a federal grand jury, and a defendant is entitled to the presumption of innocence unless proven guilty. However, if convicted, each face a maximum statutory sentence of five years in prison and a \$250,000 fine. Restitution could be ordered.

The investigation was conducted by the FBI, the Garland Police Department, and the Garland Offices of the City Attorney and Internal Auditor. Assistant U.S. Attorney Katherine Miller is prosecuting the case."

To find additional federal criminal news, please read [Federal Crimes Watch Daily](#).

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Solomon Hobbs, Jr. Pleaded Guilty in Austin Federal Court to Wire Fraud, Student Assistance Program Fraud, and Aggravated Identity Theft

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 8:04 AM August 25, 2011

The U.S. Attorney's Office Western District of Texas on August 24, 2011 released the following:

"DALLAS MAN PLEADS GUILTY TO DEFRAUDING FEDERAL STUDENT LOAN PROGRAM

United States Attorney John E. Murphy announced that in Austin this morning, 47-year-old Solomon Hobbs, Jr., (a.k.a. Virgil Clinton Powell) of Dallas, Texas, pleaded guilty to federal charges in connection with a scheme to fraudulently obtain over \$37,000 in student loans.

In all, Hobbs pleaded guilty to three counts of wire fraud, three counts of student assistance program fraud and one count of aggravated identity theft. By pleading guilty, Hobbs admitted that since 2004, he developed a scheme to

fraudulently obtain \$37,395.05 in federal student financial aid, including \$6,573.50 by using another individual's name and identifying information, from five universities in Texas including: University of Texas at Tyler, University of Texas at El Paso, University of Texas at Arlington, Midwestern State University (Wichita Falls) and Texas State University. Hobbs further admitted that he had no intent of using the financial aid for educational expenses after repeatedly obtaining funds, then failing out of the institutions due to his lack of attendance.

Hobbs faces up to 30 years imprisonment per wire fraud charge; up to five years imprisonment per student assistance program fraud charge; and, a mandatory two years in federal prison on the aggravated identity theft charge.

Hobbs remains on bond pending sentencing before United States District

Judge Lee Yeakel. No sentencing date has been scheduled.

This case was investigated by the U.S. Department of Education Office of Inspector General. Assistant United States Attorney Jennifer Freel is prosecuting this case on behalf of the Government."

To find additional federal criminal news, please read [Federal Crimes Watch Daily](#).

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and OFAC SDN List Removal.

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Former Department of Defense Employee Sentenced to Prison for Stealing Financial Assistance Funds Intended for Service Members

(USDOJ: Justice News)

Submitted at 1:18 PM August 25, 2011

Tyrone L. Ellis, 56, of Columbus, Ga.,
was sentenced by U.S. District Judge Clay
D. Land of the Middle District of Georgia.