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**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-2110**

October 6, 2010

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The Honorable Eric Holder  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Mr. Attorney General:

I am writing to you regarding the highly questionable circumstances surrounding the criminal prosecution of Sholom Rubashkin, the former manager of the Agriprocessors kosher meatpacking plant in Postville, Iowa, which was raided by the government in May 2008.

First, I want to commend you for your outstanding service as our nation's 82<sup>nd</sup> Attorney General. As a Member of House Judiciary Committee, I share your desire to see that justice is served fairly for all who come before our courts. In the vast majority of cases, defendants are afforded fair process and, if found guilty, are sentenced fairly. But this is not always true. The case of Sholom Rubashkin is one particular case that has come to my attention. This case illustrates that injustice can happen and that grossly disparate sentences may be imposed in our system of justice.

Sholom Rubashkin's kosher meatpacking plant in Postville, Iowa was raided by the government in May 2008 (same sentence as earlier—probably can be cut). Although Rubashkin was initially arrested on immigration violations, all such charges were subsequently dismissed by the government. Rubashkin was then tried and found guilty of bank fraud and related white-collar crimes in November 2009. He was sentenced in June 2010 to 27 years in prison, two years beyond what even the government recommended. This case raises very serious issues of judicial and prosecutorial misconduct, resulting in an unfair and grossly disparate sentence. I believe these allegations are sufficiently serious to warrant an investigation by your office.

Rubashkin's case has also raised a number of other concerns that warrant review.

The process by which the government and the judge arrived at and justified such a sentence is troubling. Rubashkin is a first-time offender and was found guilty of white-collar violations with no hint of violence or physical harm to anyone. The federal judge -- the Honorable Linda Reade of the Northern District of Iowa -- gave what amounts to a life sentence for a 51-year-old man. The sentence has been criticized by many lawyers and legal scholars, including six former U.S. attorney generals who publicly called on the trial judge to impose a fair sentence consistent with other, similar cases. Instead, the judge imposed a sentence even greater than the prosecutors were seeking. This 27-year sentence is far more extreme than many sentences imposed on other defendants convicted of more serious white-collar crimes.

There are other troubling aspects of this case as well.

For example, after the Agriprocessors firm went into bankruptcy as a result of the May 2008 raid, the government deliberately hampered the ability of the trustees to sell the company's considerable assets (including the good will of the Rubashkin name) at a fair price in order to minimize any loss to the Iowa bank that had extended the company credit. Moreover, the government unnecessarily included a forfeiture clause in the initial, immigration-based indictment; which dramatically reduced the marketability of the plant's assets.

Additionally, the government considerably reduced the value of Agriprocessors after it went into bankruptcy, by preventing potential purchasers from having any association with members of the Rubashkin family, including those not accused of any crime. The government trustee further lowered the value of Agriprocessors by mishandling inventory at the Postville plant. The resulting decrease in the value of Agriprocessors significantly inflated the "loss" for Sentencing Guidelines purposes. In short, these deliberate steps by the government had the effect of significantly boosting Rubashkin's Sentencing Guideline numbers, in order to provide justification for the judge to impose an excessive and disproportionate sentence.

It is my understanding that the federal judge who presided over the trial of Rubashkin may have improperly engaged in numerous and detailed, *ex parte* discussions in the six months preceding the May 2008 raid with the Office of the United States Attorney and immigration officials. None of this was disclosed by either the judge or the prosecutors to the lawyers representing Rubashkin. They discovered it only recently after reviewing a large quantity of documents received post-sentencing as a result of an earlier FOIA inquiry.

These facts seem to raise some of the same concerns that led you to take the extraordinary but commendable step of dropping charges last year against former Sen. Ted Stevens as a result of government misconduct. In my view, withholding information relating to possible recusal of a judge is as serious as withholding exculpatory evidence.

To date, however, the Department of Justice has been unwilling to inquire into the Iowa prosecutors' handling of the Rubashkin case. Lanny Breuer, Assistant Attorney General for the Criminal Division, has responded to requests to engage the Department in at least reviewing these serious allegations, by passing the buck back to the U.S. Attorney's office for the Northern District of Iowa. This lack of response in pursuing serious allegations of systemic improprieties in sentencing and government-judicial contacts is distressing.

You have recently and publicly expressed a desire to ensure that all federal prosecutions and sentencing procedures are conducted in a fair and even-handed manner. This is what all Americans demand, and it is all that I am asking for. I therefore request that you formally inquire into the manner in which Sholom Rubashkin was sentenced, and into what appears to have been a tainted and secret relationship between the trial judge and the government leading to the prosecution of Rubashkin.

I very much would appreciate hearing from you on this matter.

Sincerely,  
  
Bill Delahunt