

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION

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SHOLOM RUBASHKIN,	)	No. C13-1028-LRR
	)	No. CR08-1324-LRR
Petitioner,	)	
	)	<b>MOTION FOR LEAVE TO FILE</b>
vs.	)	<b>DECLARATION and</b>
	)	<b>ATTACHMENT UNDER SEAL</b>
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

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Counsel for Petitioner Sholom Rubashkin, pursuant to LR 5(c), hereby submits this Motion for Leave to File Declaration and Attachment Under Seal, and states as follows:

1. Petitioner has contemporaneously filed a Motion to Recuse Chief United States District Court Judge Linda R. Reade from presiding in this matter. In connection with that motion, Petitioner’s counsel seeks to submit a declaration from attorney Stephen H. Locher containing information the government appears to consider confidential.

2. The declaration relates to a recent letter from the United States Attorney’s Office for the Northern District of Iowa (“USAO-NDIA”) informing counsel that it believes a waivable conflict of interest exists as a result of his prior service as an Assistant United States Attorney for the Southern District of Iowa. The government does not seek counsel’s disqualification from the case, but has informed counsel that it needs an “assurance” from him that his client has provided informed consent regarding the conflict. The government further states that it intends to raise the matter to the Court’s attention.

3. The alleged conflict relates to counsel’s knowledge (or lack thereof) of confidential information relating to an investigation in 2010 and is elaborated in detail in the

Declaration. In an abundance of caution, counsel hereby seeks permission to file that declaration under seal.

4. Additionally, attached to counsel's declaration is a letter from government counsel formally asserting the existence of a waivable conflict in counsel's representation of Petitioner under Iowa Rule Prof. Conduct 32.1.7(a)(2). Because there is information in the government's letter that the government may believe is confidential, counsel seeks to have the government's letter (attached to the Declaration) filed under seal as well.

WHEREFORE, Counsel for Petitioner respectfully requests that the Court grant leave to file the Declaration of Stephen H. Locher, and the letter from the government attached thereto, electronically under seal with the Clerk of Court, and for such other relief as the Court deems appropriate.

BELIN McCORMICK, P.C.

By:



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