

U.S. Department of Justice



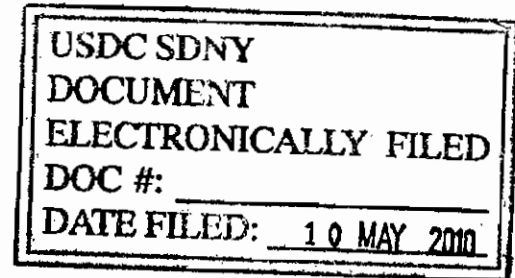
United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

May 6, 2010

BY FACSIMILE

Hon. Laura Taylor Swain
United States District Judge
United States Courthouse
500 Pearl Street, Room 755
New York, New York 10007



Re: Molchatsky v. United States
09 Civ. 8697(LTS)(AJP)

Goldman v. United States
10 Civ. 2484(LTS)(AJP)

Michael and Ruth Slade Foundation v. United States
10 Civ. 2483(LTS)(AJP)

MEMO ENDORSED

Dear Judge Swain:

We write respectfully on behalf of both plaintiffs and defendant the United States of America in the above-referenced actions to (1) present a proposed schedule for the filing of sur-reply briefs in the Molchatsky case, and (2) request that the Goldman and Slade Foundation cases be held in abeyance pending the Court's resolution of the pending jurisdictional motion in Molchatsky.

On May 4, 2010, the Court granted plaintiffs' request to file a sur-reply in Molchatsky, limited to 15 pages, and granted the Government an opportunity to file a 15-page response. The Court's Order, however, did not address the schedule under which these briefs should be submitted. Accordingly, the parties have conferred and respectfully propose the following schedule: plaintiffs will file their sur-reply on May 21, 2010, and the Government will file its response on June 11, 2010. Under this proposed schedule, the motion will be fully submitted two weeks prior to the conference presently scheduled for Friday, June 25, 2010.

With respect to the Goldman and Slade Foundation cases, the parties respectfully request that these cases be held in abeyance pending the Court's resolution of the United States' motion to dismiss the Molchatsky case for lack of subject-matter jurisdiction. Aside from their allegations concerning the plaintiffs, the Goldman and Slade Foundation complaints are virtually

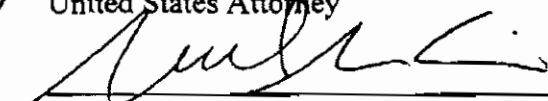
identical to the Molchatsky complaint and raise the same jurisdictional issues. Accordingly, the parties agree that, however the Court resolves the Molchatsky motion to dismiss, the Court's decision will apply equally to the Goldman and Slade Foundation complaints. The parties respectfully submit that the most efficient course of action would be to hold the Goldman and Slade Foundation cases in abeyance – including any requirement that the parties submit a Joint Pretrial Statement¹ – pending the Court's resolution of the motion in Molchatsky.

We thank the Court for its consideration of these requests.

The proposed briefing schedule is approved. The Goldman (10 Civ 2484) and Slade Foundation (10 Civ 2483) are hereby placed on the suspense calendar (with initial pretrial conferences and related requirements adjourned sine die) pending resolution of the Molchatsky motion to dismiss. The Molchatsky conference is adjourned to July 23, 2010, at 11:00 AM.

Respectfully,

PREET BHARARA
United States Attorney



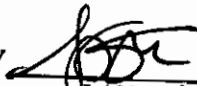
SARAH S. NORMAND
NEIL M. CORWIN
Assistant United States Attorneys
Telephone: 212.637.2709
Fax: 212.637.2702
Email: sarah.normand@usdoj.gov

JEFFREY PAUL EHRlich
Trial Attorney, Torts Branch
U.S. Department of Justice
Telephone: (202) 353-2574
Email: jeff.ehrlich@usdoj.gov

cc: Howard Elisofon, Esq.
John Oleske, Esq.
Herrick, Feinstein LLP
2 Park Avenue
New York, NY 10016
Counsel for Plaintiffs
By Facsimile

SO ORDERED.

NEW YORK, NY



May 10, 2010
LAURA TAYLOR SWAIN
UNITED STATES DISTRICT JUDGE

¹ The Court previously granted the parties' request to stay this requirement in Molchatsky until after the Court had resolved the United States' motion to dismiss.