

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

<b>UNITED STATES OF AMERICA</b>	:	<b>CRIMINAL NO.:</b>
	:	
	:	<b>UNDER SEAL</b>
	:	
v.	:	<b>VIOLATIONS:</b>
	:	<b>18 U.S.C. § 371 (Count 1)</b>
<b>STEWART D. NOZETTE,</b>	:	<b>Conspiracy to Defraud the United States;</b>
	:	
<b>Defendant.</b>	:	<b>26 U.S.C. § 7201 (Count 2)</b>
	:	<b>Tax Evasion</b>

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**GOVERNMENT’S MOTION TO SEAL THE INFORMATION AND OTHER  
PLEADINGS AND RECORDS, AND TO DELAY ENTRY ON THE PUBLIC DOCKET  
OF THE FILING OF THIS MOTION TO SEAL AND ALL RELATED MATTERS**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, hereby submits this motion to place under seal the Information as well as all existing and future pleadings and files in this case, including this Motion to Seal, and to delay entry on the public docket of this Motion to Seal and any and all related matters until further order of the Court. In support of its motion, the Government states as follows:

1. The defendant, Stewart D. Nozette, has agreed to enter a plea of guilty to a two-count Information charging a conspiracy to defraud the United States and tax evasion. As part of his plea agreement, the defendant has agreed to cooperate with the government in an on-going criminal investigation. The defendant’s cooperation has involved the defendant providing sensitive information to the government about potential wrong-doing by others, including government officials. The sealing is necessary because the attached Information and related pleadings would disclose the defendant’s cooperation with law enforcement authorities, disclosure of which could inhibit the defendant and the government from taking maximum advantage of the defendant’s ability and willingness to cooperate in an ongoing criminal investigation.

2. Based on the nature of the ongoing criminal investigation, the government submits that public disclosure of the defendant's cooperation would likely compromise this investigation by, among other things, (1) alerting potential targets of the defendant's cooperation with law enforcement authorities and causing those potential targets to cease or limit their ongoing interactions with the cooperating defendant, which would inhibit the defendant and the government from maximizing the cooperating defendant's ability and willingness to cooperate; (2) causing prospective witnesses, including the cooperating defendant, to be deterred from testifying or to be less likely to provide truthful testimony to the grand jury; and (3) causing potential witnesses and targets to destroy documents and other evidence. These factors are particularly important here because various witnesses are believed to have relevant information and may control relevant documents that may not be available from other third party sources.

3. In addition to the language in the plea agreement alerting potential witnesses and targets to the defendant's cooperation with law enforcement authorities, the public filing of a motion to seal associated with the defendant's name could have the same effect. That is, it is common practice for individuals associated with criminal organizations to check the public record in the Criminal Clerk's office to ascertain whether the government has filed any pleadings under seal in cases against current or former associates. It is common knowledge to criminal organizations that the docketing of a motion to seal a plea agreement or the filing of sealed pleadings in a criminal case signals the fact that the charged defendant has agreed to cooperate with law enforcement. Consequently, public notice of the filing of the sealed pleadings or proceedings itself is likely to compromise the ongoing criminal investigation and may present a

substantial risk to the personal safety of undercover agents or other law enforcement officials taking part in the covert investigation.

4. Accordingly, the government submits that these facts present an extraordinary situation and a compelling governmental interest justifying the sealing of all pleadings and files in this case and delaying the public docketing of the filing of these sealed pleadings and the accompanying order until the government represents that it can continue its criminal investigation without substantial risk that it would be jeopardized due to the public docketing of the plea agreement or the fact that sealed pleadings have been filed in this case. *See Washington Post v. Robinson*, 935 F.2d 282, 289 (D.C. Cir. 1991).

WHEREFORE, the Government respectfully requests that the Information, together with this Motion to Seal and all other pleadings and filings made in connection with this Information, be placed under seal until further Order of the Court.

Respectfully submitted,

JEFFREY A. TAYLOR  
D.C. BAR NO. 498610  
ATTORNEY OF THE UNITED STATES  
IN AND FOR THE DISTRICT OF COLUMBIA

BY: \_\_\_\_\_/s/\_\_\_\_\_  
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DATED: December 12, 2008

**CERTIFICATE OF SERVICE**

This is to certify that this 12<sup>th</sup> day of December, 2008, I served by email and first-class mail a copy of the Government's Motion to seal the Information and other pleadings and files and to delay entry on the public docket of the filing of this motion to seal and all related matters, along with the proposed Order, on the following counsel of record:

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Counsel for Defendant Stewart D. Nozette

\_\_\_\_\_/s/\_\_\_\_\_  
Michael K. Atkinson

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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**ORDER**

Based on the representations in the government's motion to seal the accompanying Information, as well as all other pleadings and files in this case, and to delay entry on the public docket of this motion to seal and all related matters, this Court makes the following:

**FINDINGS OF FACT**

Pursuant to the representations in the government's motion to seal, the defendant has agreed to cooperate with the United States in an ongoing criminal investigation.

The general public is not aware that the defendant has agreed to cooperate with the United States in this ongoing investigation.

The defendant's cooperation includes the possibility of covert activities by the defendant or law enforcement authorities.

The public docketing at this time of any notice that the government has filed a motion to seal the Information and other pleadings and files and to delay entry on the public docket of the filing of the motion to seal, as well as the Order granting such motion, likely will substantially jeopardize an ongoing criminal investigation.

Based on the representations in the government's motion, and this Court's findings of

facts, this Court finds that there is a compelling governmental interest in sealing the existing and future pleadings and files in this case and that an extraordinary situation exists which justifies a delay in the public docketing of any notice that the government's motion and this Order have been filed with the Criminal Clerk's office under seal.

Based on the above, it is this \_\_\_\_\_ day of \_\_\_\_\_ 2008, hereby

ORDERED that this Order, and the attached government motion to seal the Information and other pleadings and files and to delay entry on the public docket of the filing of this motion to seal shall be filed under seal in the Criminal Clerk's office until further order of this Court.

It is further

ORDERED that the Information and all existing and future pleadings and files in this case shall be placed under seal by the Criminal Clerk's office until further order of this Court.

It is further

ORDERED that the Criminal Clerk's office shall not make any entry on the public docket in this case of the Information, the government's motion to seal and the Order granting such motion, and other pleadings filed under seal in this case until further order of this Court.

It is further

ORDERED that notwithstanding the other provisions of this ORDER, there may be a limited lifting of this sealing order to allow the government to comply with noticing and publishing requirements to effectuate any consent order of forfeiture that may be filed related to this case, or to comply with its discovery, Giglio and Brady obligations in any pending or future criminal case in which the defendant herein may be called as a witness.

It is further

ORDERED, that the government notify the Court as soon as the need for sealing no

longer exists.

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United States District Court Judge  
for the District of Columbia

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