

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)
)
) No. 06 CR 964
) Hon. Ronald A. Guzman
)
MICHAEL E. KELLY)

**GOVERNMENT’S AGREED MOTION FOR AN ORDER FINDING
RELATEDNESS AND RECOMMENDING THAT CASE NUMBER 12 CR 875 BE
REASSIGNED TO THE CALENDAR OF THE HON. RONALD A. GUZMAN**

The United States of America, by Gary S. Shapiro, Acting United States Attorney for the Northern District of Illinois, pursuant to Local Criminal Rule (LCrR) 50.1 and Local Rule (LR) 40.4, respectfully moves this Honorable Court for the entry of an order finding case number 12 CR 875, captioned United States of America v. Michael E. Kelly, now pending on the calendar of the Hon. Rebecca Pallmeyer, to be related to case number 06 CR 964, captioned United States v. Michael E. Kelly, now pending on this Court’s calendar, and recommending that the Executive Committee reassign case number 12 CR 875 to the calendar of this Honorable Court. In support whereof, the government submits as follows:

1. The Information in case number 12 CR 875 charges defendant Michael E. Kelly with a violation of the securities fraud statutes, Title 15 , United States Code, Sections 77q(a) and 77x. The charges set forth in case number 06 CR 964 involve mail and wire fraud (18 U.S.C. §§ 1341 and 1343) and securities fraud (15 U.S.C. §§ 77q(a) and 77x. As

required by LCrR 50.1, in both cases the only defendant is the same person, Michael E. Kelly.

2. Reassignment is appropriate under LCrR 50.1 and LR 40.4(a) and (b). First, both cases involve the same issues of fact and law and both grow out of the same alleged transactions and occurrences, *i.e.*, defendant Kelly's alleged operation and management of certain fraudulent investment schemes from Mexico in the late 1990s and early 2000s. Second, both cases are pending in the United States District Court for the Northern District of Illinois. Third, because question of the defendant's liability for the charged frauds is almost identical and because restitution will be an important issue in both cases and whereas an agreed restitution procedure is well along in case number 06 CR 964, handling of both cases by the same judge is likely to result in a substantial saving of judicial time and effort. Fourth, the earlier case (06 CR 964) has not progressed to the point where designating a later filed case (12 CR 875) as related would be likely to delay the proceedings in the earlier case substantially. Finally, the cases are susceptible of disposition in a single proceeding.

Counsel for defendant Kelly in both cases agrees with this motion.

WHEREFORE, the government's motion for an order finding case number 12 CR 875 to be related to case number 06 CR 964 and requesting that the Executive Committee

reassign 12 CR 875 to the calendar of this Honorable Court should be granted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned Assistant United States Attorney hereby certifies that the following document: **GOVERNMENT'S AGREED MOTION FOR AN ORDER FINDING RELATEDNESS AND RECOMMENDING THAT CASE NUMBER 12 CR 875 BE REASSIGNED TO THE CALENDAR OF THE HON. RONALD. A. GUZMAN** was served on November 13, 2012, in accordance with Fed. R. Crim. P. 49, Fed. R. Civ. P. 5, LR 5.5, and the General Order on Electronic Case Filing (ECF) pursuant to the district court's system as to ECF filers.

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