

10 minute call. 2 other prosecutors in AUSA Steinberg's office. They were silent.

Substance:

1. I said the purpose of call was to introduce myself, to let them know that in the past where there was some alignment of interest in regards to the NPA that I had been in touch with Dexter Lee and that if they had any questions about the history of the case that I could answer now or in the future, that I wanted the lines of communication to be open. Response – a polite thanks, but no questions.
2. I said that in the midst of all the pleadings I wanted to note one thing – that despite the media – the NPA was negotiated at arms length, that in 2007 with the hierarchy of the SD Fla including the FA US Atty or representatives of the Criminal Division, and then on two occasions the Office's decision to enter the NPA and its exercise of discretion was approved, the first time in March 2008 following a meeting at DOJ where the Govt was led by Sigal Mandelker and then a second time when the NPA was reviewed at DAG level.
3. I said I had to make a decision when to advise the Court we were exercising our intervention rights. I asked whether from the Govt perspective there was a prospect for resolving the matter by agreement. Response: its too early to **say but that the Petitioners are asking for rescission “regardless of where the Government ends up” so its “likely that we will be in the mix again”**
4. I said that we had carefully researched the issue and felt that the rescission remedy if it was sought would collide with strong constitutional and contractual arguments. Response: **right now we “are focused consistent with J Marra's Order” on “determining a process” to determine remedy and not on any specific positions on what the remedy should be** and that if we wanted to participate in conversations about the process we should consider that in terms of any intervention.
5. I said I would like to keep the door open to a future conversation, was likely to file a notice with the Court at some time and then call again closer in time to the date at which the Party's need to report to the Court Response: we can certainly speak again at that time **reiterating that the Govt is just starting its review and that its premature to even discuss a process much less a proposed remedy.**