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August 31, 2009

BY HAND

Honorable Ronald L. Ellis  
United States Magistrate Judge  
500 Pearl Street  
New York, NY 10007

Re: United States v. Nemazee  
09 Mag. 1927

Dear Judge Ellis:

This firm is counsel to Hassan Nemazee, who appeared before Your Honor on Tuesday August 25, 2009, for presentment on a complaint that charged him with one count of bank fraud. After protracted bail negotiations, Your Honor ordered Mr. Nemazee's release on a \$25 million dollar personal recognizance bond, secured by two homes, with home confinement and electronic monitoring. The bail terms further forbid Mr. Nemazee from drawing down on any lines of credit save his credit cards, and from transferring any money out of his accounts, except to his attorneys.

We do not here quarrel with the bail terms. Rather, this letter is respectfully submitted to express grave concerns that in the aftermath of his arrest, Mr. Nemazee is being denied fundamental rights owed to him under the Constitution. Since his arrest, Mr. Nemazee has not been able to retrieve a single dollar from any of his bank or securities accounts – even those that are not implicated by the complaint's allegations. Most troublesome is the fact that while Mr. Nemazee is confined to his home, his representatives were denied access to financial information contained in his office. That information is critical for him to be able to meet the day-to-day needs of his family, including paying for food and medical expenses and for him to be able to retain counsel and mount a defense to the charges. Without access to his office files, and subjected to home confinement, Mr. Nemazee has no idea what funds are available to him, in what banks or accounts they are located, what the account numbers are, or how to retrieve the funds – even though they may be untainted by any alleged criminal activity and lawfully available to him.

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We had hoped last week to access information about funds that might be lawfully available to Mr. Nemazee. However, Mr. Nemazee's representatives were barred by his landlord from entering his office, notwithstanding the fact that his office is not even mentioned in the complaint as a location of alleged criminal activity. We have not been served with any process related to that action and were not given any explanation for it. It now appears that while Mr. Nemazee's landlord barred his representatives from the premises, the FBI executed a search warrant at the location. Now, all the financial information necessary for Mr. Nemazee to meet basic needs and retain counsel – as is his right- is in the hands of the Government.

The U.S. Attorney's Office has frozen at least two of Mr. Nemazee's bank accounts at JP Morgan Chase (an institution which is not even mentioned in the complaint) because they allegedly contain proceeds of the fraud charged in the complaint. We have been deprived of the opportunity to evaluate the basis upon which they were frozen or to contest the freeze orders. To make matters worse, Mr. Nemazee's securities account at Brean Murray, Carret & Co. was frozen by JP Morgan Chase (the clearing broker) without notice or process, despite the fact that the account is not referenced in the criminal complaint. We believe that at least some of the funds in the frozen Brean Murray account belong to a third-party, who is not the subject of this investigation, and who wishes to access those funds.

We have also been informed that Bank of America (which is also not mentioned in the complaint) has unilaterally decided to freeze Mr. Nemazee's funds *and those of his children*. Again, we have no basis upon which to contest these freeze orders because we have not received even a single sheet of paper setting forth the basis for the freeze.

The intent of the bail order was not to deprive Mr. Nemazee and his family of the information and funds necessary for them to be able to eat, and pay rent, medical bills and utilities. Moreover, the bail order explicitly contemplated permitting Mr. Nemazee to pay his attorneys. But with his accounts secretly and summarily frozen, and no access to his office, he is unable to retrieve personal information such as phone numbers, account numbers, and addresses that are critical for him to be able to meet the day to day needs of his family and to hire counsel to defend this case. Accordingly, his due process rights and his Fifth, and Sixth Amendment rights are in danger of being violated.

We request a hearing on this matter on Tuesday morning, September 1, 2009, or at Your Honor's earliest convenience. At the hearing, we will ask the Court to order the Government to provide information, otherwise inaccessible to the defense, regarding

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those accounts that Mr. Nemazee may use to meet his basic needs and retain counsel to defend this action. We will further request the release of those funds belonging to Mr. Nemazee and his family that have been unilaterally frozen by JPMorgan Chase and Bank of America and access to Mr. Nemazee's office.

Thank you for your attention to this matter.

Very truly yours,

Bracewell & Giuliani LLP



Marc L. Mukasey

cc: John M. Hillebrecht, AUSA (by e-mail)  
Daniel W. Levy, AUSA (by e-mail)