

3. Defendant respectfully moves for production of any and all reports, summaries, memoranda *etc.* of interviews or substantive communications with persons on the government's witness list, or their attorneys. If such communications, interviews occurred but were not committed to writing, the defense moves the government to disclose the matter. The government cannot avoid discovery production obligations by avoiding the committing of witness interviews to paper. See David Ogden, Deputy Attorney General, Guidance for Prosecutors Regarding Criminal Discovery (April 10, 2010); <http://www.justice.gov/dag/discovery-guidance.pdf>.

4. The defense further moves for the production of any and all attorney/agent notes of interviews of government witness. This material is needed for cross-examination. If the government is unwilling to tender the notes to defense counsel, then we move the Court to require the government to produce the notes to the Court *in camera* for review of any *Brady/Giglio* information, including, but not limited to, inconsistent statements, the conferral of benefits or promises by the government, or any other matter relating to witness credibility or the defendant's non-guilt. See, *e.g.*, *United States v. Thomas*, 12 F.3d 1350, 1364-65 (5th Cir. 2004).

5. We realize that Department of Justice guidance does not require prosecutors to disclose notes of trial preparation of witnesses. However, a disclosure obligation exists if a witness makes an inconsistent statement during trial prep. We move for production of any such information, regardless of whether the government has committed the matter to writing.

6. The Ogden memo issued after the defense filed its *Brady/Giglio* motion.

So the record is clear, we respectfully move for production of any and all matters that should be produced pursuant to the Ogden memo.

Respectfully submitted,

/s/ Marc W. Martin

WILLIAM GAMBONEY, JR.
216 S. Marion St.
Oak Park, IL 60302
(708) 445-1994

RICHARD BEUKE
53 W. Jackson Blvd., Suite 1410
Chicago, IL 60604
(312) 427-3050

MARC W. MARTIN
MARC MARTIN, LTD.
53 W. Jackson Blvd., Suite 1420
Chicago, IL 60604
(312) 408-1111
Attorneys for Defendant Jon Burge

CERTIFICATE OF SERVICE

I, MARC W. MARTIN, an attorney for Defendant Jon Burge, hereby certify that on this, the 4th day of May, 2010, I filed the above-described document on the CM/ECF system of the United States District Court for the Northern District of Illinois, which constitutes service of the same.

/s/ Marc W. Martin

MARC W. MARTIN
MARC MARTIN, LTD.
53 W. Jackson Blvd., Suite 1420
Chicago, IL 60604
(312) 408-1111