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9 STEVAN TODOROVIC

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA  
12 WESTERN DIVISION  
13

14 UNITED STATES OF AMERICA,	)	NO. CR 08-610-TJH
15 Plaintiff,	)	<u>EX PARTE APPLICATION IN</u>
16 v.	)	<u>CAMERA AND UNDER SEAL</u>
17 STEVAN TODOROVIC,	)	<u>FOR ORDER ISSUING OUT OF</u>
18 Defendant.	)	<u>DISTRICT SUBPOENA;</u>
	)	<u>MEMORANDUM OF POINTS</u>
	)	<u>AND AUTHORITIES;</u>
	)	<u>DECLARATION</u>
	)	<u>UNDER SEAL &amp; IN CAMERA</u>

20  
21 Defendant Stevan Todorovic, by and through his attorneys, Deputy Public  
22 Defenders Sylvia Torres-Guillén and Myra Sun, hereby applies to this Court for an  
23 order that a subpoena be issued for service on the witness named in the subpoena  
24 attached to the accompanying proposed order; that the costs incurred by the process  
25 and the fees of the witness be paid in the same manner in which similar costs and fees  
26 are paid for witnesses subpoenaed on behalf of the government, and that notice of the  
27 issuance of this subpoena should only be given to those persons needed to facilitate  
28 the witness' appearance.

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This application is made pursuant to Rule 17(b), (c) of the Federal Rules of Criminal Procedure and Local Criminal Rule 7, the attached memorandum of points and authorities and declaration, all files and records in this case, and such further information as may be provided to the court with respect to this application.

Respectfully submitted,  
SEAN K. KENNEDY  
Federal Public Defender

DATED: July 6, 2010

By \_\_\_\_\_  
SYLVIA TORRES-GUILLÉN  
MYRA SUN  
Deputy Federal Public Defenders

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I

3 INTRODUCTION

4 Stevan Todorovic is charged with multiple counts of mail and wire fraud.  
5 (The government will be dismissing several structuring counts and three of the  
6 fraud counts). Trial is set for July 13, 2010.

7 Background

8 Mr. Todorovic's prosecution arises from his operation of two businesses  
9 from roughly late 2001 to mid-2004: the American Bartending Institute ("ABI"),  
10 which sold a home-study bartending course with a certification, and provided a list  
11 of bar locations in given locations; and, after 2003, the Consumer Response Group  
12 ("CRG"), which gave customers information and references on how to get work  
13 patronizing businesses "undercover," to learn how the businesses were treating  
14 clients or customers. Each of these businesses included a money-back guarantee  
15 provided that materials were returned within a specified number of days. The  
16 government alleges that Mr. Todorovic's advertising and marketing of these  
17 products and services constituted a fraudulent scheme, based on print ads and the  
18 promises of phone operators who spoke to callers who inquired after seeing the  
19 ads.

20 Mr. Todorovic's business solicited testimonials from individuals who used  
21 his products and, in the case of the bartending business, found work in this field.  
22 One of these written testimonials came in from Lalena Malloian, a resident of the  
23 state of Michigan. Ms. Malloian saw an ad for ABI. The defense has interviewed  
24 her. She would testify that after talking to her mother about the program, and  
25 calling in and talking with one of the telephone sales representatives, they  
26 purchased the ABI course, knowing that it was a study program for prospective  
27 bartenders, and not that a job was waiting for her when she finished it. She studied  
28 the materials, took the test, and sent it in, receiving a certification for it. At the

1 time, she was 18 years old, and she later entered college and graduated; she now  
2 works at Ernst and Young, the accounting firm. While she never worked as a  
3 bartender, she indicates that the course helped her to have confidence in herself for  
4 the job, if she had chosen to work in this field. She feels, overall, that she got what  
5 she was promised out of the course. The defense wishes to call her at trial to so  
6 testify.

7 Need for Issuance of Out-of-District Subpoena

8 Because Ms. Malloian lives outside this district in Michigan, a subpoena  
9 for her to appear is required. She will accept service of it.

10 II.

11 ARGUMENT

12 Rule 17(b) of the Federal Rules of Criminal Procedure and Local Criminal  
13 Rules 17-2 and 17-4 provide that an indigent defendant may apply, under seal if  
14 appropriate, to obtain subpoenas for witnesses residing outside the district who are  
15 necessary for an adequate defense. Rule 17(b) provides that the costs of service  
16 and fees for defense witnesses so subpoenaed “will be paid in the same manner as  
17 those paid for witnesses the government subpoenas.” Local Rule 17-4 makes clear  
18 that where the subpoena is issued under seal, only parties necessary to effectuate  
19 service should receive notice of the subpoena’s issuance.

20 Here, Ms. Malloian is a customer of the business Mr. Todorovic operated.  
21 She understood that the course she was purchasing was a course; she did not view  
22 it as promising her a job as a bartender. She was satisfied with the product and the  
23 service that she received. Her testimony is necessary to address the government’s  
24 claims that customers were misled regarding whether they could get employment  
25 through ABI.

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III.

CONCLUSION

Mr. Todorovic asks that the Court issue the attached subpoena for Lalena Malloian.

Respectfully submitted,  
SEAN K. KENNEDY  
Federal Public Defender

DATED: July 6, 2010

By SYLVIA TORRES-GUILLÉN  
MYRA SUN  
Deputy Federal Public Defenders

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DECLARATION OF SYLVIA TORRES-GUILLÉN

I, Sylvia Torres-Guillén, hereby state and declare as follows:

1. I am a Deputy Federal Public Defender in the Central District of California appointed to represent Stevan Todorovic in the above-entitled action.

2. I have interviewed Lalena Malloian, a purchaser of the home-study bartending course that was sold by ABI, with the results described in the Introduction to this application. Based on the information I have received from her, I believe she is a necessary witness for Mr. Todorovic's effective defense.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED: July 6, 2010

SYLVIA TORRES-GUILLÉN  
Deputy Federal Public Defender

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Federal Public Defender  
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