

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA

Plaintiff,

v.

JOHN PHILLIP WALKER LINDH

Defendant.

CR No. 02-37A

**DEFENDANT’S OBJECTIONS TO AND
MOTION TO STRIKE ATTACHMENT
TO GOVERNMENT’S OPPOSITION TO
DEFENDANT’S MOTION TO DISMISS
COUNTS EIGHT AND NINE OF THE
INDICTMENT FOR SELECTIVE
PROSECUTION (#5)**

I. INTRODUCTION

Defendant John Walker Lindh, by and through counsel, hereby objects to and moves to strike the “Attachment to Government’s Opposition to Defendant’s Motion to Dismiss Counts Eight and Nine of the Indictment for Selective Prosecution (#5)” (“Government’s Attachment”).

II. ARGUMENT

The Government’s Attachment includes a letter from Unocal’s counsel to the prosecuting attorneys dated June 4, 2002, and the following exhibits thereto: (A) a purported letter from Tony Petty to Mr. Y. Matuskawa; (B) a purported statement by Unocal; (C) a purported letter from Unocal to various entities; (D) a purported letter from Unocal to Central Asia Gas Pipeline; (E) a purported excerpt from “Shareholder Agreement”; (F) a purported letter from Unocal to Tom Goutierre; (G) a purported letter from Unocal to Dan O’Brien and Paul Barker; and (H) a purported article.

The letter from Unocal’s counsel to the prosecutors purports to recount factual matters regarding Unocal’s history in Afghanistan to dispute certain facts asserted by the defense. This letter is inadmissible for numerous reasons and should be stricken: 1) it amounts to inadmissible hearsay (Fed. R. of Evid. 802), and no hearsay exceptions apply; 2) the prosecution lacks

foundation to submit the letter.; 3) Unocal's counsel is not competent to assert the alleged facts stated in the letter as he lacks personal knowledge of the matters asserted therein (Fed. R. Evid. 602); 4) the letter has not been authenticated (Fed. R. Evid. 901); and 5) the letter is not under oath or the penalty of perjury (Fed. R. Evid. 603). In short, the letter carries no evidentiary weight.

The exhibits to the letter from Unocal's counsel to the prosecutors should be stricken as well. None of the exhibits have been properly authenticated. Fed. R. Evid. 901. Unocal's counsel does not purport to authenticate the exhibits and, in any event, lacks the personal knowledge to do so. The attachments are hearsay, and in some cases contain multiple layers of hearsay; no hearsay exceptions apply. Fed. R. of Evid. 802. Further, the Government's Attachment fails to indicate if all the relevant documents have been attached, or if only selective documents have been attached. Therefore, the exhibits to Unocal's counsel's letter also carries no evidentiary weight.

Dated: June 12, 2002

Respectfully submitted,

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