

February 23, 2017

The Honorable Donald J. Trump  
President of the United States  
The White House  
1600 Pennsylvania Avenue  
Washington, DC 20500

Re: Sholom Rubashkin

Dear Mr. President:

We are more than one hundred former Attorneys General<sup>1</sup>, Deputy Attorneys General, FBI Directors, Solicitors General, Federal Judges, United States Attorneys, State Attorneys General and law professors who are writing to urge you to use your executive clemency power to commute the patently unjust and draconian 27-year sentence imposed upon Sholom Rubashkin—a first time, non-violent offender and father of 10, including an acutely autistic child.

Essentially, Mr. Rubashkin was convicted of fraud offenses stemming from inflating collateral to obtain a higher line of credit for Agriprocessors, his father's kosher meat business, and for paying some cattle owners 11 days late. Mr. Rubashkin is a devoted husband and father, a deeply religious man who simply doesn't deserve a sentence of this length, or anything remotely close to it. Indeed, his sentence is far longer than the median sentences for murder, kidnapping, sexual abuse, child pornography and numerous other offenses exponentially more serious than his.

We remain deeply troubled by the manifest injustice in this case and the harm it has caused to Mr. Rubashkin, his family, and to public confidence in the ability of our Federal courts to fairly administer justice. More than 60 U.S. Congressmen and Senators, as well as over 100 former Federal Judges and high-ranking DOJ officials—including 9 former U.S. Attorneys General<sup>1</sup> and former New York City Mayor Rudy Giuliani—have signed letters expressing alarming concern regarding the length of this sentence and the manner in which it was obtained.

The clemency power is, of course, one of the oldest and most revered powers that belong to the President of the United States, and it is essential to America's system of checks and balances. Especially now that Mr. Rubashkin has already served more than 7 years of an excessively harsh sentence for a nonviolent first-time offender, we respectfully urge the President to commute this sentence and remedy this injustice. Mr. Rubashkin's youngest son, Uziel, only 4 years old when his father was incarcerated, will be celebrating his Bar Mitzvah on April 2nd. We pray that his pure and heartfelt prayers to have his father present at this milestone will be answered.

Please be assured that should you decide to grant clemency to Mr. Rubashkin, you will be joined by scores of legal and judicial experts nationwide who will both publicly and privately support and applaud your commitment to ensure that justice is finally achieved in this matter. In that regard, with his permission, we have enclosed the letter that Michael Mukasey sent to you on January 18, 2017 with respect to this matter.

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<sup>1</sup> We note with distinction four former Attorneys General who have signed previous letters/amici curia briefs expressing deep concern regarding the sentence imposed on Sholom Rubashkin: Attorneys General Janet Reno and Nicholas Katzenbach who have passed on and Attorneys General Ramsey Clark and Richard Thornburgh who could not review this letter due to health challenges.

The Honorable Donald J. Trump  
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February 23, 2017

Sincerely,

John D. Ashcroft  
Attorney General of the United States 2001-2005  
Attorney General of Missouri 1977-1984

William P. Barr  
Attorney General of the United States 1991-1993

Alberto R. Gonzales  
Attorney General of the United States 2005-2007

Edwin Meese, III  
Attorney General of the United States 1985-1988

Mark R. Filip  
Acting Attorney General of the United States 1999  
Deputy Attorney General 2008-2009  
United States District Court Judge, Northern District of Illinois 2004-2008

Stuart M. Gerson  
Acting Attorney General of the United States 1993

Louis J. Freeh  
Director, Federal Bureau of Investigation 1993-2001  
United States District Judge, Southern District of New York 1991-1993

William F. Weld  
Governor of Massachusetts 1991-1997  
Assistant Attorney General of the United States 1986-1988  
United States Attorney, District of Massachusetts 1981-1986

Jamie S. Gorelick  
Deputy Attorney General of the United States 1994-1997

Philip B. Heymann  
Deputy Attorney General of the United States 1993-1994  
Professor of Law, Harvard Law School

Charles B. Renfrew  
Deputy Attorney General of the United States 1980-1981  
United States District Court Judge, Northern District of California 1972-1980

The Honorable Donald J. Trump

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Larry D. Thompson

Deputy Attorney General 2001-2003

United States Attorney, Northern District of Georgia

Charles Fried

Solicitor General of the United States 1984-1989

Associate Justice of the Massachusetts Supreme Judicial Court 1995-1999

Seth P. Waxman

Solicitor General of the United States 1997-2001

Sanford M. Litvack

Assistant United States Attorney General 1979-1981

Robert A. McConnell

Assistant United States Attorney General 1981-1984

Michael R. Bromwich

Inspector General for the Department of Justice 1994-1999

Nathaniel R. Jones

United States Court of Appeals Judge, Sixth Circuit Court of Appeals 1979-1995

Timothy K. Lewis

United States Court of Appeals Judge, Third Circuit Court of Appeals 1992-1999

United States District Court Judge, Western District of Pennsylvania 1991-1992

William G. Bassler

United States District Court Judge, District of New Jersey 1991-2006

Professor of Law, Fordham Law School

Edward N. Cahn

United States District Court Judge, Eastern District of Pennsylvania 1974-1998

Professor of Law, University of Utah

Paul G. Cassell

United States District Court Judge, District of Utah 2002-2007

Associate Deputy Attorney General of the United States 1986-1988

U.W. Clemon

United States District Court Judge, Northern District of Alabama 1980-2009

David H Coar

United States District Court Judge, Northern District of Illinois 1994-2010

United States Bankruptcy Court Judge, Northern District of Illinois 1986-1994

The Honorable Donald J. Trump

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February 23, 2017

David Folsom

United States District Court Judge, Eastern District of Texas 1995-2002

Frederick B. Lacey

United States District Court Judge, District of New Jersey 1971-1986

United States Attorney, District of New Jersey 1969-1971

Thomas D. Lambros

United States District Court Judge, Northern District of Ohio 1967-1995

John C. Lifland

United States District Court Judge, District of New Jersey 1988-2007

Howard A. Matz

United States District Court Judge, Central District of California 1997-2013

Frank H. McFadden

United States District Court Judge, Northern District of Alabama 1969-1982

Edward W. Nottingham

United States District Court Judge, District of Colorado 1989-2008

Stephen M. Orlofsky

United States District Court Judge, District of New Jersey 2005-2007

Layn R. Phillips

United States District Court Judge, Western District of Oklahoma 1987-1991

United States Attorney, Northern District of Oklahoma 1984-1987

Abraham D. Sofaer

United States District Court Judge, Southern District of New York 1979-1985

Herbert J. Stern

United States District Judge, District of New Jersey 1973-1987

United States Attorney, District of New Jersey 1971-1973

Dickran M. Tevrizian, Jr

United States District Judge, Central District of California 1985-2005

Alfred M. Wolin

United States District Court Judge, District of New Jersey 1988-2004

Kent B. Alexander

United States Attorney, Northern District of Georgia 1994-1997



The Honorable Donald J. Trump

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February 23, 2017

Robert L. Barr, Jr.

United States Attorney, Northern District of Georgia 1986-1990

A. Bates Butler III

United States Attorney, District of Arizona 1980-1981

Robert J. Cleary

United States Attorney, Southern District of Illinois 2002

United States Attorney, District of New Jersey 1999-2002

William B. Cummings

United States Attorney, Eastern District of Virginia 1975-1979

W. Thomas Dillard

United States Attorney, Northern District of Florida 1983-1987

United States Attorney, Eastern District of Tennessee 1981

Edward L. Dowd

United States Attorney, Eastern District of Missouri 1993-1999

George W. Proctor

United States Attorney, Eastern District of Arkansas 1979-1987

Robert B. Fiske, Jr

United States Attorney, Southern District of New York 1976-1980

David C. Iglesias

United States Attorney, District of New Mexico 2001-2007

A. Melvin McDonald

United States Attorney, District of Arizona 1981-1985

Maricopa County Superior Court Judge 1974-1981

Kenneth J. Mighell

United States Attorney, Northern District of Texas 1977-1981

Richard J. Pocker

United States Attorney, District of Nevada 1989-1990

Ira H. Raphaelson

Special Counsel for Financial Institutions, Department of Justice 1991-1993

United States Attorney, Northern District of Illinois 1989-1990

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February 23, 2017

James H. Reynolds

United States Attorney, Northern District of Iowa 1976-1982

James G. Richmond

United States Attorney, Northern District of Indiana 1985-1991

Benito Romano

United States Attorney, Southern District of New York 1989

Donald K. Stern

United States Attorney, District of Massachusetts 1993-2001

F.L. Peter Stone

United States Attorney, District of Delaware 1969-1972

Peter F. Vaira

United States Attorney, Eastern District of Pennsylvania 1978-1983

John Shenefield

Associate Attorney General of the United States 1979-1981

Brett L. Tolman

United States Attorney, District of Utah 2006-2009

Stanley A. Twardy Jr.

United States Attorney, District of Connecticut 1985-1991

Atlee W. Wampler III

United States Attorney, Southern District of Florida 1980--1982

Attorney--In--Charge, Miami Strike Force, Organized Crime & Racketeering Section, Criminal Division, U.S. Department of Justice, 1975--1980

Dan K. Webb

United States Attorney, Northern District of Illinois 1981-1985

Robert Abrams

Attorney General of New York 1979-1993

John J. Easton, Jr

Attorney General of Vermont 1981-1985

Tyrone C. Fahner

Attorney General of Illinois 1980-1983

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February 23, 2017

Troy R. King

Attorney General of Alabama 2004-2011

Clarine Nardi Riddle

Attorney General of Connecticut 1989-1991

Connecticut Superior Court Judge 1991-1993

John Van De Kamp

Attorney General of California 1983-1991

Aviva Abramovsky

Professor of Law, Syracuse University

Robert H. Aronson

Professor of Law, University of Washington

Lara Bazelon

Co-Chair of the American Bar Association's Ethics Committee

Douglas A. Berman

Professor of Law, Ohio State University

Sande Buhai

Professor of Law, Loyola Law School

Marjorie Cohn

Professor Emerita of Law, Thomas Jefferson School of Law

Nathan M. Crystal

Professor Emeritus of Law, University of South Carolina

Alan Dershowitz

Professor of Law, Harvard Law School

Fernand N. Dutilleul

Professor Emeritus of Law, Notre Dame Law School

Eric Freedman

Professor of Law, Hofstra University

Bennett L. Gershman

Professor of Law, Pace Law School

Julius G. Getman

Professor of Law, University of Texas at Austin

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Malvina Halberstam  
Professor of Law, Yeshiva University

Andrew Horwitz  
Professor of Law, Roger Williams University School of Law

Sheri Lynn Johnson  
Professor of Law, Cornell Law School

Brian Levin  
Professor of Law

Peter Keane  
Professor of Law, Golden Gate University

Daniel Kleinberger  
Professor Emeritus of Law, Mitchell Hamline School of Law

Harold Krent  
Dean and Professor of Law, Chicago-Kent College of Law

Evan Lee  
Professor of Law, University of California Hastings

Mark Lee  
Professor of Law, University of San Diego

Thomas M. McDonnell  
Professor of Law, Pace Law School

Michael Meltsner  
Professor of Law, Northeastern University

Marc L. Miller  
Founding Editor, Emeritus, Federal Sentencing Reporter

Michael M. O'Hear  
Professor of Law, Marquette University Law School

Charles J. Ogletree  
Professor of Law, Harvard Law School

Jordan J. Paust  
Professor of Law, University of Houston Law Center

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Mark D. Rosen

Professor of Law, Chicago-Kent College of Law

Josephine Ross

Professor of Law, Howard University School of Law

Ronald D. Rotunda

Professor of Law, Chapman University

Ronald J. Rychlak

Professor of Law, University of Mississippi School of Law

Michelle S. Simon

Professor of Law, Pace University

Robert Steinbuch

Professor of Law

Michael B. Mukasey  
1049 Park Avenue  
Apartment 6C  
New York, NY 10028

January 18, 2017

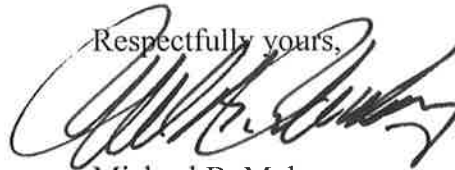
President-Elect Donald J. Trump  
Trump Tower  
725 Fifth Avenue  
New York, NY 10022

Dear Mr. President-Elect:

In the years following the end of my service as Attorney General in 2009, I have become familiar with the federal criminal case of Sholom M. Rubashkin, and in particular with details surrounding the imposition on this first-time offender of a scandalously harsh 27-year sentence in a financial fraud case. That sentence – seven and one-half years of which already have been served -- and the prosecutorial abuses that led to it, have generated outrage from many former senior Justice Department officials and judges, including me, as reflected in the enclosed letter sent in April 2016 to the United States Attorney for the Northern District of Iowa, where the case was brought and the sentence imposed.

I am writing now in particular to urge that when you take office, you consider favorably the use in this case of the President's plenary power to grant clemency. Please know that I and others who have signed the enclosed letter will both bless and applaud you – in private and in public -- for granting Mr. Rubashkin the relief that the Constitution has empowered you to give.

With thanks for your attention to this matter, and with wishes for great success in your service to this country, I am

Respectfully yours,  
  
Michael B. Mukasey

Enclosure

BILL CASSIDY, M.D.

6TH DISTRICT, LOUISIANA

COMMITTEE ON AGRICULTURE

SUBCOMMITTEE ON CONSERVATION,  
CREDIT, ENERGY, AND RESEARCH

SUBCOMMITTEE ON RURAL DEVELOPMENT,  
BIOTECHNOLOGY, SPECIALTY CROPS, AND  
FOREIGN AGRICULTURE

COMMITTEE ON  
EDUCATION AND LABOR

SUBCOMMITTEE ON EARLY CHILDHOOD,  
ELEMENTARY AND SECONDARY EDUCATION

SUBCOMMITTEE ON HIGHER EDUCATION,  
LIFELONG LEARNING, AND COMPETITIVENESS

COMMITTEE ON NATURAL RESOURCES

SUBCOMMITTEE ON INSULAR AFFAIRS,  
OCEANS AND WILDLIFE



# Congress of the United States

House of Representatives

Washington, DC 20515

February 11, 2011

WASHINGTON OFFICE:

506 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
PHONE: (202) 225-3901  
FAX: (202) 225-7313

DISTRICT OFFICE:

5555 HILTON AVENUE, SUITE 100  
BATON ROUGE, LA 70808  
PHONE: (225) 929-7711  
FAX: (225) 929-7688

<http://cassidy.house.gov>

The Honorable Eric H. Holder, Jr.  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Attorney General Holder:

I write regarding the criminal case and sentencing of Sholom Rubashkin. Mr. Rubashkin was found guilty of bank fraud in November 2009 by a jury from the U.S. District Court for the Northern District of Iowa. He was sentenced to 27 years in prison.

After hearing about the sentence, I discussed the matter with lawyers and judges. The judges noted that the sentence is longer than that historically imposed on other white-collar defendants, including Enron executive Jeffrey Skilling.

While I defer to you as to the facts of the case and do not dispute Mr. Rubashkin's conviction, I ask that your office review the appropriateness of the sentence.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Bill Cassidy". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Bill Cassidy  
Member of Congress

# United States Senate

WASHINGTON, DC 20510

May 15, 2012

The Honorable Eric H. Holder, Jr.  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Re: *United States v. Sholom Rubashkin*, 655 F.3d 849 (8th Cir. 2011)

Dear General Holder:

We are members of the United States Senate who wish to bring to your attention our concerns regarding the above-captioned decision. This decision sets a precedent unsupported by law and inconsistent with justice by adopting a standard for considering new evidence in a criminal case that would deny a new trial to a criminal defendant with clear evidence that he or she was denied the Constitution's guarantee of an impartial adjudicator, unless he or she could demonstrate factual innocence. That standard makes no sense. Nonetheless, we understand that the government procured this harsh rule by successfully advocating its application. We do not understand how this is consistent with the Justice Department's high standards or how the government could defend that standard in the Supreme Court. We ask for your careful review of this decision and urge the Department to effect its vacatur.

The defendant in this case, Mr. Sholom Rubashkin, was arrested following a United States Immigration and Customs Enforcement (ICE) raid on the Postville, Iowa, meatpacking plant he managed. A jury in the Northern District of Iowa convicted Mr. Rubashkin of a number of federal fraud-based charges. The trial judge then sentenced Mr. Rubashkin to a remarkable twenty-seven years in prison—two more years than the government sought.

After trial, Mr. Rubashkin learned, pursuant to a Freedom of Information Act request, that the trial judge in his case had extensively participated in *ex parte* pretrial discussions with ICE agents and attorneys from the United States Attorney's Office for the Northern District of Iowa regarding the raid on the plant that ultimately resulted in his arrest, trial, and conviction. The full extent of the trial judge's involvement had never before been divulged to Mr. Rubashkin. Based on this newly discovered evidence indicating the trial judge's lack of impartiality, Mr. Rubashkin filed a motion for a new trial. The trial judge refused to transfer the motion to another judge and simply denied the motion herself.

As troubling as these facts and the resulting sentence are, they are not the subject of this letter. Our concern focuses instead on the standard of law adopted by the Eighth



Circuit, which rendered any inquiry into the degree of the Judge's impartiality beside the point, absent a showing that the newly discovered evidence demonstrates factual innocence. Whatever the Department may be able to say about the facts of the case and the Judge's involvement in the raid, we do not understand how the Department can defend a standard that renders all of those details beside the point.

The Eighth Circuit affirmed the convictions and sentence. In so doing, it accepted an argument set forth by the government that Mr. Rubashkin was not entitled to a new trial because Federal Rule of Criminal Procedure 33, which governs motions for new trial, requires "that the newly discovered evidence *probably will result in an acquittal.*" 655 F.3d at 858 (internal quotation marks omitted) (emphasis added). Mr. Rubashkin's newly discovered evidence raised concerns about the trial judge's lack of impartiality, but was not directed toward his guilt or innocence. Accordingly, under the standard advocated by the Department and accepted by the Eighth Circuit, the evidence of impartiality—no matter how strong—was rendered irrelevant.

In our view, the Eighth Circuit's decision is patently incorrect and cannot be squared with existing law or fundamental fairness. Nothing in Rule 33 commands that new trial motions based on newly discovered evidence may only succeed if the evidence "probably will result in an acquittal." While that test may make sense when the newly discovered evidence is relevant to the defendant's guilt or innocence, the application of that standard to newly discovered evidence of partiality is a complete non sequitur. When the newly discovered evidence goes to an issue of profound importance other than guilt or innocence, ignoring the evidence unless it probably will result in an acquittal makes no sense. Such a cramped interpretation is certainly not required by Rule 33. The plain language of the Rule amply allows for new trial motions based on other types of newly discovered evidence, such as that calling into question the fundamental fairness of the trial or other issues of law. Perhaps for that reason, other federal courts of appeals have consistently held that a criminal defendant need not demonstrate "probable acquittal" when seeking a new trial based on newly discovered evidence bearing not on guilt or innocence but, for example, whether the prosecution withheld material evidence or, as here, whether the trial judge was impartial.

The consequences of the Eighth Circuit's ill-advised decision are far-reaching. If it stands, criminal defendants could never obtain a new trial based on newly obtained evidence casting doubt upon the fundamental fairness of their trial. The decision creates the very real possibility that an individual could have evidence that he or she was denied an impartial adjudicator—one of the cornerstones of a fair trial—but lack any recourse, since that evidence, by its nature, would not directly bear on the individual's guilt or innocence. That is simply not tenable.

We find it troublesome that the Eighth Circuit ruled in this fashion. We find it even more troublesome, however, that its ruling was the product of an argument that the government explicitly set forth and urged the court to adopt. The rotunda outside your

office bears the worthy reminder that the government wins its point whenever justice is done to one of its citizens in court. We are at a loss as to understand how the rule the Department has procured from the Eighth Circuit is consistent with that principle or the finest traditions of the Department.

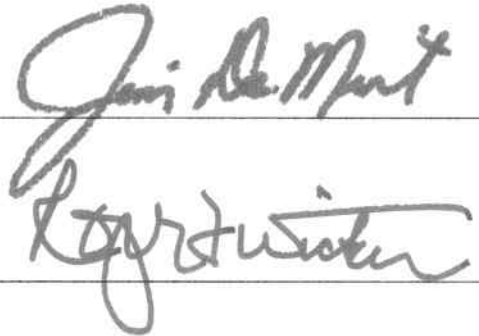
In light of the concerns we have articulated, we ask that you carefully review this decision, and we urge the Department to effect its vacatur.

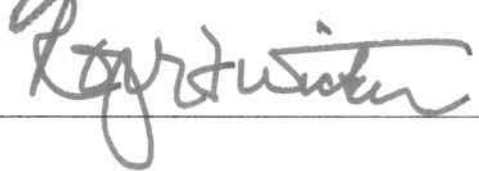
Sincerely,











cc: Donald B. Verrilli, Jr., Solicitor General of the United States



UNITED STATES SENATE  
WASHINGTON, D. C. 20510

ORRIN G. HATCH  
UTAH

March 1, 2017

The President  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Dear Mr. President:

For the last few years I have closely followed the case of Sholom Rubashkin. He is a 57-year-old father of ten, who, in June 2010, was sentenced to 27 years in federal prison for white-collar offenses. Frankly, I have looked closely at this case, and I—like so many others—was shocked by the sentence Mr. Rubashkin received. I do not believe that Mr. Rubashkin's punishment matches his crime.

Among the reasons this case is so troubling to me is that Mr. Rubashkin has an autistic son who is heavily dependent on him. Despite Mr. Rubashkin's busy schedule when he was vice president of his father's meatpacking plant, Mr. Rubashkin would take time every single day to have dinner with his son Moishe, one-on-one. They created a special bond, which made a positive impact on Moishe's behavior. Predictably, this extended separation between father and son has had an overwhelmingly negative effect on Moishe's wellbeing.

Mr. Rubashkin's behavior in the Otisville Federal Correctional Institute has been exceptional. I've been told that, during his more than seven years in prison, he has had no infractions. In fact, he works in the chapel and spends his time teaching, studying, and praying. I have received reports that he is enormously respected and liked by all.

Additionally, Mr. and Mrs. Rubashkin have a 12-year-old son, Uziel, who will be celebrating his Bar Mitzvah on April 2, 2017. Mr. Rubashkin has already missed the wedding of his daughter, the birth of numerous grandchildren and so many other special family occasions. It would truly be a tragedy should he miss the Bar Mitzvah as well.

Mr. Rubashkin has served his time and has long paid his dues to society. I believe he should now have the chance to be home where he belongs, with his beautiful family. His mother is 90 years old, and his father is 89 years old. They are too frail to visit their son and, as you can imagine, they miss him terribly.

Mr. President, the United States Constitution gives you the exclusive power of clemency. I respectfully ask that you commute Mr. Rubashkin's sentence before his son's Bar Mitzvah (April 2, 2017). I believe this is the right thing to do.

Thank you, again, for taking the time to consider this request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Orrin", is written over the printed name.

Orrin G. Hatch  
United States Senator



YVETTE D. CLARKE  
11TH DISTRICT, NEW YORK

1029 LONGWORTH HOUSE OFFICE BUILDING  
(202) 225-6231

EDUCATION AND LABOR COMMITTEE

HOMELAND SECURITY COMMITTEE

SMALL BUSINESS COMMITTEE

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-3211**

HEALTH, EMPLOYMENT, LABOR, AND  
PENSIONS SUBCOMMITTEE

HEALTHY FAMILIES AND  
COMMUNITIES SUBCOMMITTEE

CHAIRWOMAN: EMERGING THREATS,  
CYBERSECURITY,  
AND SCIENCE AND TECHNOLOGY SUBCOMMITTEE

INTELLIGENCE, INFORMATION SHARING AND  
TERRORISM RISK ASSESSMENT SUBCOMMITTEE

CONTRACTING AND TECHNOLOGY  
SUBCOMMITTEE

RURAL DEVELOPMENT ENTREPRENEURSHIP AND  
TRADE SUBCOMMITTEE

November 29, 2010

The Honorable Eric H. Holder, Jr.  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Ave, NW  
Washington, DC 20530-0001

Dear Mr. Holder:

I am contacting you regarding a case that has greatly impacted upon many of my Jewish constituents in New York's 11<sup>th</sup> Congressional District whom I have the privilege of representing. I am a firm believer that the American judicial system is the best in the world and that judges should be given discretion in sentencing. I have opposed mandatory minimums throughout my public life as they often times result in sentences that do not necessarily fit the crime. While our system is one of the best, unfortunately it does not always get it right.

The sentence of Sholom Rubashkin is an instance where I believe our system got it wrong and the punishment does not fit the crime. Sholom Rubashkin, whose family and supporters are constituents from the Orthodox Jewish communities of Brooklyn, was the former CEO/VP of Agriprocessors, a kosher meatpacking plant in Postville, Iowa, which was subject to a May 12, 2008 federal immigration raid. While the case began as an immigration raid, Mr. Rubashkin ended up facing a 163 count federal indictment that included 91 federal bank fraud charges. However, the government dropped the federal immigration charges and Mr. Rubashkin was found guilty of 86 of the 91 bank fraud charges, ruling that First Bank Business Capital of St. Louis was defrauded of \$26 million. The presiding judge, the Honorable Linda Reade of the Northern District of Iowa, sentenced Mr. Rubashkin to 27 years in prison.

I believe that this unusually severe sentence is cause for concern for several reasons. First, Mr. Rubashkin was a first-time white-collar offender. At no time did the trial prove Mr. Rubashkin intended to inflict malicious harm to any individual working for, or associated with, Agriprocessors. Secondly, the prosecution in this case requested a 25-year sentence for Mr. Rubashkin. Before sentencing Mr. Rubashkin, Judge Reade was contacted by former Justice Department officials, as well as six of your predecessors, decrying the severity of a 25-year sentence as a misreading of federal white-collar sentencing guidelines. Judge Reade not only disregarded these overtures, but sentenced Mr. Rubashkin to two more years than the prosecution requested.

While these are all reasons for concern, the most troubling aspect of Mr. Rubashkin's sentence is how much more severe his sentence is in light of white-collar criminals whose crimes were far more severe in scope, monetary loss and effect.

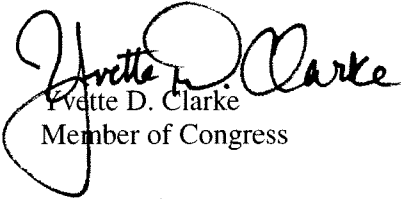
- Former Tyco CEO Dennis Kozlowski and CFO Mark Swartz were convicted of stealing hundreds of millions of dollars and each received a sentence of only 8 1/3 - 25 years.

- Former Enron CEO Jeffrey Skilling, who was convicted of orchestrating the largest corporate fraud in history resulting in the collapse of a company worth over \$63 billion, only received a 24 year sentence.
- Bernie Ebbers, the former CEO of WorldCom, whose accounting fraud covered \$11 billion, received 25 years.

These are just a few circumstances of individuals that received lesser sentences than Mr. Rubashkin, and whose damage upon the economy and American people were unquestionably more severe. The collapse of Enron not only resulted in the collapse Arthur Andersen, then-one of the largest accounting firms in the world, but wiped out the retirement savings of thousands of Americans. Tyco and Worldcom's fraud, while not as severe as Enron's, also had a major impact on a wide range of Americans. The fact that Mr. Rubashkin received a more severe sentence than any of those mentioned is troublesome and inconsistent with having the punishment fit the crime, and fairness. Therefore, on behalf of my constituents who have come to me seeking justice in this case, I am requesting that you launch a formal inquiry into the sentencing phase of this case.

If you have any questions and/or concerns regarding this matter, please feel free to reach out to me if I can be of any assistance. I thank you for your kind consideration of this matter and I look forward to hearing from your good offices.

Sincerely,



Yvette D. Clarke  
Member of Congress

ARMED SERVICES COMMITTEE  
NATURAL RESOURCES COMMITTEE  
SMALL BUSINESS COMMITTEE

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-0606**

DISTRICT OFFICE:  
9220 KIMMER DRIVE  
SUITE 220  
LONE TREE, CO 80124  
(720) 283-9772

November 10, 2010

The Honorable Eric Holder  
Attorney General of the United States  
950 Pennsylvania Avenue, NW, Suite 5111  
Washington, DC 20530

RE: U.S. v. Rubashkin, Case No. 2:08-CR-01324-LRR (NDIA)

Dear Attorney General Holder:

I recently became aware of some of the details regarding the federal prosecution and sentencing of Mr. Sholom Rubashkin through a conversation with one of my constituents. I understand you have previously heard from a number of my colleagues on this issue. As you are likely aware, Mr. Rubashkin was sentenced to twenty-seven years in prison for white collar crimes, including bank fraud, originating from an ICE raid at his meat packing plant in Iowa.

My review of the publicly available facts of this case leads me to some troubling questions. Why did the presiding judge engage in *ex parte* communications with the US Attorney's Office? Why didn't the judge disclose those communications in the course of the trial? Why didn't the judge recuse herself from Mr. Rubashkin's trial, in light of those previous communications? In what other ways, if any, did the judge give preferential treatment to the prosecutors?

Further, why did the judge sentence a first-time, non-violent offender to a term of 27 years, above both the requests of the prosecutor and defense attorney? Did the Court improperly apply the Sentencing Guidelines to arrive at an unjust and unnecessary result?

I am not suggesting I have all of the answers to these questions. Rather, I note them in order to request your personal review of the facts of this case. At the least, the questions deserve investigation at a level above the US Attorney's Office in Iowa, whose previous involvement in the case creates an appearance of partiality.

I believe that transparency is essential to the workings of our judicial system. Public confidence in the rule of law and the impartiality of the court must not be shaken by any improper actions by its officers. I would appreciate your full and fair review of the circumstances presented by this case to guarantee that Mr. Rubashkin received proper consideration and treatment, as is due all criminal defendants in our country.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mike Coffman", with a long horizontal flourish extending to the right.

Mike Coffman  
Member of Congress

MC/jrc



MARIO DIAZ-BALART  
25TH DISTRICT, FLORIDA

BUDGET COMMITTEE  
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INFRASTRUCTURE COMMITTEE  
SUBCOMMITTEE:  
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AND EMERGENCY MANAGEMENT  
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MEMBER, REPUBLICAN  
HOUSE POLICY COMMITTEE

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-0925**

December 14<sup>th</sup>, 2010

328 CANNON HOUSE OFFICE BUILDING  
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SUITE ONE  
NAPLES, FL 34116  
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FAX: (239) 348-3569

The Honorable Eric Holder  
Attorney General of the United States  
950 Pennsylvania Ave., NW  
Suite 5111  
Washington, DC 20530

IN RE: U.S. v. Rubashkin, Case No. 2:08-cr-01324-LRR (ND IA)

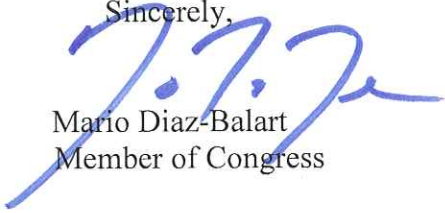
Dear Attorney General Holder:

I would like to call your attention to allegations of relevant information being withheld in the case against Mr. Sholom Rubashkin. It is my understanding that a Freedom of Information Act request revealed what might be considered improper communications between a federal judge, Chief Judge Linda R. Reade, federal prosecutors and investigators months prior to the arrest of Mr. Rubashkin.

Documents recently filed in the U.S. District Court for Northern District of Iowa (Case No. 2:08-cr-01324-LRR), allege that Chief Judge Reade was repeatedly consulted by law-enforcement agents and prosecutors from the U.S. Attorney's office during the several months preceding a May 2008 immigration raid on a kosher meatpacking plant in Iowa. It is my understanding from the information I have received, that the judge offered to "help in any way possible" with preparations for the raid.

I respectfully request, in accordance with all application laws and regulations, that you investigate these claims to make sure that the high standards of our judicial system are upheld and that all U.S. citizens are afforded a fair and impartial trial.

Sincerely,

  
Mario Diaz-Balart  
Member of Congress

COMMITTEE ON  
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WESTERN HEMISPHERE  
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GLOBAL ENVIRONMENT

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SUBCOMMITTEES:

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ASSISTANT DEMOCRATIC WHIP



## Congress of the United States

### House of Representatives

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17th DISTRICT, NEW YORK

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261 WEST NYACK ROAD  
WEST NYACK, NY 10994  
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WEBSITE: <http://engel.house.gov>

March 3, 2011

The Honorable Eric Holder  
Attorney General of the United States  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Attorney General Holder:

I write regarding the federal case against Sholom Rubashkin, whose kosher meatpacking plant in Postville, Iowa, was raided by federal agents in May 2008, and who was subsequently convicted of a number of federal crimes in November 2009. Several of my constituents have raised concerns about the handling of this case that should warrant your review.

Firstly, it is asserted that there may have been improper communications among the judge, the prosecutors, and the investigators in the months leading up to the arrest of Mr. Rubashkin.

Secondly, it appears that Mr. Rubashkin's sentence seems to be disproportionately harsh for his crimes.

Thirdly, it has been reported that the government opposed bail, stating that Mr. Rubashkin was a flight risk solely because, as a Jew, he was eligible for Israeli citizenship under that country's Law of Return. Such a position would reflect not only a misunderstanding of the Law of Return, but also a likely violation of the equal protection clause of the United States Constitution.

I believe that the health of our democracy depends on the unflinching truth that all federal prosecutions are conducted in a fair, even-handed, and above-all-else constitutional manner. I trust that you will consider the totality of the circumstances of this case to guarantee that the high standards of our judicial system are upheld, and to continue to ensure that all criminal defendants in this country receive the fair and impartial trial that they are due.

Thank you for your consideration.

Sincerely,

Eliot L. Engel

**HON. LOUIE GOHMERT**  
FIRST DISTRICT, TEXAS



COMMITTEES:  
JUDICIARY

NATURAL RESOURCES  
REPUBLICAN STUDY COMMITTEE  
HOUSE POLICY COMMITTEE

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**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

April 6 in the Year of our Lord 2011

The Honorable Eric H. Holder, Jr.  
Attorney General of the United States  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Attorney General Holder:

I write about the criminal case and sentencing of Sholom Rubaskin. Mr. Rubaskin was found guilty by a jury in the U.S. District Court for the Northern District of Iowa on multiple counts of bank fraud. He was sentenced to 27 years in prison on June 21, 2010.

While I defer to you as to the full details of the case, news reports have raised two facts that warrant your investigation.

First, a Freedom of Information Act request by Mr. Rubaskin's attorney following sentencing disclosed that the trial judge was the same judge who participated in detailed ex-parte communications with prosecutors and federal agents on an immigration raid of the plant managed by Mr. Rubaskin. The raid led to the financial fraud charges on which Mr. Rubaskin was convicted. These discussions between the judge and federal officials were not disclosed during the Rubaskin trial.

Second, six former U.S. Attorneys General and a number of U.S. Attorneys have questioned whether the length of Mr. Rubaskin's sentence is consistent with the federal sentencing guidelines on white-collar crimes. The length of Mr. Rubaskin's sentence is longer than that of similar white-collar criminal defendants, including former Enron CEO Jeffrey Skilling.

In order to ensure that justice is being served, I respectfully request that you investigate Mr. Rubaskin's sentencing and the ex-parte discussions between the judge and government officials in preparation for the raid.

Thank you for your prompt attention and response in this matter.

Sincerely,

Louie Gohmert  
Member of Congress

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LUFKIN OFFICE:  
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TYLER, TX 75701  
PHONE: (903) 561-6349

# Congress of the United States

House of Representatives

Washington, DC 20515-1505

AGRICULTURE

JUDICIARY

POLICY

SMALL BUSINESS

December 23, 2010

The Honorable Eric H. Holder  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530-0001

Dear Attorney General Holder:

I write to you regarding Sholom Rubashkin, who was found guilty of bank fraud by a federal court jury in the Northern District of Iowa a little more than one year ago. Although he is a first-time offender and allegedly committed a non-violent crime, he was sentenced by Judge Linda Reade in June of this year to an outrageous and disparate sentence of 27 years, two years more than the prosecution requested. This case concerns me not only because it involves an Iowa businessman and a court in my home state; but even more important, because it indicates abuse in the federal judicial system, including within the Department of Justice.

I respectfully request that you formally inquire into these matters and take corrective action if, at the conclusion of a full inquiry, it appears that abuses have been committed.

I am certain you are aware of at least the general issues involving this case, but in my opinion, the most important aspects – those that clearly would seem to warrant your attention – relate to the following two problems:

First, internal Immigration and Customs Enforcement documents produced after the trial, establish there were numerous undisclosed meetings between the judge and Assistant United States Attorneys (and other government agents) in the months preceding the May 2008 raid on the Agriprocessors plant in Postville, Iowa (which was then managed by Mr. Rubashkin.) Neither Judge Reade nor the U.S. Attorney's office disclosed these meetings to Mr. Rubashkin's trial counsel before the trial, when they could have invoked these meetings as grounds to recuse Judge Reade. A Motion for a New Trial was filed promptly after these documents were produced to Mr. Rubashkin's counsel.

If the evidence in this case establishes that there were undisclosed and unrecorded *ex parte* meetings between a judge and prosecutors regarding the planning of a raid that led to criminal prosecution of the manager of the raided plant, the situation would, I believe, be comparable to that which led you to take the courageous step of terminating the



prosecution of the late Senator Ted Stevens. Both situations concern prosecutorial misconduct that threatens the fairness and credibility of our judicial system.

The second major area of concern that I believe warrants your personal attention is the use (and abuse) of the federal Sentencing Guidelines by the government and a judge, in order to arrive at and justify an outrageously long sentence - 27 years - for a first-time, white collar defendant. The sentencing judge ignored the factors prescribed by statute and calculated a prison term based entirely on an erroneous assertion of the lending bank's "loss." This so-called "loss," which was a major factor in significantly boosting Mr. Rubashkin's sentence, manifested itself only *after* the meat packing plant was forced into bankruptcy following the government's raid for alleged immigration violations.

Troubling also, is the fact that this entire prosecution was premised initially on alleged immigration law violations; but in fact every single immigration count in the indictment was dropped, following a series of seven superseding indictments. Moreover, when an Iowa state court last summer tried Mr. Rubashkin on 67 immigration-related counts (down from 9,113 misdemeanor counts that he knowingly hired under-age illegal workers at the plant), he was acquitted on every count.

Returning to the bankruptcy proceedings which resulted in a "loss" to the bank, during that process - at which time the federal government essentially controlled the assets and disposition of the Agriprocessors plant - significant restrictions were placed on the manner in which the assets could be purchased. This was how the government was able to claim a significant "loss" to the bank; a calculation readily adopted by the trial judge.

In fact, this loss would not have occurred had the government not drastically and unnecessarily restricted the eventual sale of the assets.

There are other problematic aspects of the manner in which Mr. Rubashkin was sentenced; but the bottom line, Mr. Attorney General, is that both the U.S. Attorney's office and the federal judge were able to manipulate the Guidelines based on circumstances under the government's control, so as to result in an outrageously long and disparate sentence for this man.

Like you and many other Americans, I am committed to see that justice is served fairly for all who come before our courts; this is one of the primary reasons I sit as a member of the Committee on the Judiciary. In the vast majority of cases, defendants are afforded fair process and, if found guilty, are sentenced fairly. But this is not always true; there are cases illustrating that injustices occur and unfairly disparate sentences sometimes imposed. Unfortunately, one such case - that of Sholom Rubashkin - occurred in my own state of Iowa.

It is my understanding that officials at the Department of Justice have thus far turned a deaf ear to these allegations; even to the extent of ignoring a letter signed by six of your predecessor Attorneys General. I believe you to be a man committed to fairness and justice, and that you would neither countenance nor practice the dismissive attitude

exhibited by others at the Department, when asked to look into these serious allegations of misconduct.

I therefore respectfully urge you to formally investigate the allegations of misconduct in the case of Sholom Rubashkin.

Sincerely yours,

A handwritten signature in blue ink that reads "Steve King". The signature is written in a cursive, flowing style.

Steve King  
Member of Congress

**JUDICIARY COMMITTEE**

SUBCOMMITTEES:

**CHAIRMAN**

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CRIME, TERRORISM AND HOMELAND SECURITY

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HIGHWAYS AND TRANSIT  
RAILROADS, PIPELINES AND HAZARDOUS MATERIALS

ASSISTANT WHIP



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

**JERROLD NADLER**

8TH DISTRICT, NEW YORK

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January 25, 2011

The Honorable Eric H. Holder, Jr.  
Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Attorney General Holder:

I am writing to you about a series of events involving the Department of Justice (DOJ), stemming from a raid on the Agriprocessors, Inc. plant in Postville, Iowa, on May 12, 2008, the subsequent criminal prosecution of Sholom Rubashkin, and the criminal prosecutions and deportations of undocumented immigrants seized in the raid. Various reports concerning the conduct of DOJ personnel leading up to, during, and following the raid raise serious issues of potential misconduct or improper Department policy that I believe demand your careful review, consideration, and, where appropriate, remedial action. As the Ranking Democratic Member of the Subcommittee on the Constitution, I believe it is important that the Department of Justice respects the rights of persons in its custody, and persons accused of crimes.

The first issue involves what have been described as extensive *ex parte* communications between Chief Judge Linda Reade and DOJ. According to reports and court papers, Chief Judge Reade met with representatives of DOJ and Immigration and Customs Enforcement (ICE). Although characterized by DOJ as merely involving "logistical cooperation," these contacts were reportedly extensive and involved a broad range of matters. I have been informed that many of the details of these *ex parte* communications were not available to defense counsel in the trial of Sholom Rubashkin, and were only available to his appellate counsel through redacted documents obtained under the Freedom of Information Act.

I am concerned by the allegation that DOJ may have withheld from Mr. Rubashkin and his attorneys information pertaining to these contacts. Professor Stephen Gillers noted in his September 7, 2010 submission to the United States District Court for the Northern District of Iowa,

I conclude that U.S. lawyers violated rules governing *ex parte* contact with the judge who presided at the trial of Mr. Rubashkin and in failing to inform Mr. Rubashkin's defense counsel at the inception of the criminal proceeding against

The Honorable Eric H. Holder, Jr.  
January 25, 2011  
Page Two

Mr. Rubashkin or, at the latest, before the deadline for filing a motion to recuse, of the number of, and the substance of communications in, the *ex parte* pretrial contacts with the judge prior to the raid on Agriprocessors ....

The ethical prohibition against *ex parte* communications, as applied in criminal cases, and the prosecutorial disclosure duty, under both professional conduct rules and *Brady*, build on that constitutional mandate and are required by it. Just as a prosecutor cannot ethically or constitutionally conceal information that will impeach the credibility of a government witness, neither can she conceal information that provides the defense with a basis to argue that his constitutional and statutory rights to the fact and appearance of disinterested justice are compromised.

In the past you have reviewed serious allegations of prosecutorial misconduct, especially when it involved the withholding from defendants information pertinent to their defense, as was the case with the prosecution of Senator Ted Stevens. I believe that these allegations are sufficiently serious to warrant your review.

The second issue involves the conduct of the raid, and the handling of the cases of the undocumented immigrants seized in that raid.

The *ex parte* communications with Judge Reade in question were apparently initiated by DOJ as part of the planning of a raid by DOJ and ICE on the Agriprocessors plant during which 389 undocumented immigrants working at the plant were taken into custody.

As a result of the meetings, arrangements were made to move some of the court's judges and other personnel to the National Cattle Congress in Waterloo, Iowa, to facilitate the processing of undocumented immigrants taken into custody.

Details of the process, as uncovered at a July 24, 2008 hearing by the House Judiciary Committee's Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, are deeply troubling. As part of this process, individuals detained were reportedly rushed through a criminal proceeding in which, as part of a plea agreement, they had to waive their rights to an administrative removal hearing, regardless of whether they may have had a right to valid immigration relief, such as asylum, a claim under the Violence Against Women Act, or approved family- or employment-based immigrant petitions.



Instead of placing these individuals into the normal administrative removal proceedings, 302 of the 389 workers arrested were criminally charged with identity theft, use of a false ID and/or Social Security number, and illegally reentering the United States following deportation. They were told that they faced a minimum of two years in prison, but were offered a uniform plea agreement in which the government would withdraw the heavier charge of aggravated identity theft, the defendants would serve five months in jail, receive three years of supervised release, and be deported without a hearing.

According to testimony presented by Deborah Rhodes, Senior Associate Deputy Attorney General, at the July 24, 2008 hearing, "[d]efendants who were charged with the same offense and offered the same plea agreement typically were arranged in groups of 10." She further testified that "271 defendants were sentenced to five months in prison and three years of supervised release .... Two defendants were sentenced to 12 months and a day in prison and three years of supervised release ...." These cases were disposed of within 10 days. Only 18 criminal defense lawyers were appointed by the federal court to represent hundreds of defendants; every attorney represented 17 defendants on average.

The third issue involves statements made by United States Attorney Stephanie Rose in an interview published in the December 27, 2010 issue of the Gazette. In that interview, Ms. Rose states that "[t]he goal of this case was to prevent future crimes like this, as well as to punish Rubashkin ... This case was important for those that are taking advantage of and employing illegal immigrants but all of that got lost with this other stuff. We are hoping the appeal process will correct some of that." I do not believe that either the law or Department policy permit an individual to be sentenced for an offence that was neither charged nor decided by the jury.

The final issue involves the position reportedly taken by DOJ at Mr. Rubashkin's bail hearing. It has been reported that the government opposed bail stating that Mr. Rubashkin was a flight risk solely because, as a Jew, he was eligible for Israeli citizenship under that country's Law of Return. I hope that it is not the position of the Department of Justice that a defendant's religion, in the absence of any other evidence, would make him ineligible for bail. Please let me know the Department's position on the role of religion in bail proceedings, and what steps you are taking to ensure that defendants are treated fairly in our courts regardless of their religion.

The Honorable Eric H. Holder, Jr.  
January 25, 2011  
Page Four

While the facts of these cases, and the ultimate disposition of important questions of law, are more appropriately considered by the federal courts, there are serious issues of DOJ policy, and prosecutorial conduct arising from these cases that are appropriate for your review. I urge you to examine these questions and let me know how you intend to handle the serious issues raised by these cases.

Thank you for your attention to this matter.

Sincerely,



Jerrold Nadler  
Ranking Member  
Subcommittee on the Constitution

RICHARD E. NEAL  
SECOND DISTRICT, MASSACHUSETTS  
AT-LARGE WHIP



COMMITTEE ON WAYS AND MEANS  
CHAIRMAN,  
SUBCOMMITTEE ON SELECT  
REVENUE MEASURES  
CHAIRMAN, FRIENDS OF IRELAND

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

November 4, 2010

The Honorable Eric Holder  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

***IN RE: US v. Rubashkin, Case No. 2:08-cr-01324-LRR (ND IA)***

Dear Attorney General Holder:

I write to you today to voice my concern over the sentencing of Mr. Sholom Rubashkin in November 2009. As you are now aware, several former Attorney's General and U.S. Attorney's have voiced their displeasure with the procedures leading to the sentencing of Mr. Rubashkin. After a full read of the facts, the outcome of this matter is quite troublesome.

The integrity of our judges, prosecutors and investigators are the cornerstone of the American legal system. Transparency of such cases, more specifically the Rubashkin case, is integral to the American public's belief in the judicial process. Should cases such as this be left to stand, without inquiry, would be devastating to both our legal system and the trust the public places in the officials it puts in place to impartially administrate the law.

I ask that you give full and fair consideration to the misconduct that occurred between the prosecutors and the presiding judge in this case. It calls into question the conduct of many actors, without whose direct influence, would have resulted in a vastly different outcome for Mr. Rubashkin. Please keep me informed of any developments in this matter. I look forward to your reply.

Sincerely,

Richard E. Neal  
MEMBER OF CONGRESS

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4TH DISTRICT, CALIFORNIA

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**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-0504**

COMMITTEE ON  
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SUBCOMMITTEE ON EARLY CHILDHOOD,  
ELEMENTARY AND SECONDARY EDUCATION

SUBCOMMITTEE ON HEALTH,  
EMPLOYMENT, LABOR, AND PENSIONS

November 29, 2010

The Honorable Eric Holder  
Attorney General of the United States  
950 Pennsylvania Ave., NW  
Suite 5111  
Washington, D.C. 20530

RE: U.S. v. Rubashkin, Case No. 2:08-cr-01324-LRR

Dear Attorney General Holder:

I write regarding the case of Sholom Rubashkin, whose kosher meatpacking plant, Agriprocessors, was raided by federal agents in May 2008, and who was subsequently convicted of a number of federal crimes in November 2009.

A group of constituents, whom I trust and respect, recently brought this case to my attention and expressed concerns regarding allegations of misconduct by federal authorities in the prosecution of this case. Specifically, they are seeking assurance that the judge in this case was absolutely impartial and had no unauthorized or inappropriate contact with federal investigators or prosecutors before, during, or after the trial.

While I have no personal knowledge of the facts of this case, I respectfully request that the Justice Department thoroughly investigate the allegations of judicial misconduct surrounding this case and make public the result of that investigation. A thorough investigation of this matter is essential to maintaining the public's full trust in the efficacy and fairness of our judicial system. I look forward to hearing from the Justice Department regarding the initiation and progress of this investigation.

Thank you for your time and attention.

Sincerely,

A handwritten signature in black ink, appearing to read 'T.M. CWS', written in a cursive, stylized script.

Tom McClintock

**TOM MARINO**

10TH DISTRICT, PENNSYLVANIA

COMMITTEE ON THE JUDICIARY

COMMITTEE ON HOMELAND SECURITY

COMMITTEE ON FOREIGN AFFAIRS

[www.marino.house.gov](http://www.marino.house.gov)

[www.facebook.com/CongressmanMarino](http://www.facebook.com/CongressmanMarino)

[www.youtube.com/RepMarino](http://www.youtube.com/RepMarino)

<http://twitter.com/RepTomMarino>



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-3810**

June 1, 2011

**WASHINGTON OFFICE:**

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106 ARCH STREET  
SUNBURY, PA 17801  
(570) 988-7801

The Honorable Eric Holder  
Attorney General of the United States  
950 Pennsylvania Avenue, NW Suite 5111  
Washington, D.C. 20530

IN RE: U.S. v. Rabshkin, Civil Action No. 2:08-CR-1324 LLR

Dear Attorney General Holder:

Today I write to you to ask that you review the case surrounding Sholom Rubaskin, who was found guilty of bank fraud over one year ago. Although I have not had the opportunity to review the entirety of the case, as a former U.S. Attorney and a Member of the House Judiciary Committee, the facts that have been brought to my attention have raised some serious questions.

As you may know, Sholom Rubaskin was arrested in DOJ raid on the Agriprocessors, Inc., a kosher meat packing plant, in Iowa in May of 2008. The immigration charges on which he was initially arrested were dropped; however he was eventually tried and convicted on bank fraud and various other white collar crimes. Mr. Rubaskin was sentenced to 27 years in prison—a sentence even longer than the prosecution had requested.

Also brought to my attention, were allegations of misconduct on behalf of Chief Judge Linda Reade and the DOJ. It is my understanding that there was an alleged *ex parte* communications between Judge Reade and members of the DOJ and the Immigration and Customs Enforcement (ICE). According to the information that was brought to my attention, the details of these communications were not available to Mr. Rubaskin's defense counsel during his trial, and his appellate counsel was only able to obtain redacted documents through a Freedom of Information Act request.

Like you, I am committed to seeing that justice is fairly served for all in the court system. Therefore, I respectfully request that you review the case of Mr. Rubaskin. Please feel free to contact me if you have any questions or need any further information. Thank you.

Sincerely,

Tom Marino  
Member of Congress

CAROLYN B. MALONEY  
14TH DISTRICT, NEW YORK

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**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-3214**

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March 31, 2011

The Honorable Eric H. Holder, Jr.  
Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Attorney General Holder:

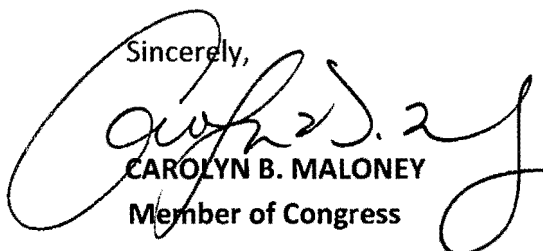
I write regarding the case of U.S. v. Rubashkin (Case No. 2:08-cr-01324-LRR). I have recently heard from a number of my constituents who have expressed concerns about the handling of this case by the Honorable Linda R. Reade, Chief Judge of the United States District Court in the Northern District of Iowa.

As you may know, Mr. Sholom Rubashkin is the former CEO of Agriprocessors in Postville, Iowa. Agriprocessors was the largest kosher meat packing and slaughterhouse in the United States. My constituents' concerns center around Judge Reade's alleged previous involvement in the planning of the May 2008 raid that led to Mr. Rubashkin's arrest. Mr. Rubashkin was found guilty in November 2009 of 86 accounts of financial fraud including bank fraud, mail and wire fraud and money laundering. In June 2010, he was sentenced to serve 27 years in prison, where he remains, in Otisville, New York. In January 2011 his lawyers filed an appeal for a new trial with the 8<sup>th</sup> Circuit Court of Appeals in St. Louis.

Thank you for your attention to this matter.

Please review and advise me as to your conclusions, consistent with all applicable rules and regulations.

Sincerely,

  
CAROLYN B. MALONEY  
Member of Congress





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(202) 225-5782 FAX

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<http://pascrell.house.gov>  
[bill.pascrell@mail.house.gov](mailto:bill.pascrell@mail.house.gov)

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON HOMELAND SECURITY  
SUBCOMMITTEE ON BORDER, MARITIME  
AND GLOBAL COUNTERTERRORISM  
SUBCOMMITTEE ON EMERGENCY COMMUNICATIONS,  
PREPAREDNESS, AND RESPONSE  
SUBCOMMITTEE ON MANAGEMENT, INVESTIGATIONS  
AND OVERSIGHT

November 1, 2010

The Honorable Eric Holder  
Attorney General of the United States  
950 Pennsylvania Ave N.W.  
Suite 5111  
Washington, D.C. 20530

RE: U.S. v. Rubashkin, Case No. 2:08-cr-01324-LRR (N.D. IA)

Dear Attorney General Holder:

I am writing you because allegations of impropriety in the case of Sholom Rubashkin (*U.S. V. Rubashkin*) have been brought to my attention and I would encourage your office to investigate this case.

Mr. Rubashkin is the former executive officer of Agriprocessors, a now-bankrupt slaughterhouse and meat packing plant in Postville, Iowa. He was indicted in U.S. District Court for the Northern District of Iowa on federal charges of harboring illegal immigrants, abetting aggravated identity theft, and separate counts of federal bank fraud. While the immigration-related charges were dismissed, Mr. Rubashkin was found guilty on the bank fraud charges and related white-collar crime charges.

My concerns arise out of two allegations that have come to light since Mr. Rubashkin's imprisonment. First, Mr. Rubashkin was given a 27 year sentence, which is effectively a life sentence for a 51 year-old man. This sentence seems overly harsh as compared to other similarly situated non-violent first-time offenders. Multiple former U.S. Attorneys, senior Justice Department officials and a former U.S. Attorney General agreed that this sentence was disproportionately long. They proceeded to write Judge Reade a letter stating that this sentence should be re-examined because it was based on an incorrect interpretation of the sentencing guidelines.

Also concerning are the allegation that have come to light that Judge Reade had ex parte communications with the U.S. Attorneys prosecuting this case, prior to the raid on Agriprocessors. If ex parte communications occurred, and were not disclosed to the defendant, there may have been a miscarriage of justice.

Our judicial system is based on the notion that all defendants are given a fair trial, with transparency and accountability to ensure evenhandedness. Your office has consistently upheld those high standards. Examining this case, I believe that the allegations of harsh sentencing of Mr. Rubashkin, and the troubling information about non-disclosed ex parte communications, has created enough concern to warrant an investigation by the Department of Justice.

Thank you for your consideration of my request.

Sincerely, ~

A handwritten signature in black ink, reading "Bill Pascrell, Jr.", with a long, sweeping horizontal line extending to the right.

Bill Pascrell, Jr.  
Member of Congress





Nancy Pelosi  
Democratic Leader

August 14, 2017

Mr. Gary Apfel, Esq.  
Pepper Hamilton LLP  
350 South Grand Avenue, Suite 3400  
Los Angeles, California 90071

Dear Mr. Apfel:

Thank you for reaching out to my office regarding the case of Sholom Rubashkin. In recognition of the severity of Mr. Rubashkin's prison sentence, I am writing to strongly support a commutation to the time already served. In doing so, I join scores of leaders – Attorneys General, Deputy Attorneys General, United States Attorneys, federal appellate and district court judges, law enforcement officials, and legal scholars. Their letters are attached.

In addition to questions arising from Mr. Rubashkin's conviction and sentencing process, there is also the issue of the extreme sentencing disparity among defendants convicted of similar crimes where they received far less time than he did. By any equitable measure, Mr. Rubashkin's sentence is unduly harsh and does not meet the goals of our criminal justice system.

Because of the severity and injustice of Mr. Rubashkin's prison sentence, I have studied this issue carefully and therefore strongly reiterate my support for the commutation of his sentence to time served.

I hope that Mr. Rubashkin will soon be reunited with his family. Thank you.

sincerely,

NANCY PELOSI  
House Democratic Leader



Congress of the United States  
House of Representatives  
Washington, DC 20515-4302

November 3, 2010

The Honorable Eric Holder  
Attorney General of the United States  
950 Pennsylvania Ave., NW Suite 5111  
Washington, DC 20530

IN RE: U.S. v. Rubashkin, Cast No. 2:08-cr-01324-LRR (NDIA)

Dear Attorney General Holder:

I write to you today to ask that you examine the Federal criminal case against Sholom Rubashkin. While I am not privy to all of the details of the case, the facts that have been brought to my attention from my constituents are very troubling. At the very least, I would ask that you look at these facts, and that you personally review the case to ensure that justice is being served.

As you may know, the case against Sholom Rubashkin began when his kosher meat packing plant in Postville, Iowa was raided by federal agents in May 2008. Mr. Rubashkin was initially arrested on immigration violations, although these charges were eventually dropped. Ultimately he was tried, and found guilty, of bank fraud and other white collar crimes. Mr. Rubashkin was sentenced to 27 years in jail for these crimes. This sentence was one year longer than the government recommended. For a 51-year old man, this sentence means that Mr. Rubashkin will spend the majority of his remaining life in prison for non-violent, white collar crimes.

Additionally, there are serious allegations of misconduct by the Judge and the U.S. Attorney's in this case. It is my understanding that the Judge who handled the case had detailed discussions with the United States Attorney and immigration officials who participated in the raid in the six months before the raid took place. These discussions were not disclosed during the Rubashkin trial. These facts were not discovered until after he was sentenced through a FOIA request made by his Attorney.

So far, all requests for inquiry to the Department of Justice related to the case have been referred to the U.S. Attorney's office for the Northern District of Iowa, the very office that allegedly took part in ex-parte meetings before the raid. In order to ensure that justice is being served, I request that you launch an inquiry into the sentencing of Mr. Rubashkin, and the ex-parte communications that occurred between the Judge and the government authorities who planned and participated in the raid.

I would appreciate you keeping me informed as to your action on this matter.

Sincerely,

TED POE  
Member of Congress



JARED POLIS  
2ND DISTRICT, COLORADO

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WASHINGTON, DC 20515-0602  
(202) 225-2161  
(202) 226-7840 (FAX)

website and email:  
<http://polis.house.gov>



**Congress of the United States**  
**House of Representatives**  
January 4<sup>th</sup>, 2011

COMMITTEES:  
COMMITTEE ON  
EDUCATION AND LABOR  
SUBCOMMITTEES:  
EARLY CHILDHOOD, ELEMENTARY AND  
SECONDARY EDUCATION  
HIGHER EDUCATION, LIFELONG LEARNING  
AND COMPETITIVENESS  
HEALTHY FAMILIES AND COMMUNITIES  
COMMITTEE ON RULES  
COMMITTEE ON  
SCIENCE AND TECHNOLOGY  
STEERING AND POLICY

The Honorable Eric Holder  
Attorney General of the United States  
950 Pennsylvania Avenue, N.W., Suite 5111  
Washington, D.C. 20530

Dear Attorney General Holder:

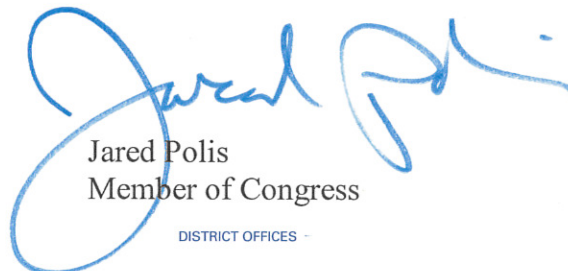
I am writing to call to your attention the case of Sholom Rubashkin and some of the problematic circumstances surrounding it. Mr. Rubashkin is the former manager of the Agriprocessors kosher meatpacking plant in Postville, Iowa which was raided by federal agents in May 2008. In November 2009, Mr. Rubashkin was sentenced to 27 years of prison by Judge Linda Reade after being convicted of 86 counts of financial fraud.

Since the Department of Justice has been under your tenure, you have demonstrated a strong commitment to fairness and transparency, which I commend. However, I am concerned about questions that have arisen regarding the handling of this case. I have read that prior to the raid on the Agriprocessors plant, several federal agents who would subsequently take part on the raid had apparently improper communication with Judge Reade. It has been reported that this information was not disclosed to defense attorneys and they only learned about it from a FOIA inquiry after the sentence had already been delivered. While this might have been a routine and innocuous meeting, the fact that it was hidden creates the implication of impropriety.

I agree that in regards to immigration enforcement, we should be prosecuting unscrupulous employers who hire undocumented immigrants and not the immigrants themselves. If Mr. Rubashkin was guilty violating immigration law, he should have been punished to the full extent of the law. However, none of Mr. Rubashkin's charges were immigration-based. Whether or not Mr. Rubashkin's financial transgressions merit the sentence he received, the dubious actions between federal agents and the presiding judge certainly merit a close investigation.

It is imperative to strengthen transparency and fairness in our judicial system. The questionable actions that took place in this case have cast aspersions on the decision and deserve a thorough and careful investigation. I look forward to your reply and working together on this matter.

Yours truly,



Jared Polis  
Member of Congress

DISTRICT OFFICES -

BOULDER OFFICE  
4770 BASELINE ROAD, SUITE 220  
BOULDER, CO 80303  
303-484-9596  
303-568-9007 (FAX)

MOUNTAIN OFFICE  
101 WEST MAIN STREET, SUITE 1010  
FRISCO, CO 80443  
970-668-3240

THORNTON OFFICE  
1200 EAST 78TH AVENUE, SUITE 105  
THORNTON, CO 80229  
303-287-4159

1319 LONGWORTH BUILDING  
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202-225-5603 (Fax)

3742 W. IRVING PARK ROAD  
CHICAGO, IL 60618  
773-267-5926  
773-267-6583 (Fax)



**MIKE QUIGLEY**  
CONGRESS OF THE UNITED STATES  
5TH DISTRICT, ILLINOIS

COMMITTEE ON THE JUDICIARY  
SUBCOMMITTEE ON COURTS AND COMPETITION POLICY  
SUBCOMMITTEE ON CRIME, TERRORISM AND HOMELAND  
SECURITY

COMMITTEE ON OVERSIGHT  
AND GOVERNMENT REFORM  
SUBCOMMITTEE ON GOVERNMENT MANAGEMENT,  
ORGANIZATION, AND PROCUREMENT  
SUBCOMMITTEE ON NATIONAL SECURITY AND FOREIGN  
AFFAIRS

December 13, 2010

The Honorable Eric H. Holder, Jr.  
Attorney General of the United States  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Attorney General Holder:

I am writing to echo the concerns of many former Attorney Generals, US Attorneys, and senior Justice Department officials regarding the questionable circumstances surrounding the criminal prosecution and conviction of Sholom Rubashkin, the former manager of the Agriprocessors, the largest kosher meatpacking plant in the United States.

My concerns arise from case documents that suggest improper ex-parte communications. Documents indicate that the federal judge assigned to the case-the Honorable Linda Reade of the Northern District of Iowa-was repeatedly consulted by officials from the U.S. Attorney's Office during the months leading up to the raid on the kosher meatpacking plant, and further, that she offered to "help in any way possible" with preparations for the raid. If these contacts were in fact hidden from the defendant, the defendant would have been prevented from making a motion for recusal, giving rise to serious due process concerns and tainting the ultimate decision of the case.

Additionally, some judicial observers have posited that Mr. Rubashkin's sentence was excessive for the crimes committed.

I know that you are deeply committed to ensuring that all federal prosecutions are conducted in a fair and even-handed manner. Therefore, I request that you formally inquire into the adjudication of Mr. Rubashkin's case and the possible occurrence of judicial improprieties. I urge you to give these concerns your full and fair consideration.

Please keep me informed of developments in this matter. I look forward to your reply.

Sincerely,

Mike Quigley  
Member of Congress

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

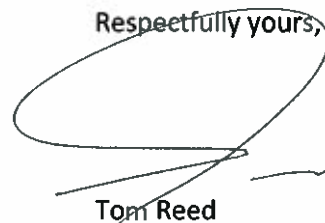
The Honorable Eric H. Holder Jr.  
Attorney General of the United States  
950 Pennsylvania Ave., NW  
Washington DC 20530

Dear Attorney General Holder,

I write to you because concerns have been presented to me regarding judicial action in the case of U.S. v. Rubashkin. (Case No. 2:08-cr-01324-LRR) There have been concerns presented to me regarding the actions of the presiding judge in the trial for that case. Anyone who is guilty of the severe charges that Mr. Rubashkin was convicted of should be punished accordingly and to the full extent of the law. My concern is only that the trial at which he was convicted was a fair one. The concern that has been presented to me is that the presiding judge had inappropriate knowledge and participation in the planning for the law enforcement raid during which much of the evidence for the subsequent trial was collected. One might worry that this knowledge might influence the judge at the later trial.

I know that you as Attorney General are as concerned as I am with the fairness of the proceedings in federal court and I know that you work every day to uphold that fairness. I do not request any leniency for Mr. Rubashkin. All I ask is that your office assures that the trial was fair. If in your determination it was fair then so be it, justice has been done. If it was not we as a lawful society need to make things right through a fair trial, the results of which should then stand no matter the verdict. I am confident that you will make the just determination in this case based on the facts which you have at hand, which are far greater than those I am privy to.

Respectfully yours,

A handwritten signature in black ink, appearing to read 'Tom Reed', is written over a horizontal line. The signature is stylized with a large loop at the beginning.

Member of Congress



ARMED SERVICES  
JUDICIARY

# Congress of the United States

House of Representatives

Washington, DC 20515-0916

February 2, 2011

The Honorable Eric Holder  
Attorney General of the United States  
950 Pennsylvania Ave., NW Suite 5111  
Washington, DC 20530

IN RE: U.S. v. Rubashkin, Case No. 2:08-cr-01324-LRR (ND IA)

Dear Attorney General Holder:

I am writing to ask that you examine the Federal criminal case against Sholom Rubashkin, who was found guilty in November 2009 of 86 counts of bank fraud and related charges in the U.S. District Court for the Northern District of Iowa. While I am not privy to all of the details of the case, I am troubled by some details that indicate abuses in the federal judicial system.

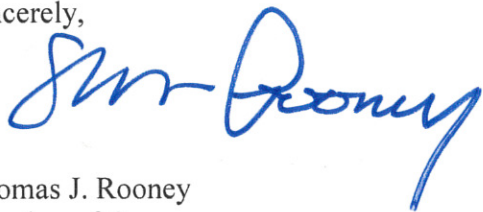
First, it is my understanding that the Judge who handled the case engaged in detailed discussions with both prosecutors from the United States Attorney's office and law enforcement officials several months preceding the May 2008 raid on Mr. Rubashkin's kosher meat packing plant in Postville, Iowa. Neither the Judge nor the U.S. Attorney's office disclosed these meetings to Mr. Rubashkin's counsel before the trial, preventing his attorneys from invoking these meetings as grounds for recusal of the Judge. These facts were not discovered until a FOIA request was made by his Attorney after Mr. Rubashkin was sentenced.

Also troubling is the fact that the entire prosecution was premised initially on alleged immigration law violations; however, every single immigration count in the indictment was dropped. Ultimately, Mr. Rubashkin was tried, and found guilty, of bank fraud and other white collar crimes. He was sentenced to 27 years in jail – a harsher sentence than the US Attorney recommended.

Both situations concern prosecutorial misconduct that threatens the fairness and credibility of our judicial system. Thus far, all requests for inquiry to the Department of Justice have been referred to the U.S. Attorney's office for the Northern District of Iowa – the office that allegedly took part in meetings before the raid.

In order to ensure justice is being served, I respectfully request that you formally inquire into these matters and take corrective action if—at the conclusion of a full inquiry of his sentencing—it appears that abuses have been committed.

Sincerely,



Thomas J. Rooney  
Member of Congress

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-2003**  
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---

44 CALVERT STREET  
SUITE 349  
ANNAPOLIS, MD 21401  
(410) 295-1679  
FAX: (410) 295-1682

November 9, 2010

The Honorable Eric H. Holder, Jr.  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Attorney General Holder:

I am writing to call your attention to concerns raised by several of my constituents regarding the recent prosecution and conviction of Sholom Rubashkin, a former Chief Executive Officer of the defunct Agriprocessors, the largest kosher meatpacking plant in the United States. In November 2009, after being convicted of financial fraud, Mr. Rubashkin was sentenced to prison by Judge Linda Reade. I have enclosed correspondence signed by seven Rabbis in my district urging the Justice Department to initiate an inquiry into this matter.

I have enclosed additional background materials provided by my constituents, summarizing the federal investigation of Agriprocessors and the arrest, indictment, trial and conviction of Shalom Rubashkin. As the enclosed documents indicate, the undersigned Rabbis believe that the Justice Department should initiate an inquiry into the circumstances surrounding the conviction of Mr. Rubashkin.

I trust that you will evaluate whether the decisions made by judges and prosecutors are worthy of an investigation by your department. I urge you to give such concerns your full and fair consideration. Please keep me informed of developments in this matter. I look forward to your reply.

Sincerely,



John P. Sarbanes  
Member of Congress

JPS/mp

COMMITTEE ON ENERGY AND COMMERCE

HOUSE PERMANENT SELECT  
COMMITTEE ON INTELLIGENCE

CHIEF DEPUTY WHIP

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-1309**

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Telephone: 773-506-7100  
Fax: 773-506-9202

820 DAVIS STREET, SUITE 105  
EVANSTON, IL 60201  
Telephone: 847-328-3409  
Fax: 847-328-3425

December 1, 2010

The Honorable Eric Holder  
Attorney General of the United States  
950 Pennsylvania Avenue NW, Suite 5111  
Washington, D.C. 20530

Re: U. S. v. Rubashkin, Case No. 2:08-cr-01324-LRR (N.D. IA)

Dear Attorney General Holder:

I know that you have received a number of letters from my colleagues raising concerns about the above case, concerning Sholom Rubashkin. I would like to join them in encouraging you to look into this case.

Mr. Rubashkin, who served as vice president of the Agriprocessors meat processing plant in Postville, Iowa, was convicted of bank fraud and related charges following the May 2008 raid on the Agriprocessors plant by federal authorities. Subsequently, Mr. Rubashkin was sentenced to 27 years in prison.

While I fully understand the seriousness of the charges themselves, I share my colleagues' concern about the length of the sentence and the involvement of the judge in the raid on Agriprocessors.

I have been told that, following a lawsuit for Freedom of Information Act information, it has been discovered that the judge who presided over the case, Judge Linda Reade, was herself involved in the planning of the raid and had "weekly" *ex-parte* meetings with the prosecutors and federal ICE agents prior to the raid. Moreover, according to those reports, she and the prosecutors did not disclose any of these meetings and her participation to the defense lawyers, as required by law.

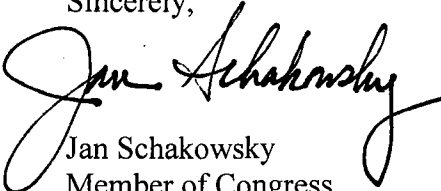
Additionally, she sentenced Mr. Rubashkin to 27 years in prison, two years longer than the sentence recommended by the prosecutors. Some judicial experts have suggested that this sentence is too long and disproportionate to the crimes of which Mr. Rubashkin was convicted.



The Honorable Eric Holder  
December 1, 2010  
Page 2

I join my colleagues in asking that you give every consideration to investigating the allegations about this case and the above issues, in keeping with applicable laws, rules and regulations. Thank you for your consideration.

Sincerely,



Jan Schakowsky  
Member of Congress

DEBBIE WASSERMAN SCHULTZ

20TH DISTRICT, FLORIDA

CHIEF DEPUTY WHIP

COMMITTEES:  
COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEES:  
CHAIR, LEGISLATIVE BRANCH  
VICE CHAIR, FINANCIAL SERVICES AND  
GENERAL GOVERNMENT

SELECT INTELLIGENCE  
OVERSIGHT PANEL

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515-0920

WASHINGTON OFFICE:  
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(954) 437-4776 (Fax)

19200 WEST COUNTRY CLUB DRIVE  
THIRD FLOOR  
AVENTURA, FL 33180  
(305) 936-5724  
(305) 932-9864 (Fax)

December 23, 2010

The Honorable Eric Holder  
Attorney General of the United States  
950 Pennsylvania Avenue NW  
Suite 5111  
Washington, D.C. 20530

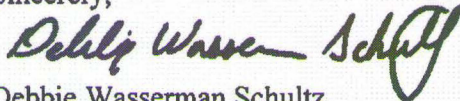
Dear Attorney General Holder:

I write to call your attention to the case of U.S. v. Rubashkin (Case No. 2:08-cr-01324-LRR). As you may know, the defendant, Sholom Rubashkin, was the chief executive officer of Agriprocessors, a kosher meatpacking company located in Postville, Iowa. Mr. Rubashkin was arrested after an immigration raid on the plant in May 2008. He was subsequently convicted on 86 counts of financial fraud and sentenced to 27 years in prison. A number of my constituents have expressed concern about serious allegations of judicial misconduct and unfair sentencing in this case. I respectfully request that you carefully review these allegations and take appropriate action to ensure that justice is served.

I understand that documents produced as a result of a Freedom of Information Act request by Mr. Rubashkin's defense attorneys suggest that the presiding federal judge, Linda Reade, participated in impermissible *ex parte* communications with prosecutors. Defense attorneys claim that Judge Reade's involvement in preparations for the May 2008 raid were not properly disclosed prior to the trial, and this prevented them from moving for her recusal. In addition, the 27 year sentence imposed by Judge Reade exceeded the request of prosecutors, while ignoring six former U.S. Attorneys General who have argued that this sentence is excessive and disproportionate. This apparent unfair treatment of Mr. Rubashkin has no place in our justice system, in which we must fiercely protect equal treatment under the law.

Thank you for your past commitment to upholding the highest standards of professionalism, integrity, and justice in our judicial system. The allegations of misconduct in this case are troubling, and I believe they warrant your careful review. I appreciate your prompt attention to this matter, and I look forward to your reply.

Sincerely,



Debbie Wasserman Schultz  
Member of Congress





**BRAD SHERMAN**  
MEMBER OF CONGRESS

October 18, 2010

The Honorable Eric Holder  
Attorney General of the United States  
950 Pennsylvania Ave., NW  
Suite 511  
Washington, DC 20530

Re: *U.S. v. Rubashkin, Case No. 2:08-cr-01324-LRR (ND IA)*

Dear Attorney General Holder:

Thank you for your past commitment to ensuring that all criminal matters presented to the federal courts by the Department of Justice are handled in a just manner conforming to the highest of ethical and professional standards. In this spirit, I wanted to bring to your attention the criminal case of Sholom Rubashkin, which involves allegations of judicial impropriety and unduly harsh sentencing.

Until 2008, Mr. Rubashkin was a manager of the largest kosher meatpacking plant in the country, located in Postville, Iowa. The business – known as Agriprocessors – eventually went into bankruptcy following the massive federal immigration raid in May 2008. Mr. Rubashkin was indicted in seven superseding indictments and went to trial on numerous counts relating to financial transactions between Agriprocessors and a local bank and cattle vendors. Mr. Rubashkin was convicted on 86 counts of financial fraud in November 2009.

I would like to first express my serious concerns about the arguments proposed by the government with respect to Mr. Rubashkin's release on bail. Based on a press article:

The prosecutors sought to revoke bail, alleging that Jews pose a unique flight risk as a consequence of the laws set up in Israel after World War II allowing Jews to go to Israel after their near extermination. At the time of the bail hearing, Rubashkin was 49 years old, married, the father of 10 and a citizen of the United States with no prior criminal record. Moreover, he is not an Israeli citizen; he has no bank accounts, property or assets in Israel; he does not have an Israeli passport or visa; and his wife, children and parents reside in the United States and are U.S. citizens.<sup>1</sup>

---

<sup>1</sup> Steinbuch, Robert and Brett Tolman. "Justice Denied." The National Law Journal. 16 Aug. 2010. 5 Oct. 2010.

Did the Department of Justice ever have a policy of arguing against bail for criminal defendants solely on account of their being Jewish? If so, does it still exist? Such a policy is highly discriminatory, and I request, if it is still in existence, that you publicly reverse it immediately and ensure that Department attorneys do not make such arguments in the future.

Secondly, documents produced via a FOIA request may show that Chief Judge Linda R. Reade, the federal judge overseeing Mr. Rubashkin's case, had a number of *ex parte* communications with federal prosecutors concerning the preparations for the May 2008 immigration raid on Agriprocessors. (See Case No. 2:08-cr-01324-LRR). According to allegations made by Mr. Rubashkin's attorneys, these communications were not disclosed to them, as they likely should have been under the law. And, without knowledge of these communications, Mr. Rubashkin was unable to move for a recusal of Chief Judge Reade, which should have been his right. I request that you review whether any federal prosecutor involved in the Rubashkin case violated his or her ethical and/or legal obligations with regard to these *ex parte* communications.

And lastly, I am in possession of a letter from six former United States Attorneys General, and others, to Chief Judge Reade concerning the Government's initial sentencing memorandum in Mr. Rubashkin's case. (Attached.) The letter notes that the Government's assertion that a guideline sentence was warranted for Mr. Rubashkin amounts to a "potentially severe injustice". I am particularly concerned about the letter's statement that the Government "erroneously suggests that a variance from the guideline sentence of life imprisonment would have to be supported by 'compelling grounds,' and never acknowledges [the] Court's fundamental obligation to make an 'individualized assessment based on the facts presented' of all the §3553(a) factors".

Mr. Rubashkin ultimately received a 27-year sentence from Chief Judge Reade, which added two additional years beyond the Government's requested 25-year sentence. As you know, sentences imposed for high-loss, white-collar offenses similar to or greater in severity than Mr. Rubashkin's charged offenses have been consistently below the guideline sentences, with some Judges imposing sentences as low as one year. While I fully respect your Department's discretion in recommending sentences for the criminal cases under its jurisdiction because of the particular severity and peculiarity of Mr. Rubashkin's sentence, I request that you determine whether the Government prosecutors in this case engaged in a fair deliberation and paid due respect to all relevant sentencing laws.

Thank you for your attention to this matter. I know that you will do everything you can to make sure that Mr. Rubashkin, and every person prosecuted by the United States Government, receives fair treatment.

Sincerely,

A handwritten signature in blue ink that reads "Brad Sherman". The signature is fluid and cursive, with a long horizontal stroke at the end.

BRAD SHERMAN  
Member of Congress

ALBIO SIREs  
13TH DISTRICT, NEW JERSEY

COMMITTEE ON FOREIGN AFFAIRS  
SUBCOMMITTEES:  
WESTERN HEMISPHERE  
EUROPE

COMMITTEE ON TRANSPORTATION  
AND INFRASTRUCTURE  
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Congress of the United States  
House of Representatives  
Washington, DC 20515-3013

December 2, 2010

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260 HIGH STREET, 1ST FLOOR  
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The Honorable Eric Holder  
Attorney General of the United States  
950 Pennsylvania Ave. NW  
Suite 511  
Washington, DC 20530

Dear Attorney General Holder,

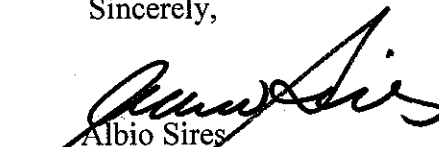
I am writing to you due to concerns that have been brought to my attention regarding the case of Sholom Rubashkin (U.S. v. Rubashkin). I request that the Department of Justice review this matter.

As you know, in May 2008, Immigration and Customs Enforcement (ICE) officers raided Agriprocessors, a meatpacking plant located in Postville, Iowa. Later that year, I visited Postville to investigate the raid that led to the detention of nearly 400 undocumented worker and the events surrounding it. Mr. Rubashkin, Agriprocessor's chief executive officer, was indicted on several charges as a result of the ICE raid, and ultimately he was convicted of bank fraud.

Since his conviction, allegations have arisen claiming misconduct during the U.S. v. Rubashkin case and questioning Mr. Rubashkin's sentencing. Mr. Rubashkin was convicted of financial crimes, and he was sentenced to 27 years in prison. For a 51 year-old man, this sentence essentially equates to a life sentence. Several lawyers, legal scholars, and former Attorney Generals have commented that this sentence length is unreasonable and disparate. Furthermore, information has been released stating that Judge Linda Reade, the judge presiding over Mr. Rubashkin's trial, had been involved with planning of the May 2008 raid, and her involvement was not disclosed to defense attorneys in the case.

I encourage the Department of Justice to review the allegations mentioned above. Thank you for your consideration of this request.

Sincerely,

  
Albio Sires  
Member of Congress

**CHRISTOPHER H. SMITH**

4TH DISTRICT, NEW JERSEY

CONSTITUENT SERVICE CENTERS:

1540 Kuser Road, Suite A9  
Hamilton, NJ 08619-3828  
(609) 585-7878  
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2373 Rayburn House Office Building  
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<http://chris-smith.house.gov>



**Congress of the United States**

**House of Representatives**

October 21, 2010

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RANKING MEMBER

DEAN, NEW JERSEY DELEGATION

The Honorable Eric H. Holder, Jr.  
Attorney General of the United States  
950 Pennsylvania Ave., NW  
Suite 5111  
Washington, D.C. 20530

PER FAX: 202-514-4482

Dear Mr. Attorney General:

I would like to bring to your attention my constituents' concern that the actions of a U.S. Attorney have called into question the fairness of our federal judicial system in matters touching on their Jewish faith. They and I strongly believe that it should be the policy of the U.S. government that U.S. Attorneys never treat Jewish Americans, solely or substantially because of their Jewish identity, as a "flight risk" so as to deny them bail.

My constituents brought this issue to my attention in connection with reports about the U.S. Attorney's actions in the case of *U.S. v. Rubashkin*, pending in the federal court system. In 2008 the U.S. Attorney for the Northern District of Iowa, based on evidence gained in connection with a raid on a kosher meatpacking plant, indicted Sholom Rubashkin on a number of counts relating to financial transactions between the plant and a local bank. The U.S. Attorney sought to deny bail on grounds which prominently included that Mr. Rubashkin, as a Jew, posed a flight risk to Israel. The magistrate judge did in fact deny Mr. Rubashkin bail, though after Mr. Rubashkin spent over seventy days in jail, the district judge reversed this decision.

While I am not writing to request relief for Mr. Rubashkin, since his case is still pending, I urge you to take decisive action, consistent with your authority as Attorney General, to ensure that U.S. Attorneys do not treat Jewish Americans, solely or substantially because of their Jewish identity, as a "flight risk" so as to deny them their right to bail or any other right. As you know, the 8<sup>th</sup> amendment to the Constitution has long been understood to imply that criminal defendants have a right to bail, at least in the absence of extraordinary circumstances – and the very notion that one's religion could be such an extraordinary circumstance is profoundly repugnant to our country's traditions and to fundamental justice. I also urge you to take all proper actions,



consistent with U.S. law and regulations, to ensure that U.S. Attorneys handle all matters presented to courts, including sentencing and ex parte contacts, in a fair, even-handed, open, and uniform manner, completely free of religious bias. The fairness of our federal justice system depends not only on the decisions of judges but also on the actions of U.S. prosecuting attorneys.

I appreciate your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Smith", written in a cursive style.

CHRISTOPHER H. SMITH  
Member of Congress

COMMITTEE ON SMALL BUSINESS  
RANKING DEMOCRATIC MEMBER

COMMITTEE ON FINANCIAL SERVICES  
SUBCOMMITTEE ON INSURANCE, HOUSING AND  
COMMUNITY OPPORTUNITY

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS  
AND CONSUMER CREDIT

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**  
**NYDIA M. VELAZQUEZ**  
12TH DISTRICT, NEW YORK

CONGRESSIONAL HISPANIC CAUCUS  
CONGRESSIONAL CAUCUS FOR  
WOMEN'S ISSUES  
CONGRESSIONAL  
PROGRESSIVE CAUCUS  
OLDER AMERICANS CAUCUS  
CONGRESSIONAL  
CHILDREN'S CAUCUS

June 5, 2012

The Honorable Eric H. Holder, Jr. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

RE: United States v. Sholom Rubashkin (N.D. IA)

Dear Mr. Holder:

As a member of Congress, I am committed to see that justice is served fairly for all who come before our courts. In the vast majority of cases, defendants are afforded fair process and, if found guilty, are sentenced fairly. But this is not always true, one particular case that has come to my attention illustrates clearly and tragically that injustice happens, and that disparate sentences are sometimes imposed, the prosecution of Sholom Rubashkin.

Rubashkin is the former manager of the Agriprocessors kosher meatpacking plant in Postville, Iowa raided by the government in May 2008.

Although initially arrested on immigration-law violations, all such charges were subsequently dismissed by the government, and Rubashkin was tried and found guilty of bank fraud and related white-collar crimes in November 2009. He was sentenced in June 2010 to 27 years in prison, two years beyond what even the government recommended.

This case raises very serious issues of judicial and prosecutorial misconduct, resulting in an unfair and disparate sentence, I believe these allegations are sufficiently serious to warrant an investigation by you.

Rubashkin's harsh, 27-year sentence raises a number of troubling concerns. He is a first-time offender and was found guilty of white-collar violations with no hint of violence or physical harm to anyone. The federal Judge gave what amounts to a life sentence for a 51-year-old man. The sentence has been criticized by many lawyers and legal scholars, including six of your predecessors who publicly called on the trial judge to impose a fair sentence consistent with other, similar cases. Instead, the judge imposed a sentence greater than many sentences imposed on other defendants convicted of far more serious white-collar crimes.

The process by which the government and judge arrived at sentence is troubling as well.

For example, after the Agriprocessors firm went into bankruptcy as a result of the May 2008 raid, the government deliberately hampered the ability of the trustee to sell the company's considerable assets at a fair price in order to minimize any loss to the Iowa bank that had extended credit to the company. The government trustee further lowered the value of Agriprocessors by mishandling inventory at the Postville plant. Moreover, the government unnecessarily included a forfeiture clause in the initial, immigration-based indictment; further reducing the marketability of the plant's considerable assets. The resulting decrease in the value of Agriprocessors significantly inflated the "loss" for Sentencing Guidelines purposes.

In short, these steps by the government had the effect of significantly boosting Rubashkin's Sentencing Guideline numbers; which in turn provided justification for the judge to impose an excessive and disproportionate sentence.

There are other troubling aspects of this case, such as the fact that the federal judge who presided over the trial of Rubashkin improperly engaged in numerous and detailed, ex parte discussions in the six months preceding the May 2008 raid with the Office of the United States Attorney and immigration officials. None of this was disclosed by either the judge or the prosecutors to the lawyers representing Rubashkin. They discovered it only after reviewing a large quantity of documents received post sentencing as a result of an earlier FOIA inquiry.

To date, however, the Department of Justice has been unwilling to inquire into the Iowa prosecutors' handling of the Rubashkin case, Lanny Breuer, Assistant Attorney General for the Criminal Division, has responded to requests to engage the Department in reviewing these allegations, by referring the matter to the U.S. Attorney's office for the Northern District of Iowa.

You have recently and publicly expressed a desire to ensure that all federal prosecutions and sentencing procedures are conducted in a fair and even-handed manner.

I therefore request that you expressly and formally inquire into the manner in which Sholom Rubashkin was sentenced, and into what appears to have been a tainted and secret relationship between the trial judge and the government leading to the prosecution of Rubashkin.

Thank You,



Nydia M. Velazquez  
Member of Congress