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10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 In re GRAND JURY SUBPOENA  
13 dated February 1, 2006.

14 JOSHUA WOLF,  
15  
16 Subpoenaed Party.

**No. CR 06-90064 MISC MMC**

**SUBPOENAED PARTY'S OBJECTION TO  
TENTATIVE ORDER RESTRICTING  
DISTRIBUTION OF GRAND JURY  
TRANSCRIPT**

Judge Alsup

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19 Subpoenaed Party Josh Wolf hereby objects to the Tentative Order Restricting  
20 distribution Of Grand Jury Transcript signed on July 5, 2006 allowing Mr. Wolf to object by July  
21 14, 2006.

22 Mr. Wolf's objection is as follows:

23 The Supreme Court has explained that there are five goals of grand jury secrecy:

24 (1) To prevent the escape of those whose indictment may be contemplated; (2) to insure the  
25 utmost freedom to the grand jury in its deliberations, and to prevent persons subject to  
26 indictment or their friends from importuning grand jurors; (3) to prevent subornation of  
27 perjury or tampering with the witnesses who may testify before [the] grand jury and later  
28 appear at the trial of those indicted by it; (4) to encourage free and untrammelled disclosures  
by persons who have information with respect to the commission of crimes; (5) to protect

1 innocent accused who is exonerated from disclosure of the fact that he has been under  
2 investigation, and from the expense of standing trial where there was no probability of guilt.

3 *Douglas Oil Co. v. Petrol Stops Northwest*, 441 U.S. 211, 219 n.10, 99S.Ct. 1667, 1673 n.10  
4 (1979). Mr. Wolf has chosen to reveal his knowledge of what occurred before the grand jury and  
5 in the related court hearings of June 15, 2006. The grand jury secrecy does not apply to Mr.  
6 Wolf. *In re Alvarez*, 351 F.Supp 1089 (S.D.Cal. 1972) (witness before a grand jury may later  
7 verbally divulge her testimony); *In re Russo*, 53 F.R.D. 564 (C.D.Cal. 1971) (witnesses before  
8 federal grand juries are free to disclose what transpired during their presence in the grand jury  
9 room); *In re Vescovo Special Grand Jury*, 473 F.Supp 1335 (C.D.Cal. 1979) (no obligation of  
10 secrecy may be imposed upon grand jury witnesses; witnesses may be interviewed after their  
11 appearance and repeat what they said before the grand jury or relate any knowledge they have on  
12 the subject of the inquiry); *see also In re Grand Jury Subpoena Duces Tecum, Dated December*  
13 *9, 1983*, 575 F.Supp 1219 (E.D.Pa.1983) (government's proposed order directing bank to refrain  
14 from notifying its customer of production of records subpoenaed by grand jury for a period of 90  
15 days was contrary to general rule precluding district courts from requiring grand jury witnesses  
16 to keep silent about their testimony). The five goals announced by the Supreme Court have been  
17 diminished in these proceedings. The information of what occurred before the grand jury on  
18 June 15, 2006 has been announced to the public and the information has lost its secret  
19 characteristic. *Cf. In re Charlotte Observer*, 921 F.2d 47, 50 (4<sup>th</sup> Cir. 1990) ("Once announced to  
20 the world, the information lost its secret characteristic...."). It is difficult to understand why the  
21 Court or the government seeks to keep the information of what occurred on June 15, 2006 before  
22 the grand jury and the hearing protected from disclosure. Neither the Court nor the government  
23 has articulated any exceptional circumstances that require the hearings and pleadings by the  
24 government to be secret. *See In re Grand Jury Proceedings*, 814 F.2d 61, 69 (1<sup>st</sup> Cir. 1987)  
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1 (collecting cases that at a minimum require the articulation of the exceptional circumstances to  
2 keep matters secret.)

3 Mr. Wolf reiterates his request that the grand jury transcript of June 15, 2006 be made public  
4 and that he be given a copy.

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6 Dated: July 14, 2006

Respectfully Submitted,

7 DAN SIEGEL  
8 JOSE LUIS FUENTES  
9 SIEGEL & YEE

10 Attorneys for Joshua Wolf  
11 Subpoenaed Party

12 By:

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14 JOSE LUIS FUENTES