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BY U.S. MAIL AND E-MAIL

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Re: *United States v. Joseph L. Bruno*, Criminal No. 09-CR-29 (N.D.N.Y.)

Dear Assistant Attorney General Breuer and Acting U.S. Attorney Baxter:

As you know, we represent Mr. Joseph Bruno, the former Majority Leader of the New York State Senate. In recent days, it has come to our attention that FBI agents associated with this case have engaged in tactics that are either aimed at intimidating our client and harassing his family and co-workers or are so insensitive to those impacts that it is hard to believe them to be benign. Specifically, we are raising the issue of so-called trial subpoenas the FBI has been serving despite the fact that trial in this case is months and months away and there are so many pre-trial issues pending. These latest events underscore the request we made earlier to have Main Justice look into the circumstances of how this case was pursued, how the honest service charges were stretched so far, and also our request that someone reach out to talk with the former U.S. Attorney about these issues. We are also asking that the FBI discontinue these tactics—whether they are improperly motivated or only appear that way.

Though the FBI has issued subpoenas to a number of individuals in recent weeks, two subpoenas in particular are troubling. First, in early July 2009, FBI agents subpoenaed Mr. Bruno's daughter, Catherine Bruno-Hines. (Earlier in the investigation, his daughter was

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surprised by an early morning visit from agents seeking to compel her testimony before the grand jury.) Putting aside that Ms. Bruno-Hines has absolutely no information that could be actually relevant against her father, there should be a much greater sensitivity to these repeated confrontations with our client's daughter.

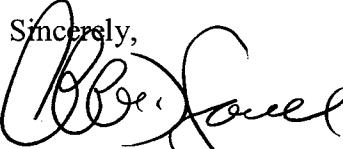
In another incident, just last week, agents subpoenaed Kris Thompson, Mr. Bruno's current spokesman and colleague at CMA Consulting. The FBI just happened to visit Mr. Thompson the day after he spoke out in the media against the current prosecution. On July 14, 2009, Mr. Thompson was quoted in an article saying the current prosecution was an example of "an overzealous and out-of-control government prosecutor embarking on a political witch hunt." Glenn Blain, "Ex-Senate Majority Leader Joseph Bruno's War Chest Helps Legal Fees," *New York Daily News*, July 14, 2009. As if to prove Mr. Thompson's point, two FBI agents visited him the very next day, serving him with a subpoena and asking him questions for the first time in what has been a four-year investigation. To make matters worse, the agents visited Mr. Thompson at his and Mr. Bruno's current place of employment so that all the other employees could see. There was no prior call to ask if service could be received in some other way. Indeed, Mr. Thompson received no prior notice of this visit at all.

We are sure that the agents involved will find some explanation for why they decided to serve Mr. Bruno's daughter or about their timing of visiting Mr. Thompson. However, there is no good reason for the government to serve subpoenas at this time and in this manner. The trial in this matter is, at best, four months away. In addition, there are pending pre-trial motions that have not even been argued. Most recently, we have raised with the government and court the efficacy of proceeding while the Supreme Court resolves whether the honest services statute under which Mr. Bruno was indicted is constitutional—an issue that the United States Supreme Court is going to address this fall. After spending nearly four years investigating Mr. Bruno, it is quite remarkable that the government feels so compelled to visit these particular people at this particular time in the manner that they did.

In our prior letters and those of our co-counsel in Albany, we raised the issue of other misconduct that occurred in this case. Specifically, we detailed the repeated grand jury leaks—leaks that violated Department of Justice policy and Rule 6(e) of the Federal Rules of Criminal Procedure. In addition, we recounted to you what we have heard about the friction that took place between the FBI and the former U.S. Attorney in an effort for the FBI to have charges filed.

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I realize how many cases are on your desk. But as events unfold and there are issues, I would be remiss to my client if I did not raise them. We have seen in so many cases now how a case can proceed only to find later that mistakes were made. It is best, then, to address mistakes promptly when they arise. Please feel free to contact me if you need any additional information.

Sincerely,

Abbe David Lowell

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