

LORETTA E. LYNCH

February 9, 2015

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Patrick J. Leahy
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Leahy:

Thank you again for giving me the opportunity to appear before the Senate Judiciary Committee on January 28, 2015. Enclosed please find my responses to the Questions for the Record that I received from you, as well as Senators Hatch, Sessions, Graham, Comyn, Lee, Cruz, Flake, Vitter, Perdue, Tillis, Feinstein, Schumer, Durbin, Whitehouse, and Franken.

Sincerely,



Loretta E. Lynch

Enclosure

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**Nomination of Loretta E. Lynch to be Attorney General of the United States
Questions for the Record
Submitted February 9, 2015**

QUESTIONS FROM SENATOR HATCH

1. On April 25, 2013, Professor Paul Cassell of the University of Utah College of Law testified before the House Judiciary Subcommittee on the Constitution regarding implementation of crime victims' rights statutes. These include the Mandatory Victim Restitution Act, 18 U.S.C. §3663A, and the Crime Victims Rights Act, 18 U.S.C. §3771, both of which I helped to enact. He suggested that your office had failed to follow these statutes in a sealed case involving a racketeering defendant who had cooperated with the government. Specifically, he cited documents appearing to show that your office failed to notify victims of the sentencing in that case and had arranged for the racketeer to keep the money he had stolen from victims, even though the law makes restitution mandatory. Please explain in detail how your office protected the rights of crime victims in this case and, in particular, how it complied with the mandatory restitution provisions of these two statutes.

RESPONSE: The defendant in question, Felix Sater, provided valuable and sensitive information to the government during the course of his cooperation, which began in or about December 1998. For more than 10 years, he worked with prosecutors from my Office, the United States Attorney's Office for the Southern District of New York and law enforcement agents from the Federal Bureau of Investigation and other law enforcement agencies, providing information crucial to national security and the conviction of over 20 individuals, including those responsible for committing massive financial fraud and members of La Cosa Nostra. For that reason, his case was initially sealed.

During my most recent tenure as the United States Attorney for the Eastern District of New York, the Office's only activity related to this matter was to address whether certain materials should remain sealed. My Office's position has consistently been upheld by the courts.

The initial sealing of the records related to Sater—which pre-dated my tenure as United States Attorney—occurred by virtue of a cooperation agreement under which Sater pled guilty and agreed to serve as a government witness. In 2013, following proceedings before United States District Judge I. Leo Glasser of the Eastern District of New York, roughly three-fourths of the materials in this case were unsealed. At this point, the majority of the materials that remain sealed go to the heart of the nature of Sater's cooperation in several highly sensitive matters. Judge Glasser has ruled that these remaining materials should remain sealed on the basis of, among other things, the "safety of persons or property" and the "integrity of government investigation and law enforcement interests."

In addition to Judge Glasser's 2013 ruling, a three-judge panel of the Second Circuit Court of Appeals twice rejected efforts to reconsider the decision to keep certain materials sealed in this case. The judges reviewing Judge Glasser's order concluded that "given the extent and gravity of Sater's cooperation," continued sealing of select materials was appropriate. In a separate

instance, the court went out of its way to warn the plaintiffs behind the lawsuit to cease any further “frivolous” motions or else risk court-imposed sanctions. Finally, just last month, the Supreme Court declined to hear any further arguments from the parties behind this lawsuit.

In terms of restitution, there has been speculation that my Office pursues restitution from cooperating defendants differently than it does from other defendants. It does not. With respect to Sater’s case, the information in the record that concerns the issue of restitution remains under seal. As a matter of practice, however, the prosecutors in my Office work diligently to secure all available restitution for victims, whether the defendants convicted in their cases cooperate with the government or not. In fact, since June 2010, in EDNY cases, judges have imposed nearly two billion dollars in restitution to individual and government victims.