

## AMOS DOV SILVER: REQUEST FOR SUPPLEMENTAL INFORMATION

### I. Information Requested In Relation To The Provisional Arrest Request

#### A. Export, Import, Trade and Supply

Text of Section 9(a): The holder of premises shall not allow them to be used for the preparation, use, sale or other disposition of a dangerous drug, without a permit.

#### Questions:

1. What is the definition of a “dangerous drug?” If this term is statutorily defined then the statute should be included. It would also be helpful if the prosecutor specifically confirmed that the drugs alleged to be sold through Telegrass meet the definition of a “dangerous drug.”

תכונה ל"סם מסוכן" בהגדרתו בפקודת הסמים המסוכנים [נוסח חדש] תשל"ג-1973. – כל החומרים המפורטים בתוספת הראשונה לפקודה. כולל את כל הסמים שנמכרים בטלגראס.

2. It would be helpful for the prosecutor to confirm that under Israeli law a “premise” can constitute a virtual platform such as Telegrass.

לא הבנתי את השאלה

3. It would be helpful for the prosecutor to confirm that the drugs purchased and sold through Telegrass were done so without a permit.

פאשרת. 2-4

Text of Section 13: A person shall not export a Dangerous Drug, shall not import the same, shall not facilitate export or import thereof, shall not perform trade with the same, shall not perform any other transaction with the same and shall not supply the same in any manner, whether for consideration or not for consideration, unless such is permitted in this Ordinance or regulations thereof or license from the Director.

#### Questions:

1. It would be helpful for the prosecutor to confirm that providing a platform for the purchase and sale of Dangerous Drugs constitutes a “transaction” or “trade” with dangerous drugs such that it falls within the scope of this section.

עמדתנו הפלטפורמה מאפשרת את הסחר, והינה חלק משמעותי בביצוע עבירת הסחר, בלעדיה אין, ולכן - מדובר בביצוע עיקרי של העבירה או לכל הפחות בסיוע לה. בנוסף, הגדרת "עסקה אחרת" בפסקה היא רחבה מאוד.

Formatted: Right

2. What is the definition of “export,” “import,” and “trade” under Israeli law?

אבי – אני לא מבינה איך השאלה. מדובר בייצוא מהארץ, ייבוא לארץ וסחר – החלפת סמים בתמורה. 2-3

Formatted: Right

4. What is our proof that cannabis was sent to Israel from a foreign country through Telegrass?

אין לנו הוכחה ולא ניחס זאת. 3-5

6. For dual criminality purposes, it would be helpful for the prosecutor to provide a known minimum quantity of cannabis that has been purchased or sold through Telegrass.

4-7. אין לנו כמויות. אנחנו יכולים לציין שבתיקים שנאספו יש מכירות בסך 6+ ק"ג בסה"כ אבל זו ממש טיפה בים ואין לנו דרך להעריך כמה סמים נמכרו דרך טלגראס בשנתיים שהארגון קיים. בכוונתנו לקבל חו"ד הערכה ממטא"ר שתסביר שמרבית שוק הסמים הקלים עבר לטלגראס. זה לא יכול לתון כמותי.

## B. Brokering

Text of Section 14: A person shall not undertake as a broker any act prohibited under section 13, whether in return for payment or not.

Question:

1. It would be helpful for the prosecutor to define the term "broker." If this term is statutorily defined then the statute should be included.

2- מתווך – ס' 14

Formatted: Right-to-left

## C. Inducing a Minor to Use Dangerous Drugs

Text of Section 21(a)(1): Giving a dangerous drug to a minor.

Question:

1. It would be helpful if the prosecutor confirmed that under Israeli law, providing a platform through which a dangerous drug is sold to a minor constitutes "giving a dangerous drug to a minor."

2- מוגדר בפקודה בס' 21 – כל מי שנותן לקטין סם. האפליקציה בעצם היא זו שמאפשרת לקטין להיכנס, ולרכוש מסוחר סמים, ועמוס אף הצהיר בגלוי שהוא מעודד זאת ומסייע לקטינים למצוא סוחר שימכור להם

Formatted: Right-to-left

## D. Activist in a Criminal Organization

Text of Section 2(a): A person who heads a criminal organization or a person who does one of the following acts in a manner that could promote the criminal activity of a criminal organization shall be liable to imprisonment for 10 years.

Questions:

1. What is the definition of a "criminal organization"?
2. What is the definition of "promote"?
3. What is the definition of "criminal activity"?

3-4. אבי. ההגדרות מופיעות בחוק המאבק בסעיף ההגדרות

Formatted: Right-to-left

## E. Money Laundering Prohibition

Text of Section(b)(1): A person undertaking a property transaction or giving false information in order to circumvent or prevent the submission of a report as required under Sections 7, 8A, or 9, or in order to cause an erroneous report to be submitted pursuant to one of those sections, shall be liable to imprisonment for up to five years or to a fine of eight times the fine specified in section 61(a)(4) of the Penal Law; for the purposes of this subsection, "giving false information" shall include not giving an update regarding any detail which must be reported.

נחננו הולכים לפי 3(א) ולא 3(ב) ולכן זה לא רלבנטי

Formatted: Justified, Right-to-left

### Questions:

1. What is the "report" in this case that was required to be submitted pursuant to Sections 7, 8A, or 9? To whom was the report required to be submitted?

לא רלבנטי. 2-4

3. It would be helpful to include Sections 7, 8A, or 9, as applicable, and explain why such report was required under those Sections.

לא רלבנטי. 2-4

5. It would be helpful for the prosecutor to explain what false information Silver provided, or what property transaction he undertook, in order to circumvent or prevent the submission of the required report.

לא רלבנטי. 3-6

7. For dual criminality purposes, it would be helpful for the prosecutor to provide any evidence that Telegrass used Bitcoin payments in order to conceal or disguise the proceeds from the drug transactions.

4-8. הראיות מצביעות על שימוש בביטקוין לתשלום משכורות למנהלים – בעיקר הודעות הסוכן כפי שפרטנו בתצהיר ובנוסף בהאזנת הסתר לרן בוגנים שפורטה בתצהיר עולה השימוש בביטקוין

9. For dual criminality purposes, do we know if any of the proceeds from sales of cannabis to customers through Telegrass were then used by Telegrass to purchase more cannabis for resale?

לא יודעים. 5-10

## F. Obstruction of Justice

Text of Section 244: If a person does anything with the intention to prevent or foil a judicial proceeding or to cause a miscarriage of justice, whether by frustrating the summons of a witness, by concealing evidence or in some other manner, then he is liable to three years imprisonment; for this purpose, "judicial proceeding" includes a criminal investigation and the implementation of a direction by a Court.

### Questions:

1. It would be helpful for the prosecutor to specifically describe the evidence that Silver acted with an **intent** to prevent or foil a judicial investigation. Is there any evidence that

Silver took specific actions after learning about the investigation that hindered the investigation?

נוסף על מה שנכתב בתצהיר בעניין האפשרות למחיקת המידע, והשימוש בטלגרם סילבר כותב בגלוי בפייסבוק שלו על נערה בת 17 ששוחח עם אמא שלה ואמר לה שאם עוד פעם תשתף פעולה עם המשטרה הוא יפרסם את פרטיה. בנוסף, ועל פי הפסיקה הישראלית המעשה לא חייב להיות קשור לחקירה שנפתחה אלא גם בכוונה להכשיל הליך שיפוטי עתידי.

Formatted: Right-to-left

Formatted: (Complex) Hebrew, English (United States)

## G. Income Tax Ordinance

Text of Section 220(5): If a person wilfully commits one of the offenses specified below with the intent to evade tax or to assist another person to evade tax, then he shall be liable to seven years imprisonment or to the fine said in section 61(a)(4) of the Penal Law and double the amount of income which he concealed, intended to conceal or helped to conceal, or to both penalties; and these are the offenses:

(5) he made use of any fraud, artifice or contrivance or allowed use of them;

### Questions

1. It would be helpful for the prosecutor to specifically describe the fraud, artifice or contrivance that was used to evade paying taxes.

2. יש בידנו תעודת עובד ציבור מיחידת יהלום לפי בשנים הרלבנטיות קרי 2017-2018 סילבר לא דיווח למס הכנסה על הכנסות. (כאשר הוא מצהיר בגלוי כמוכח שהוא חי מטלגרם).

3.4. לגבי ההונאה בסעיף – הפסיקה הישראלית רואה בהיעדר הדיווח משום מעשה מרמה

2.4. It would be helpful for the prosecutor to describe the evidence that Silver used the fraud, artifice, or contrivance with the specific **intent** to avoid paying taxes.

כ"ל

## II. Supplemental Information Requested In Relation To Request for Legal Assistance

Paragraph 12: The Request for Assistance asks U.S. authorities to search Silver and Amar's residence, their vehicles, and any other premises which Silver and Amar have access to and seize cellular phones, computers, tablets, flash drives and documents that may be related to Telegrass operations. U.S. authorities must have probable cause – which amounts to more than a bare suspicion but less than evidence that would justify a conviction – before a search warrant will be issued. To satisfy the probable cause standard, it is necessary to have (1) information that is reasonably trustworthy, to (2) warrant a reasonable belief that a specific location contains evidence of a crime. At this point, we don't believe we have enough information to establish probable cause to obtain a search warrant.

### Questions

1. After reviewing the MLAT, we need more clarity on what exactly the Israeli authorities are looking for – the request broadly indicates seizing cellular phones, computers, and other electronic devices – but it would help to understand what evidence Israel is hoping to obtain from these items and why they think this evidence is on those items, as well as why they think those items are located in Silver's residence, vehicles, etc. For example:

a. What information leads Israeli authorities to believe that any instrumentalities of Silver's crime are located in his residence, vehicles, or any other premises that he has access to?

a-b. סילבר חי בארה"ב, וכותב ארגון וסביר להניח שהוא עושה כן תוך שימוש בטלפון נייד ובמחשב שמן הסתם נמצאים במקום שבו הוא מתגורר.

c. Are there witnesses that have observed Silver in his residence on digital devices messaging back and forth using Telegram?

b-d. לא. אין

e. Can Israeli authorities establish that Silver logged into Telegram from any of these locations in the U.S. through IP addresses? Does Israel have IP address information from Telegram (a UK-based registered company) that shows that Silver logged into his account on numerous occasions from his New York location?

e-f. אין לנו אפשרות לקבל מידע זה

g. Does Silver keep ledgers of his activities that could be located in his residence?

d-h. אין לנו מושג

2. These are all just examples of ways to link the evidence to the location. Ultimately, we need more information than he has committed criminal activity, and, therefore, evidence of his criminality must be located in his home and on his digital devices. It will be difficult to conduct a search at the same time as the arrest without having this additional information, and the search may have to be delayed.

2-3. הזוי!!!!

Paragraph 13: The Request for Assistance asks U.S. Authorities to extract evidence from the seized digital devices and transfer the results in either digital format or hard copies. If U.S. authorities can establish probable cause in order to obtain a warrant to seize the evidence, it would help if Israeli authorities could describe in more particularity what they think they want seized from the digital devices. Not everything on the devices will be indicia of criminal activity, so it would help if there was a way to provide specific information to search for including key words, documents, pictures, etc.

נבקש לקבל את כל תכתובות הטלגרם שלו, וכן הוואטסאפ, מיילים, כל מסמך הקשור למידע פיננסי, ומילות חיפוש - מיטקוין, כסף, מזומן, שרתים, טלגרם, בנק, חשבון, סמים, קנביס, חשיש, מריחואנה, פסיכדליה.

Formatted: English (United Kingdom)

Formatted: Right-to-left

Formatted: English (United Kingdom)

Formatted: Right-to-left

Formatted: Right-to-left

Formatted: English (United Kingdom)

Formatted: Right-to-left

Formatted: English (United Kingdom)

Formatted: Right-to-left

Formatted: English (United States)

Formatted: Right-to-left