

Statement Regarding USA v. Claud R. Koerber

On November 1, 2017, the United States Attorney's Office for the District of Utah issued a press release, after filing notice with the District Court, regarding the decision it has made to re-try Mr. Koerber after a mistrial and hung jury last month. This statement is the official response from Mr. Koerber's legal defense team.

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Mr. Koerber is innocent. We have worked tirelessly – against the government's overreaching force – to vindicate Mr. Koerber, and ultimately ensure, after this case is finally over, the government is forced to repay investors whose losses have been caused and exacerbated by the government's actions.

In 2009, the government announced this case to great fanfare accusing Mr. Koerber of running a "Ponzi scheme." Since that time, we have exposed the unlawful and political motivations behind the prosecution. A federal judge has made express findings against these prosecutors for having engaged in "widespread and systematic misconduct" that violated Mr. Koerber's rights. Yet it continues.

Notably, during the recent trial, prosecutors were finally forced to admit that Mr. Koerber's business wasn't really a Ponzi scheme, and that there were sufficient assets to repay investors in 2008. In its statement today, the government is now alleging that half of investors' money was "redistributed" to others – but that is misleading, as we established at trial that almost every one of Mr. Koerber's investors was paid back more money than they invested. We further revealed how the government was letting its witnesses get away with their own fraud and avoid responsibility for not paying back their own investors, in exchange for testifying against Mr. Koerber. Presumably, the U.S. Attorney's statements today are part of its continued effort to improperly influence witnesses and reassure the public at large that his office's abusive actions

against Mr. Koerber are proper. But the government is misleading the public with additional false allegations against Mr. Koerber. This is not justice, it's not fairness, and the people of Utah should be shocked and alarmed that the U.S. Attorney's Office is continuing its pattern of misconduct. At some point, the government's misconduct has to stop.

Regarding the jury's deliberations in the last trial, the government is not being candid with the public. We too have had a chance to talk with multiple jurors – and from these interviews it was made very clear that the breakdown in the jury deliberations, and the failure to reach a verdict, had more to do with the misbehavior of a single juror. It was described how that one juror attempted to influence the others with private meetings outside the courthouse, private gifts and benefits, and undisclosed conflicts of interest that had been concealed from the court during the voir dire process and throughout the trial. When it appeared that the rest of the jury was ready to render at least a partial verdict acquitting Mr. Koerber, that one juror refused to go along and, in a last-ditch effort, tried to bargain with the other jurors – if they would just vote guilty on any one count, pick one, he would agree to acquit on the rest. And when the other jurors pointed out how improper it was to even make such a proposal, that one juror terminated deliberations. Mr. Koerber has repeatedly expressed his faith and confidence in the jury system, and we are relieved that this one biased juror was not allowed to sway the rest of the jury with his own agenda. While we clearly would have preferred an outright acquittal, the mistrial ensures that justice and fairness may still prevail.

The government's case against Mr. Koerber began back in 2007. Since that time its efforts to prosecute him failed in 2008 with the State of Utah, the first indictment in May 2009, the second indictment in November 2009, the third indictment in September 2011, and the fourth indictment in January 2017. In its most recent press release, the U.S. Attorney contradicted

statements made by his staff in open court regarding the government's theory and advanced demonstrably false allegations against my client.

In the end, as Mr. Koerber has repeatedly said, time is on the side of truth – and the truth is what the U.S. Attorney's Office has been trying to bury, cover up, and distort, for more than a decade, at the expense of an innocent man, and the public's trust in the decisions made by the U.S. Attorney's Office in Utah. If they now want to retry Mr. Koerber – bring it on.

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