

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA)
) CASE NO. 97-0853-CR-NESBITT
 v.)
) Magistrate Judge Robert L. Dubé
 ATLAS IRON PROCESSORS, INC.,) (February 11, 1998, Order of Reference)
 et al.,)
 Defendants.) **MOTION *IN LIMINE* OF THE UNITED**
) **STATES TO EXCLUDE FROM**
) **ADMISSION AT TRIAL ALL**
) **EVIDENCE RELATED TO**
) **POLYGRAPH TESTS AND RESULTS**

The United States moves this Court for a ruling *in limine* excluding from admission at trial any evidence related to the private, *ex parte* polygraph tests taken by the defendants Anthony J. Giordano, Sr., Anthony J. Giordano, Jr. and David Giordano (“Giordano” defendants). The Giordano defendants have notified the United States of their intent to introduce at trial evidence of polygraph tests which each claims to have “passed.” These polygraph tests were unsolicited, unilateral and *ex parte*. The United States did not stipulate to their admissibility; nor can the United States do so under current Department of Justice policy.

For reasons discussed more fully in its supporting Memorandum, the United States requests that this Court enter an Order excluding from admission at trial any evidence related to the polygraph tests of the Giordano defendants. See Memorandum In Support Of The Motion In Limine Of The United States To Exclude From Admission At Trial All Evidence Related To Polygraph Tests And Results. Further, the United States requests that the defendants and all defense counsel be instructed not to make any

statement or reference to these polygraph tests at any time during the trial proceeding. The United States moves that this Court find the polygraph tests at issue in this case inadmissible under Fed. R. Evid. 403 and Fed. R. Evid. 608(a) and (b). In the alternative, pursuant to Fed. R. Evid. 104, the United States requests that an evidentiary hearing be held under *Daubert* to establish the invalidity and unreliability of these polygraph tests under Rule 702.

Respectfully submitted,

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