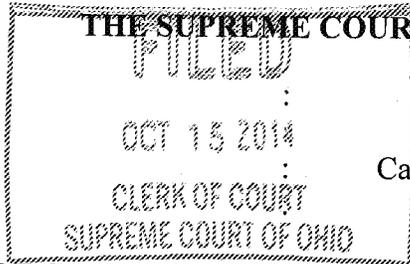


ORIGINAL

In re Application of

Joseph V. Libretti, Jr.



Case No. 2014-1555

RESPONSE OF CMBA TO APPLICANT'S MOTION TO EXTEND SEAL

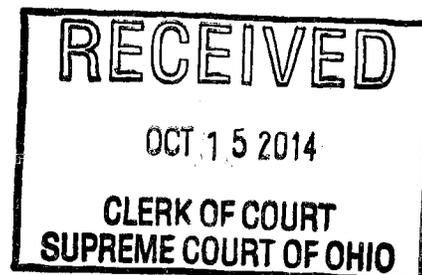
Now comes Cleveland Metropolitan Bar Association ("CMBA") and respectfully submits that Applicant Joseph Libretti's Motion to Extend Seal should be denied. It is thinly reasoned, conclusory, and fails by a wide margin to provide any evidence, let alone clear and convincing evidence, sufficient to overcome the presumption of public access.

In its September 10, 2014 Order to Show Cause, this Court ordered that the record be sealed until November 4, 2014 and thereafter become public "unless this court, on motion by the applicant or *sua sponte*, orders that the record or portions of it remain confidential."

Libretti, quoting part of Rule 45 (E)(2) of the Supreme Court Rules of Superintendence for the Courts of Ohio, asserts that the entire record should remain sealed. Rule 45 (E)(2) provides (emphasized language deleted by Libretti):

(2) A court shall restrict public access to information **in a case document or, if necessary, the entire document**, if it finds by clear and convincing evidence that the presumption of allowing public access is outweighed by a higher interest after considering each of the following:

- (a) Whether public policy is served by restricting public access;
- (b) Whether any state, federal, or common law exempts the document or information from public access;
- (c) Whether factors that support restriction of public access exist, including risk of injury to persons, individual privacy rights and interests, proprietary business information, public safety, and fairness of the adjudicatory process.



Libretti wholly ignores that (1) Rule 45(E)(2) is restricted to case documents, (2) there is a presumption of allowing public access to court records, and (3) he has the burden of showing by clear and convincing evidence that the presumption of allowing public access is outweighed by a higher interest.

Libretti also ignores the least restrictive means limitation of Rule 45 (E)(3), and largely ignores the redaction requirements of Rule 45 (E)(4).

Libretti does not even cite Rule 3.12 of the Supreme Court Rules of Practice, which provides that “Pursuant to Sup.R. 44 through 47 and as indicated in S.Ct.Prac.R. 3.02(B), documents filed with the Supreme Court are public records.”¹

I. There Is No Basis For Sealing The Entire Record.

Libretti offers no basis for sealing the entire “record, including the present Motion, the Report, and all documents filed in this matter.” (Libretti Brief @ p. 6).² Without evidential support, he hypothesizes personal prejudice “in this process, and in any future attempts to obtain employment outside of law” (Libretti Brief @ p. 6), and personal inconvenience due to the supposed impracticality (Libretti Motion @ p. 1) of redaction.

First, and importantly, virtually all of CMBA’s Exhibits are from publicly available sources. These include CMBA Exhibits 3-40, 50-55, 60-84, and 91-93, which are judicial opinions, court dockets, pleadings, and a court transcript. Other CMBA Exhibits include those typically before the Court in proceedings of this nature: the Application (CMBA Ex. 1), one pre-hearing Supplement (CMBA Ex. 42), then-available letters of recommendation (CMBA Ex. 44),

¹ Rule 3.12(B) permits redaction of social security numbers and the like, stating: “To protect legitimate personal privacy interests, social security numbers and other personal identifying information shall be redacted from documents before the documents are filed with the Supreme Court in accordance with Sup.R. 45(D).” Social Security Numbers were redacted from all CMBA Exhibits, including CMBA Ex. 1 (Libretti’s Application), CMBA Ex. 31 (NCBE Report), and CMBA Ex. 85 (Schedule C to Libretti’s 2011 federal income tax return).

² Libretti’s Motion is referred to herein as “Libretti Motion,” and the accompanying Memorandum is referred to as “Libretti Brief.”

notes and green sheets prepared by CMBA interviewers (CMBA Exs. 45-46, 49 & 56), and correspondence between Libretti and the CMBA interviewers (CMBA Exs. 43 & 47). Libretti's own exhibits consist almost exclusively of letters of recommendation.

Second, Libretti enigmatically refers to hypothetical harm to himself as including "potential self-incrimination." (Libretti Motion @ p. 1). He does not elaborate. In another context, he contends that he "was required" to disclose attorney-client communications "under Ohio case law on bar admissions standards." (Libretti Brief @ p. 5.) Is Libretti attempting to set up an argument that both his "potential self-incrimination" and his disclosure of supposedly privileged communications was compelled? If so, Libretti has failed. Libretti did not invoke his 5th Amendment right against self-incrimination; nor did he ever assert the attorney-client privilege. Neither the Panel, nor the Board, nor this Court compelled Libretti to testify about such matters.

Finally, any other hypothetical prejudice to Libretti comes exclusively from his conduct as revealed in publicly available materials and his own testimony, which led the Panel, in an unchallenged finding, to conclude: "Stated bluntly, after observing Libretti for a number of hours on the witness stand, the panel did not trust Applicant to be truthful or forthcoming." (Report @ 6.)

II. Libretti's Eleven Itemized Arguments Are Without Merit.

Libretti sets forth eleven (11) arguments for continuing to seal the entire record. Libretti's mere rhetoric, thin reasoning, and conclusory assertions fail to meet his burden of providing clear and convincing evidence sufficient to overcome the presumption of public access.

Each of Libretti's eleven arguments is discussed below in similarly numbered sections, though Libretti's captions have been changed to respond adequately to these arguments requires a more thorough discussion.

1. **Mere references to a grand jury do not warrant sealing the record.**

Libretti has not identified a single reference to secret grand jury testimony, let alone testimony that would expose anyone to reprisal. He cites Tr. 21, which refers only to Libretti's 1985 grant of immunity. He then cites his own direct testimony (Tr. 41-42), which says only that Libretti told the law enforcement agents who served the subpoena that he did not want to talk to them. *Seemle* CMBA Ex. 49 (Notes of CMBA interviewer James Kline). Libretti's next reference (Tr. 121) adds only Libretti's assertion that he testified fully to the grand jury, an assertion that Libretti denied in his June 6, 2013 CMBA interview (Tr. 581:15-23 (Libretti "did not identify anyone else.")). Libretti's final reference (Tr. 582) states nothing more than that Libretti was so freaked by the experience that he ceased his own trafficking in cocaine and marijuana for about a year before resuming again.

Nowhere does the record identify the identity of the target(s) of the grand jury, whether anyone was indicted or convicted, the identity of other grand jury or trial witnesses, or the substance of Libretti's grand jury testimony. Finally, Libretti fails to explain why a grand jury appearance nearly 40 years ago poses any risk of reprisal to him today.

2. **Libretti's claim that references to a sealed indictment warrant continued sealing is frivolous.**

Libretti next argues that references to a (1) previously sealed indictment ("Tr. at 25 and elsewhere") should not be made public, and (2) because they were disclosed "in a demonstration of candor." Both prongs of Libretti's argument are false.

The publicly available docket sheet from the District of Wyoming (CMBA Ex. 60) shows that Libretti's indictment was sealed on March 18, 2011. But, the indictment was unsealed, and it and all other subsequent pleadings (including CMBA Exs. 61-67) have been publicly available since Libretti's March 30, 2011 arrest in Cleveland. Moreover, Libretti has repeatedly trumpeted

his January 2012 acquittal to his law school colleagues, professors, and employers as well as in the bar application process.

Finally, Libretti did not disclose the previously sealed indictment to the Board “in a demonstration of candor.” The indictment (CMBA Ex. 39), which is part of Libretti’s Application (CMBA Ex. 1 @ p. 65), was required to be disclosed (*see* Questions 20 & 21). Thus, it was not voluntarily disclosed “in a demonstration of candor.” With respect to the “circumstances surrounding the charges leading to” his acquittal, *see* section 3 below.

3. Libretti’s next argument that the circumstances surrounding the charges (or leading to his 2012 acquittal) require continued sealing of the record is also frivolous.

Libretti next claims that the record should remain sealed because the circumstances surrounding the charges (or leading to the acquittal) (1) should not be subjected to trial in the court of public opinion, (2) due to disclosures “in a demonstration of candor”. Again, both prongs of Libretti’s argument are baseless.

First, both the circumstances leading to the charge and the acquittal are matters of public record. For example, Libretti initiated several manifestly public proceedings complaining about the circumstances leading to the charge, and citing his acquittal. These include (1) a motion for compensation in the Wyoming federal criminal case (*e.g.*, CMBA Exs. 64-66; Tr. 306:13-22), (2) a civil complaint in Cleveland which was removed to ND Ohio (CMBA Exs. 72-81 & 92; Tr. 309:9-14), and more recently an appeal to the Sixth Circuit of the 12(b)(6) dismissal by the ND OH court.³ The pleadings in these cases publicly detail both the circumstances and the acquittal – including matters which Libretti did not disclose in his Application, such as Libretti’s request for and grant of immunity (CMBA Ex. 65 @ p. 30); Libretti’s Casper and Cleveland Spice businesses; the seizure of controlled substances in Wyoming (marijuana) (CMBA Ex. 65 @ pp.

³ This post-hearing appeal to the Sixth Circuit has been docketed as Libretti v. Woodson, No. 14-3266 (6th Cir.).

2-5 & p. #9-29) and in Ohio (JWH-018) (CMBA Ex. 65 @ p. 30); and affidavits summarizing wiretap evidence (CMBA Ex. 63 @ pp. 26-52 & 62-69).

Notably, Libretti also apparently stakes out the position that his 2012 acquittal both has preclusive effect here and is proof of actual innocence (at least on the sole methamphetamine charge). It does not. The US Attorney's failure to prove Libretti's guilt on the methamphetamine count beyond a reasonable doubt in federal court in Wyoming does not equate to Libretti having proved his innocence in this proceeding in Ohio where he bears the burden of proof by clear and convincing evidence. Before the Panel, Libretti claimed innocence (*e.g.*, Tr. 103:18-104:6), but did not address, *inter alia*, these key facts: (1) the Wyoming grand jury's indictment, (2) the multiple findings of probable cause for search and arrest warrants, and (3) the skepticism evident in the ND Ohio's December 17, 2013 dismissal of Libretti's civil action (CMBA Ex. 92).

Conversely, one publicly available case does have preclusive effect against Libretti here. In a forfeiture proceeding, the Wyoming state courts issued the only judicial determinations on the source and legality of the \$7,200 seized during the June 2, 2010 search of Libretti's Casper residence. In its affirmance, the Wyoming Supreme Court quoted with approval the trial court's entire order (CMBA Ex. 70, quoting CMBA Ex. 27 (emphasis added)):

“This Court finds that the testimony of Agents Winter and Courtney was credible and persuasive. The Court further finds that Plaintiff has proven by a preponderance of the evidence that **the funds seized from Mr. Libretti and Mr. Hohlios were proceeds from violations of the Wyoming Controlled Substances Act.** ...”

This finding is res judicata (or collateral estoppel) as to Libretti. (*See* Tr. 316:9-15).

Finally, Libretti's minimal disclosure of the circumstances leading to his 2012 acquittal was hardly a “demonstration of candor.” As discussed elsewhere, the record is replete with

abundant evidence that Libretti sought to mislead the CMBA interviewers, the Panel, and this Court. *See, e.g.*, CMBA Ex. 42 @ last 6 pages (In letter to CMBA interviewers, Libretti wrote “Since my release from prison I have not broken any laws,” except for two traffic tickets.)

4. **Libretti’s “concern” for embarrassment or approbation of his siblings is specious.**

In the late 1980’s and/or early 1990’s, Libretti recruited his brothers into concealing assets derived from Libretti’s drug trafficking. Libretti so testified in 1992, and he did so on the public record. (CMBA Ex. 93 @ pp. 13-14, 33-34). Moreover, the involvement of one of Libretti’s brothers is also disclosed in an opinion of the United States Supreme Court, which summarized a portion of Libretti’s presentence report, writing:

“Paragraph 12 reported that Libretti had opened a safe deposit box in 1987 in which he placed \$48,000 in cash. **On another occasion, Libretti placed approximately \$10,000 into an account bearing his brother's name.** *Id.*, at 124-125.”

Libretti v. United States, 516 U.S. 29, 46 (1995) (emphasis added). Both brothers’ involvement is noted in the Government’s brief to the Supreme Court in that case (CMBA Ex. 53 @ p. #9 of 40)⁴. Further, Libretti’s CV touts his “collaboration ... in drafting briefs” to the US Supreme Court (CMBA Ex. 42, CV @ p. 2).

Libretti’s claim that his disclosure about his brothers’ involvement was a “demonstration of candor” defies belief. In his Application (CMBA Ex. 1 @ p.44 (Form 3)), Libretti asserted:

“Appeal of civil rights action, lower court case no. 93-cv-263-D. I sued to recover legally earned money which had been turned over to the government by the bailee of the funds. See Ex. 19.18. This is the appeal of case in record 3 above.”

The benign description in Libretti’s Application does not reveal (1) that the “bailee” was Libretti’s brother William, whom Libretti did not sue (Tr. 136:23-137:9); or (2) that Libretti

⁴ Available at <http://www.justice.gov/osg/briefs/1994/w947427w.txt> (most recently accessed Oct. 13, 2014).

secreted \$48,000 with William in 1987, who returned \$21,000 to Libretti in 1989; or (3) that the money was not “legally earned.” In fact, contrary to his Application and contrary to what Libretti told the Panel (he claimed that the \$48,000 was proceeds from the sale of supposedly then-legal Ecstasy and Euphoria (Tr. 138:13-139:12)), Libretti publicly testified under oath in 1992 to the Wyoming federal court that the money was “proceeds from previous illegal sales of controlled substances.” (CMBA Ex. 93 @ pp. 14-15, 33-34). Further, Libretti’s brother Bill’s involvement -- including (1) Libretti’s argument that Bill and the Wyoming AG “stole” his money, (2) part of Libretti’s new spin -- was publicly disclosed in a published opinion by the 10th Circuit in 2003. The 10th Circuit, which dismissed Libretti’s appeal as frivolous (CMBA Ex. 18), wrote:

“In February 1992, Libretti’s brother William voluntarily turned over \$19,000 to the [Wyoming] DCI. William testified that he had received \$48,000 from his brother in 1987, which he suspected was proceeds from illegal drug sales because (1) he knew Libretti had been involved with drugs, (2) the amount was in cash, (3) the transfer was secretive, and (4) the cash was placed in a safe deposit box in William’s name. Libretti testified that he later asked William to invest the funds using William’s social security number, which he did. Libretti also stated that he derived the \$48,000 “from selling designer drugs . . . [like] Ecstasy [and] Euphoria,” (4 R. Doc. 97, Ex. 2 at 35), and admitted that he was also in the business of selling cocaine between 1984 and 1987.”

Libretti v. Wyoming Attorney General, No. 02-8018, 60 Fed. Appx. 194, 2003 U.S. App LEXIS 3000 (10th Cir. Feb. 19, 2003).

5. **Libretti’s “concern” for hypothetical harm to the surviving minor children of his former Casper roommate is contrived and hypocritical.**

Libretti’s Casper roommate – Brian Frank Hohlios – was a convicted methamphetamine dealer, whose federal Supervised Release was revoked twice. This is a matter of public record (e.g., CMBA Exs. 82-83). Hohlios died in July 2010. This too is a matter of public record (*see* CMBA Ex. 70), and a simple Google search reveals this. Further, in a publicly available

opinion, the Wyoming Supreme Court wrote (CMBA Ex. 27 @ p. 4): “The Court further finds that [the State of Wyoming] has proven by a preponderance of the evidence that the funds seized from Mr. Libretti and Mr. Hohlios were proceeds from violations of the Wyoming Controlled Substances Act. ...”

Finally, Libretti’s “concern” for unspecified harm to Hohlios’s surviving minor children is hypocritical, as illustrated by the following facts. First, Libretti agreed to and participated in Hohlios’s advice to establish a trust to circumvent garnishment orders against Hohlios. (*E.g.*, Report @ 3). Second, in a July 25, 2013 motion filed by Libretti in Wyoming federal court, he (Libretti) publicly disclosed the revocation of Hohlios’s parole: “Had this Court held a hearing it would have learned that Mr. Hohlios had been incarcerated for a period of ninety days, up until four days prior to the June 2, 2010 search.” (CMBA Ex. 67 @ p. 9).

6. **Libretti’s supposed concern about the “addiction and treatment history” of others lacks substance, and it does not provide a basis for continuing to seal the record.**

The only transcript references Libretti provides about the “addiction and treatment history of others” relate to a “friend” identified only as Emily and her unidentified boyfriend who also was Libretti’s “best friend”. (*E.g.*, Tr. 114:10-115:4; Tr. 455:21-456:7.)⁵ In sum, these passages reveal nothing more than that (1) both Emily and her boyfriend were cocaine dealers before Libretti; (2) after the boyfriend’s own cocaine addiction wrecked his life, Libretti became Emily’s cocaine supplier; (3) Emily later went through rehab, and (4) still later, Libretti apologized to Emily, who responded that it was not Libretti’s fault.

It is simply preposterous to contend, as does Libretti, that there is even a remote possibility that Emily, whose last name was never mentioned, and her wholly unidentified boyfriend could be identified let alone penalized.

⁵ Libretti’s refers to Tr. 50 and Tr. 51, but neither page relates to “addiction and treatment history” of any third party.

Emily's story was offered by Libretti, who explained his role in becoming her dealer and his eventual apology, is the only evidence in the record of Libretti's remorse (apart from harm Libretti's criminal activity caused himself and his family).

Finally, Libretti's citation to 42 U.S. Code § 290dd-2 and 42 CFR Part 2 is misleading. They simply have no application to this proceeding.

7. **Virtually all Libretti's personal medical information is derived from Libretti's publicly filed pleadings, and these sharply conflict with Libretti's Application, CMBA interview, and hearing testimony.**

The record does not contain any medical records, and it does not contain any personal medical information other than Libretti's conflicting statements about his mental health. The only significant history was made public by Libretti in his pleadings in his civil complaint in Ohio federal court, and to a lesser extent in his own pleadings in his Wyoming criminal case. Libretti's factual allegations here are flatly inconsistent with Libretti's Application, CMBA interview and hearing testimony.

With respect to the bar application process, Libretti answered NO to all questions on his Application relating to mental health (CMBA Ex. 1 @ pp. 23-24 (Qs. 26-28); Tr. 331:13-15). On June 6, 2013, CMBA interviewers asked about publicly filed pre-trial motions by Libretti's Wyoming counsel in 2011 (*see* Ex. 47). Libretti minimized these, claiming distress over his attorney's request for a continuance. He told the Panel substantially the same story (Tr. 104:13-106:4). Libretti also told the CMBA interviewers (Tr. 597:24-598:20 (Kline)) and the Panel that he saw a school counselor in 2012, who diagnosed mild post-traumatic stress disorder ("PTSD") (Tr. 106:15-107:9; 328:23-329:5). These were not disclosed in Libretti's Application. Libretti claims that he construed the Application so that these need not be disclosed (Tr. 331:16-332:1).

But Libretti publicly and repeatedly alleged severe and persistent mental health injuries in proposed amended complaints in ND Ohio pleadings filed immediately before (Ex. 74 @ ¶¶ 69,

73) and immediately after (Ex. 77 @ ¶¶ 71, 75) his June 6, 2013 CMBA interview. In those pleadings, Libretti alleged as facts that he suffered from “severe distress, depression, and anxiety, including suicidal thoughts” due to PTSD and that such interfered with his law school work. Such was not disclosed. (Tr. 600:2-18 (Kline)). In addition, in two undisclosed FTCA claims, Libretti sought \$100,000 in compensation for emotional distress (CMBA Exs. 66, 80; Tr. 338:17-339:4).

Libretti also told the Panel that he continues to see a school psychologist on “other issues” (Tr. 435:12-18), which have never been disclosed.

In sum, Libretti (1) cannot seek confidentiality for factual allegations he made in publicly available judicial pleadings; (2) by making such allegations, he has waived any claim of confidentiality as to his mental health condition; and (3) he has no protectable interest in concealing nearly simultaneous denials of those allegations. Finally, his citations to HIPPA, etc. are simply inapplicable.

8. The limited information about Libretti’s bank records and tax returns reveal the nature and extent of Libretti’s involvement in the sale of Spice, and do not warrant continued sealing.

Citing inapplicable federal law, Libretti contends that certain exhibits and testimony relating to his banking records and tax returns should remain under seal. He is wrong. The exhibits and related testimony at issue show, *inter alia*, (1) the nature and extent of Libretti’s involvement in the Casper, Cleveland, and Arizona Spice businesses, and (2) Libretti’s failure to declare and pay taxes on virtually all Spice-related income. It strains credulity for Libretti to contend that he made “a demonstration of candor” where his Casper and Cleveland Spice businesses were not disclosed in his application, and where he misled the CMBA interviewers about the nature and extent of his involvement in the Casper Spice business, and told them nothing about his Cleveland operation.

CMBA Exhibit 85 is a summary exhibit of Libretti's 2008-2012 income tax returns with an attached 2011 Schedule C (from which Libretti's SSN was redacted). Exhibit 85 demonstrates that Libretti failed to declare and pay taxes on any Spice-related income (except for the 2011 Schedule C relating to his 42% interest in JPL Marketing). It further shows that Libretti did not have sufficient income from legitimate sources to sustain the hundreds of thousands of dollars he expended to purchase the raw materials to make Spice.

CMBA Exhibit 86 consists of a series of invoices for Spice-related raw materials. These invoices are neither bank records nor tax returns. These show, *inter alia*, that Libretti's testimony that he desperately sought to rid himself of Spice-related inventory after the DEA's Thanksgiving 2010 announcement of an intent to ban certain cannabinoid analogs was not true. For example, on February 28, 2011, months after the DEA's announcement, Libretti ordered JWH-018 at a cost of \$17,500 (Ex. 86 @ p. 14) – the day before the DEA's ban.

CMBA Exhibit 86 is another summary exhibit, which summarizes Libretti's known purchases of Spice-related materials. For convenience, it also lists the sources of the information, some of which were Libretti's banking records.

These records and related testimony are not entitled to protection. Far more extensive financial details are routinely disclosed in judicial opinions, including financial information about Libretti's cocaine business in Libretti v. United States, 516 U.S. 29, 46 (1995), and in publicly available filings about Libretti's Spice businesses (*e.g.*, CMBA Ex. 63 @ pp. 26-52 & 62-69).

9. **There is no proprietary information about JPL Marketing in the record, and certainly nothing warranting confidentiality.**

Nothing in the record about JPL Marketing warrants continued confidentiality. Libretti cites only Tr. 365-368, which discloses only that JPL Marketing is an Arizona LLC owned by

Jeff Powell, and that it sent Libretti a 1099 in 2011. None of that is confidential; none of that is proprietary; and none of that warrants continued confidentiality.

10. What Libretti calls “attorney-client privileged material” is not privileged or, if once privileged, the privilege has been waived.

"In Ohio, the attorney-client privilege is governed by statute, R.C. 2317.02(A), and in cases that are not addressed in R.C. 2317.02(A), by common law." *Leslie v. Ohio Hous. Fin. Agency*, 105 Ohio St.3d 261, 2005-Ohio-1508, 824 N.E.2d 990, ¶ 18 (2005). Here, the testimonial privilege set forth in O.R.C. § 2317.02 does not apply since none of Libretti's attorneys appeared as a witness.

Not all communications between an attorney and client are privileged. First, the proponent of the privilege must prove the existence of all the elements of the privilege, including showing that the privilege actually attached to the communication(s) at issue. Libretti has not even attempted to do so here. Second, the privilege applies only to the communication in which legal advice is sought or provided; facts conveyed in the communication are not privileged. Third, the privilege is subject to a number of exceptions, including the crime-fraud, lack-of-good-faith, joint-representation and self-interest exceptions. *Squire, Sanders & Dempsey v. Givaudan Flavors, Inc.*, 127 Ohio St. 3d 61, 937 N.E.2d 533, 2010-Ohio-4469 (2010). Further, a client can waive the attorney-client privilege.

Libretti first cites part of his direct exam (Tr. 100), where he voluntarily and without compulsion testified that he told his federal public defender that he possessed a controlled substance that he (Libretti) wanted to turn in. This question did not ask him to disclose a communication with his public defender; so that part of Libretti's answer was nonresponsive, unnecessary and gratuitous because Libretti could simply have stated that, after seeking and receiving immunity, he directed law enforcement authorities to his Cleveland apartment's

storage locker, where a controlled substance could be found. As discussed elsewhere, the salient and responsive facts – Libretti’s possession of a controlled substance, and his request for and grant of immunity, are reflected in a publicly available pleading (CMBA Ex. 65 @ p. 30). To the extent that a privilege supposedly attached, it was waived. This is made clear by the second reference (Tr. 340-342), where Libretti again went far beyond the question asked which specifically did not ask about any conversation with his public defender (Tr. 340:10-13), where Libretti again non-responsively repeated his communication with his Cleveland federal public defender. Libretti’s final reference (Tr. 349) does not refer to any such communication.

11. Libretti’s assertion in Item 11 – that the grounds set forth in his contemporaneous Motion to Strike also provide grounds to continue to seal the entire record – is as baseless as those arguments themselves.

CMBA’s opposition to Libretti’s Motion to Strike demonstrates that Libretti’s assertions there range from nitpicking, to frivolous, to demonstrably untrue. It would serve no purpose to address them again. So, CMBA’s opposition to Libretti’s Motion to Strike is incorporated by this reference.

CONCLUSION

Libretti's Motion to Extend Seal should be denied. There is no merit to his arguments. Indeed virtually all of Libretti's complaints are about matters already in the public record, mostly as a result of judicial decisions and pleadings from federal courts in Wyoming and Ohio.



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CERTIFICATE OF FILING AND SERVICE

The undersigned certifies that the original and 10 copies of the foregoing RESPONSE OF CMBA TO APPLICANT'S MOTION TO EXTEND SEAL were ~~mailed~~ for filing this 14th day of October, 2014 to: DPO
Sent by Federal Express

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Columbus, Ohio 43215-3431

And that copies were emailed this 14th day of October, 2014 to:

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