

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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LAWRENCE E. JAFFE PENSION PLAN, ON)	
BEHALF OF ITSELF AND ALL OTHERS SIMILARLY)	
SITUATED,,)	Lead Case. No. 02-C5893
)	(Consolidated)
Plaintiff,)	
)	CLASS ACTION
- against -)	
HOUSEHOLD INTERNATIONAL, INC., ET. AL.,)	Judge Ronald A. Guzman
)	
Defendants.)	
<hr/>)	

**DECLARATION OF JOSHUA NEWVILLE IN OPPOSITION
TO PLAINTIFFS' MOTION *IN LIMINE* NO. 2**

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

JOSHUA NEWVILLE, declares as follows:

1. I am a member of the bar of the State of New York and an associate of the firm Cahill Gordon & Reindel LLP, attorneys for defendants Household International, Inc., William F. Aldinger, David A. Schoenholz, and Gary Gilmer, Defendants in this action. I have been admitted to appear before this Court *pro hac vice*. I submit this declaration to place before the Court certain information and documents referenced in Defendants' Partial Opposition to Plaintiffs' Miscellaneous Motions *In Limine*. I make this declaration based on my personal knowledge as well as my review of relevant documents.

2. Attached hereto as Exhibit 1 is a true and correct copy of my February 4, 2009 letter to Luke Brooks.

3. On February 5, 2009, I, along with my colleagues Janet Beer and Andrew Roop, held a telephonic meet-and-confer with Plaintiffs' counsel, including Michael Dowd, Spencer Burkholz and Daniel Drosman, concerning the parties' proposed joint jury instructions and other topics.

4. During the February 5, 2009 meet and confer, I requested clarification of Plaintiffs' position set forth in their Miscellaneous Motion *In Limine*, Part C, that purports to seek a blanket ruling under Fed. R. Evid. 611(a) that all witnesses should be barred from testifying live on Defendants' case unless Defendants produce them to testify live on Plaintiffs' case-in-chief. Plaintiffs' counsel specified that this request applied only to Ned Hennigan, Robert O'Han and Kenneth Walker.

5. During the February 5, 2009 meet and confer, I requested clarification of Plaintiffs' position set forth in their Miscellaneous Motion *In Limine*, Part C, that purports to seek a ruling precluding Defendants from offering into evidence deposition testimony of witnesses "under defendants' control." Plaintiffs' counsel specified that this request applied only to Louis Levy, a former member of the Household Board of Directors who is on both parties' deposition designation lists.

6. Attached hereto as Exhibit 2 is a true and correct copy of relevant excerpts of the deposition of Louis Levy, taken by Plaintiffs in this action on August 25, 2006.

7. Attached hereto as Exhibit 3 is a true and correct copy of relevant excerpts of the 30(b)(6) deposition of Plaintiff PACE Industry Union-Management Pension Fund by Maria Wieck, taken by Defendants in this action on September 24, 2004.

8. Attached hereto as Exhibit 4 is a true and correct copy of the Plea Agreement for Defendant William S. Lerach, *United States v. William S. Lerach*, 2:07-cr-00964, (C.D. Cal. Sept. 17, 2007).

Executed this 10th day of February, 2009, in New York, New York.


Joshua Newville

Exhibit 1

CAHILL GORDON & REINDEL LLP
EIGHTY PINE STREET
NEW YORK, NY 10005-1702

FLOYD ABRAMS
L. HOWARD ADAMS
ROBERT A. ALESSI
HELENE R. BANKS
LANDIS C. BEST
GARY A. BROOKS
SUSAN BUCKLEY
KEVIN J. BURKE
JAMES J. CLARK
BENJAMIN J. COHEN
CHRISTOPHER T. COX
W. LESLIE DUFFY
ADAM M. DWORKIN
RICHARD E. FARLEY
PATRICIA FARREN
JOAN MURTAGH FRANKEL
JONATHAN J. FRANKEL
BART FRIEDMAN
CIRO A. GAMBONI
WILLIAM B. GANNETT
CHARLES A. GILMAN
STEPHEN A. GREENE

ROBERT M. HALLMAN
WILLIAM M. HARTNETT
CRAIG M. HOROWITZ
DOUGLAS S. HOROWITZ
DAVID G. JANUSZEWSKI
ELAI KATZ
THOMAS J. KAVALER
DAVID N. KELLEY
CHÉRIE R. KISER*
EDWARD P. KRUGMAN
JOEL KURTZBERG
ALIZA R. LEVINE
JOEL H. LEVITIN
GEOFFREY E. LIEBMANN
MICHAEL MACRIS
ANN S. MAKICH
JONATHAN I. MARK
GERARD M. MEISTRELL
MICHAEL E. MICHETTI
WILLIAM J. MILLER
ATHY A. MOBILIA
NOAH B. NEWITZ

TELEPHONE: (212) 701-3000
FACSIMILE: (212) 269-5420

1990 K STREET, N.W.
WASHINGTON, DC 20006-1181
(202) 862-8900
FAX: (202) 862-8958

AUGUSTINE HOUSE
6A AUSTIN FRIARS
LONDON, ENGLAND EC2N 2HA
(011) 44.20.7920.9800
FAX: (011) 44.20.7920.9825

WRITER'S DIRECT NUMBER

(212) 701-3150

MICHAEL J. OHLER
KENNETH W. ORCE
DAVID R. OWEN
JOHN PAPACHRISTOS
LUIS R. PENALVER
ROY L. REGOZIN
DEAN RINGEL
JAMES ROBINSON
THORN ROSENTHAL
JONATHAN A. SCHAFFZIN
JOHN SCHUSTER
MICHAEL A. SHERMAN
DARREN SILVER
HOWARD G. SLOANE
LAURENCE T. SORKIN
SUSANNA M. SUH
GERALD S. TANENBAUM
JONATHAN D. THIER
JOHN A. TRIPODORO
ROBERT USADI
GEORGE WAILAND
GLENN J. WALDRIP, JR.

MICHAEL B. WEISS
S. PENNY WINDLE
COREY WRIGHT
DANIEL J. ZUBKOFF
ADAM ZUROFSKY

SENIOR COUNSEL
LAWRENCE A. KOBRIN
IMMANUEL KOHN

COUNSEL
ANASTASIA EFIMOVA
JAY GEIGER
SAMUEL LICHTMAN
RAND McQUINN**

*ADMITTED IN
DC ONLY

**ADMITTED IN
DC, TX, VA ONLY

February 4, 2009


Re: Lawrence E. Jaffe Pension Plan v. Household International, Inc., et al.
Case No. 02-CV-5893 (N.D. Ill.)

Dear Luke:

Regarding Plaintiffs' Motion in Limine #2, Part C, Plaintiffs appear to be asking the Court to preclude Defendants from calling live on Defendants' case any witness outside the Court's subpoena range. We suspect that was not your intent. You have our witness lists. Please let us know what witnesses specifically you are concerned about so that we can respond to your motion in a meaningful way.

In a similar vein, the same section of your brief seeks an order barring Defendants from offering into evidence deposition testimony of witnesses under Defendants' "control". Again, you have all of our PTO submissions, including our deposition designations and counter-designations. Please specify what deposition testimony you are referring to so that we can respond appropriately.

Sincerely,


Joshua M. Newville

Luke O. Brooks, Esq.
Coughlin Stoia Geller
Rudman & Robbins LLP
100 Pine Street, Suite 2600
San Francisco, CA 94111

VIA ELECTRONIC MAIL AND U.S. MAIL

CAHILL GORDON & REINDEL LLP

-2-

cc: D. Cameron Baker, Esq. (via electronic mail)
Azra Z. Mehdi, Esq. (via electronic mail)
Spencer A. Burkholz, Esq. (via electronic mail)
Lori Fanning, Esq. (via electronic mail)
Adam Deutsch, Esq. (via electronic mail)
Landis C. Best, Esq.

EXHIBIT 2

Restricted Document Pursuant To L.R. 26.2
Filed Under Seal Pursuant To The Protective Order
Dated November 5, 2004 And The Minute Order
Dated October 10, 2006

EXHIBIT 3

Restricted Document Pursuant To L.R. 26.2
Filed Under Seal Pursuant To The Protective Order
Dated November 5, 2004 And The Minute Order
Dated October 10, 2006

Exhibit 4

1 GEORGE S. CARDONA
 United States Attorney
 2 THOMAS P. O'BRIEN
 Assistant United States Attorney
 3 Chief, Criminal Division
 DOUGLAS A. AXEL (Cal. Bar #173814)
 4 Deputy Chief, Major Frauds Section
 RICHARD E. ROBINSON (Cal. Bar #090840)
 5 ROBERT J. MCGAHAN (Cal. Bar #196568)
 Assistant United States Attorneys
 6 Major Frauds Section
 1100 United States Courthouse
 7 312 North Spring Street
 Los Angeles, California 90012
 8 Telephone: (213) 894-0713
 Facsimile: (213) 894-6269
 9 E-mail: Richard.Robinson@usdoj.gov
 10 Doug.Axel@usdoj.gov
Robert.McGahan@usdoj.gov

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 CLERK U.S. DISTRICT COURT
 CENTRAL DIST. OF CALIF.
 LOS ANGELES
 BY *[Signature]*

FILED

11 Attorneys for Plaintiff
 UNITED STATES OF AMERICA

12 UNITED STATES DISTRICT COURT
 13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 UNITED STATES OF AMERICA,
 15
 16 Plaintiff,
 17 v.
 18 WILLIAM S. LERACH,
 19 Defendant.

No. CR 07- **07-00964**
PLEA AGREEMENT FOR DEFENDANT
WILLIAM S. LERACH PURSUANT TO
FEDERAL RULE OF CRIMINAL
PROCEDURE 11(c)(1)(C)

21 1. This constitutes the binding plea agreement between
 22 WILLIAM S. LERACH ("defendant"), on the one hand, and the United
 23 States Attorney's Office for the Central District of California,
 24 on the other hand (the "USAO"). Except as provided in paragraphs
 25 22(a) and (b) below, this agreement is limited to the USAO and
 26 cannot bind any other federal, state, or local prosecuting,
 27 administrative or regulatory authorities.
 28 / / /

PLEA

1
2 2. Defendant gives up the right to indictment by a grand
3 jury, waives any applicable statute of limitations, and agrees
4 to plead guilty to a one-count information in the form attached
5 to this agreement or a substantially similar form.

6 NATURE OF THE OFFENSE

7 3. In order for defendant to be guilty of count one of
8 the information, which charges a violation of Title 18, United
9 States Code, Section 371, the following must be true:

10 (a) Beginning in or before 1981, and continuing at
11 least into 2002, there was an agreement between two or more
12 persons to commit at least one of the crimes charged in the
13 information, namely:

14 (i) to obstruct justice by corruptly influencing,
15 obstructing, and impeding, and endeavoring to influence,
16 obstruct, and impede, the due administration of justice in
17 lawsuits filed and litigated in courts of the United States, in
18 violation of Title 18, United States Code, Section 1503; and

19 (ii) to make false material declarations under
20 oath in proceedings before and ancillary to courts of the United
21 States, in violation of Title 18, United States Code,
22 Section 1623(a);

23 (b) defendant became a member of the conspiracy, that
24 is, he joined in the illegal agreement, knowing of at least one
25 of its objects and intending to help accomplish it; and

26 (c) one of the members of the conspiracy performed at
27 least one overt act for the purpose of carrying out the
28 conspiracy.

1 4. Defendant admits that defendant is, in fact, guilty of
2 this offense, as described in count one of the information.

3 PENALTIES

4 5. The statutory maximum sentence that the Court can
5 impose for a violation of Title 18, United States Code, Section
6 371, is five-years imprisonment; a three-year period of
7 supervised release; a fine of \$250,000 or twice the gross gain
8 or gross loss resulting from the offense, whichever is greatest;
9 and a mandatory special assessment of \$100.

10 6. Supervised release is a period of time following
11 imprisonment during which defendant will be subject to various
12 restrictions and requirements. Defendant understands that if
13 defendant violates one or more of the conditions of any
14 supervised release imposed, defendant may be returned to prison
15 for all or part of the term of supervised release, which could
16 result in defendant serving a total term of imprisonment greater
17 than the statutory maximum stated above.

18 7. Defendant also understands that, by pleading guilty,
19 defendant may be giving up valuable government benefits and
20 valuable civic rights, such as the right to vote, the right to
21 possess a firearm, the right to hold office, and the right to
22 serve on a jury.

23 8. Defendant further understands that the conviction in
24 this case may subject defendant to various collateral
25 consequences, including revocation or suspension of his license
26 to practice law. Defendant understands that unanticipated
27 collateral consequences will not serve as grounds to withdraw
28 defendant's plea of guilty.

1 9. The parties agree and stipulate that, in accordance
2 with United States Sentencing Guidelines § 5E1.1(b)(2),
3 determining complex issues of fact concerning restitution, if
4 any, that should be awarded would complicate or prolong the
5 sentencing process to a degree that the need to provide
6 restitution to any victim is outweighed by the burden on the
7 sentencing process.

8 FACTUAL BASIS

9 10. Defendant and the USAO agree and stipulate to the
10 statement of facts set forth in Exhibit A hereto. This statement
11 of facts includes facts sufficient to support a plea of guilty
12 to the charge described in this agreement. It is not meant to be
13 a complete recitation of all facts relevant to the underlying
14 criminal conduct or all facts known to either party that relate
15 to that conduct.

16 WAIVER OF CONSTITUTIONAL AND OTHER RIGHTS

17 11. By pleading guilty, defendant gives up the following
18 rights:

- 19 (a) The right to persist in a plea of not guilty.
20 (b) The right to a speedy and public trial by jury.
21 (c) The right to the assistance of legal counsel at
22 trial, including the right to have the Court appoint counsel for
23 defendant for the purpose of representation at trial. (In this
24 regard, defendant understands that, despite his plea of guilty,
25 he retains the right to be represented by counsel -- and, if
26 necessary, to have the Court appoint counsel if defendant cannot
27 afford counsel -- at every other stage of the proceeding.)
28 (d) The right to be presumed innocent and to have the

1 burden of proof placed on the government to prove defendant
2 guilty beyond a reasonable doubt.

3 (e) The right to confront and cross-examine witnesses
4 against defendant.

5 (f) The right, if defendant wished, to testify on
6 defendant's own behalf and present evidence in opposition to the
7 charges, including the right to call witnesses and to subpoena
8 those witnesses to testify.

9 (g) The right not to be compelled to testify, and, if
10 defendant chose not to testify or present evidence, to have that
11 choice not be used against defendant.

12 12. By pleading guilty, defendant gives up any and all
13 rights to pursue any affirmative defenses, Fourth Amendment or
14 Fifth Amendment claims, and other pretrial motions that could be
15 filed on his behalf, including assertion of any defense based on
16 statute of limitations or venue. Further, as a result of
17 defendant's consent to the assistance of a settlement judge in
18 the negotiation of this binding plea agreement, defendant waives
19 any right to pursue any claim that this binding plea agreement
20 was reached in violation of Federal Rule of Criminal Procedure
21 11(c)(1).

22 SENTENCING FACTORS

23 13. Defendant understands that the Court is required to
24 consider the factors set forth in 18 U.S.C. § 3553(a)(1)-(7),
25 including the kinds of sentence and sentencing range established
26 under the United States Sentencing Guidelines ("U.S.S.G." or
27 "Sentencing Guidelines") in determining defendant's sentence.

28 14. Defendant and the USAO have no agreement concerning

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1 the applicable Sentencing Guidelines or Sentencing Guidelines
2 factors.

3 15. As part of this binding plea agreement, defendant and
4 the USAO agree that an appropriate disposition of this case is
5 that the court impose: a sentence of imprisonment within the
6 range of 12-24 months imprisonment, with the court retaining
7 discretion to substitute community confinement or home detention
8 for no more than one-half of the term of imprisonment imposed; a
9 fine of \$250,000; a three-year period of supervised release
10 (with conditions, which may include community confinement or
11 home detention, to be fixed by the Court); and a special
12 assessment of \$100.

13 16. There is no agreement as to defendant's criminal
14 history or criminal history category.

15 17. The Court will determine the facts and calculations
16 relevant to sentencing and decide whether to agree to be bound
17 by this agreement. Both defendant and the USAO are free to: (a)
18 supplement the facts by supplying relevant information to the
19 United States Probation Office and the Court, and (b) correct
20 any and all factual misstatements relating to the calculation of
21 the sentence.

22 18. Defendant understands and agrees that this agreement
23 is entered into pursuant to Federal Rule of Criminal Procedure
24 11(c)(1)(C). So long as defendant does not breach the agreement,
25 defendant may withdraw from this agreement and render it null
26 and void if the Court refuses to be bound by this agreement. The
27 USAO may also withdraw from this agreement and render it null
28 and void if the Court refuses to be bound by this agreement.

DEFENDANT'S OBLIGATIONS

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19. Defendant agrees that he will:

(a) Deliver to the USAO at the time of this Agreement an executed waiver of indictment in substantially the form attached hereto as Exhibit B and an executed waiver of the statute of limitations in substantially the form attached hereto as Exhibit C.

(b) Plead guilty as set forth in this agreement.

(c) Not knowingly and willfully fail to abide by all sentencing stipulations contained in this agreement.

(d) Not knowingly and willfully fail to: (i) appear for all court appearances, (ii) surrender as ordered for service of sentence, (iii) obey all conditions of any bond, and (iv) obey any other ongoing court order in this matter.

(e) Not commit any crime; however, offenses which would be excluded for sentencing purposes under U.S.S.G. § 4A1.2(c) are not within the scope of this agreement.

(f) Not knowingly and willfully fail to be truthful at all times with Pretrial Services, the United States Probation Office, and the Court.

(g) Pay the applicable special assessment at or before the time of sentencing.

(h) Within seven days of sentencing, pay the fine imposed by the Court, up to a maximum of \$250,000. In this regard, defendant agrees that consideration of the factors set forth in 18 U.S.C. § 3553(a)(1), (a)(2)(A)-(C), and (a)(3), justifies a fine amount of \$250,000.

20. Defendant further agrees to forfeit to the United

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1 States the amount of \$7,750,000 (the "Forfeitable Currency"),
2 which defendant agrees shall be forfeited through
3 administrative, judicial criminal or judicial civil forfeiture
4 (at the sole election of the United States), pursuant to 28
5 U.S.C. § 2461(c), 18 U.S.C. § 981(a)(1)(C) and/or 18 U.S.C.
6 ~~§ 981(a)(1)(A)~~. Defendant further agrees:

7 (a) That the Forfeitable Currency constitutes or is
8 derived from net proceeds of the conspiracy to obstruct justice
9 (18 U.S.C. § 1503) and to make material false statements under
10 oath (18 U.S.C. § 1623) in violation of 18 U.S.C. § 371
11 described in count one of the information;

12 (b) That said conspiracy resulted in net proceeds in
13 excess of \$7,750,000;

14 (c) That at the sole and absolute discretion of the
15 USAO, the USAO may elect to cause to be entered (i) a money
16 judgment of forfeiture in the amount of the Forfeitable Currency
17 and apply the Forfeitable Currency toward satisfaction of the
18 judgment and/or (ii) a preliminary and final order of forfeiture
19 of the Forfeitable Currency;

20 (d) That the Forfeitable Currency shall be paid to
21 the United States in the following manner and by the following
22 means:

23 (i) Within seven days of sentencing, defendant
24 shall pay to the United States the amount of \$3,750,000 by
25 electronic funds transfers. Said transfer of the funds shall be
26 made to the Federal Reserve Bank of New York, 33 Liberty Street,
27 New York, New York, 10045, pursuant to instructions to be
28 provided by the USAO. The government will hold the funds in the

1 Seized Asset Deposit Funds Account until the funds are applied
2 to satisfy any money judgment and/or are forfeited pursuant to
3 any final order of forfeiture described in paragraph 20(c)
4 above; and

5 (ii) Within 180 days of sentencing, defendant
6 shall pay to the United States the amount of \$4,000,000 by
7 electronic funds transfers. Said transfer of the funds shall be
8 made to the Federal Reserve Bank of New York, 33 Liberty Street,
9 New York, New York, 10045, pursuant to instructions to be
10 provided by the USAO. The government will hold the funds in the
11 Seized Assct Deposit Funds Account until the funds are applied
12 to satisfy any money judgment and/or are forfeited pursuant to
13 any final order of forfeiture described in paragraph 20(c)
14 above.

15 (e) That defendant will have clear and sole title to
16 the Forfeitable Currency he promises to deliver to the USAO when
17 it is transferred;

18 (f) Not to contest the forfeiture of the Forfeitable
19 Currency in any administrative or judicial proceeding;

20 (g) To abandon, relinquish, and waive, and by
21 executing this agreement defendant hereby abandon, relinquish
22 and waive any and all rights in the Forfeitable Currency in
23 favor of the United States;

24 (h) To waive, and by executing this agreement
25 defendant does waive, all constitutional and statutory
26 challenges to forfeiture of the Forfeitable Currency on any
27 grounds, including any statutes of limitations and the Excessive
28 Fines Clause;

1 (i) To take all steps as requested by the USAO that
2 are reasonable to pass to the United States clear title to the
3 Forfeitable Currency, including, without limitation, the
4 execution of a consent decree of forfeiture, the completing of
5 any other legal documents required for the transfer of title to
6 the United States, and causing defendant's spouse to execute a
7 consent to decree of forfeiture, all such documents to be
8 delivered to the United States along with the electronic funds
9 transfers described in paragraph 20(d) above;

10 (j) Not to assist any other person in any effort
11 falsely to contest the forfeiture of the Forfeitable Currency;

12 (k) That forfeiture of the Forfeitable Currency shall
13 not be counted toward satisfaction of any special assessment,
14 fine, restitution, or any other penalty the Court may impose,
15 nor shall it be counted toward satisfaction of any taxes,
16 penalties, or interest owed to the Internal Revenue Service or
17 any other taxing authority; and

18 (l) With respect to any forfeiture of the Forfeitable
19 Currency, to waive and relinquish, and by executing this
20 agreement defendant does waive and relinquish the requirements
21 of: (i) Federal Rules of Criminal Procedure 32.2 and 43(a)
22 regarding notice of the forfeiture in the charging instrument,
23 announcement of the forfeiture at the sentencing, and
24 incorporation of the forfeiture in the judgment; and (ii) 21
25 U.S.C. § 853(p)(1) regarding due diligence, transfer to third
26 party, placement beyond the jurisdiction of the Court,
27 substantial diminution of value and commingling.

28

1 21. Defendant is not required by this agreement to
2 cooperate in any way with the USAO, the United States Attorney's
3 Offices for each of the other 93 judicial districts of the
4 United States ("the other USAOs"), the United States Department
5 of Justice ("DOJ"), the Internal Revenue Service, the Postal
6 Inspection Service, or any other federal law enforcement agency.

7 THE USAO'S OBLIGATIONS

8 22. If defendant complies fully with all defendant's
9 obligations under this agreement, the USAO agrees:

10 (a) Not to further prosecute defendant for violations
11 of federal law occurring prior to the execution of this
12 agreement and arising out of: (i) the conduct charged in the
13 first superseding indictment in United States v. Milberg Weiss
14 Bershad & Schulman LLE, et al., Cr. No. 05-587(A)-JFW and/or
15 described in Exhibit A hereto; (ii) payments to or for the
16 benefit of stockbrokers, non-lawyers, and/or lawyers for serving
17 as plaintiffs and/or for referring other persons and/or entities
18 to serve as plaintiffs; (iii) requests to courts for
19 reimbursement of fees and costs of a damages expert witness
20 and/or his relatives and/or his associated entities based in
21 Princeton, New Jersey, and Hilton Head, South Carolina
22 (collectively the "Princeton Expert"); (iv) any payments to, or
23 on behalf of, the Princeton Expert; (v) the Princeton Expert's
24 participation as an expert witness or consultant in cases
25 litigated by Milberg Weiss (as defined in Exhibit A hereto) or
26 Coughlin Stoia Geller Rudman & Robbins, LLP, formerly known as
27 Lerach Coughlin Stoia Geller Rudman & Robbins, LLP ("the Lerach
28 Firm"); (vi) the Princeton Expert's financial relationship with

1 PNC Bank; (vii) election, campaign, or other political
2 contributions made using only funds generated by the conduct
3 described in (i) - (v) above; and (viii) defendant's investment
4 in, or relationship with, the Acorn Technology Fund
5 (collectively, "the non-prosecution conduct"). The non-
6 prosecution provisions of this paragraph are binding on the
7 USAO, the other USAOs, and DOJ. Defendant understands and agrees
8 that the USAO, the other USAOs, and DOJ are free to prosecute
9 defendant for any other unlawful past conduct not specifically
10 exempted by this agreement or any illegal conduct that occurs
11 after the date of this agreement.

12 (b) Not to prosecute the Lerach Firm for violations
13 of federal law occurring prior to the execution of this
14 agreement and arising out of "the non-prosecution conduct" as
15 defined in paragraph 22(a). The non-prosecution provisions of

16 this paragraph are binding on the USAO, the other USAOs, and
17 DOJ. Defendant understands and agrees that the USAO, the other
18 USAOs, and DOJ are free to prosecute the Lerach Firm for any
19 other unlawful past conduct not specifically exempted by this
20 agreement or any illegal conduct that occurs after the date of
21 this agreement.

22 (c) Not to prosecute the following current partners
23 in the Lerach Firm, Patrick J. Coughlin and Keith F. Park, for
24 violations of federal law occurring prior to the execution of
25 this agreement and arising out of "the non-prosecution conduct"
26 as defined in paragraph 22(a). The non-prosecution provisions
27 of this paragraph are binding solely on the USAO and do not bind
28 the other USAOs or DOJ. Defendant understands and agrees that

1 the USAO remains free to prosecute Partners Patrick J. Coughlin
2 and Keith E. Park for any other unlawful past conduct not
3 specifically exempted by this agreement or any illegal conduct
4 that occurs after the date of this agreement.

5 (d) Not to pursue any additional civil or criminal
6 forfeiture claims against defendant based on conduct occurring
7 prior to the execution of this agreement and arising out of the
8 non-prosecution conduct.

9 (e) To abide by all sentencing stipulations contained
10 in this agreement.

11 BREACH OF AGREEMENT

12 23. If defendant, at any time after the execution of this
13 agreement knowingly and willfully violates or fails to perform
14 any of defendant's obligations under this agreement ("a
15 breach"), the USAO may declare this agreement breached. If the
16 USAO declares the agreement breached, and the Court finds such a
17 breach to have occurred, defendant will not be able to withdraw
18 defendant's guilty plea (if, at the time of the breach, he had
19 previously entered his guilty plea), and the USAO will be
20 relieved of all its obligations under this agreement.

21 24. Following a knowing and willful breach of this
22 agreement by defendant, should the USAO elect to pursue any
23 charge that was dismissed or that it would have been obligated
24 to dismiss or that was not filed as a result of this agreement,
25 then:

26 (a) Defendant agrees that any applicable statute of
27 limitations is tolled between the date of defendant's signing of
28 this agreement and the commencement of any such prosecution or

1 action.

2 (b) Defendant gives up all defenses based on the
3 statute of limitations, any claim of pre-indictment delay, or
4 any speedy trial claim with respect to any such prosecution,
5 except to the extent that such defenses existed as of the date
6 of defendant's signing this agreement.

7 (c) Defendant agrees that: (i) any statements made by
8 defendant, under oath, at the guilty plea hearing (if there was
9 such a hearing); (ii) the stipulated factual basis statement in
10 this agreement; and (iii) any evidence derived from such
11 statements, are admissible against defendant in any prosecution
12 of defendant, and defendant shall assert no claim under the
13 United States Constitution, any statute, Rule 410 of the Federal
14 Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal
15 Procedure, or any other federal rule, that the statements or
16 evidence derived from any statements should be suppressed or are
17 inadmissible.

18 LIMITED MUTUAL WAIVER OF APPEAL AND COLLATERAL ATTACK

19 25. Defendant gives up the right to appeal any sentence
20 imposed by the Court and the manner in which the sentence is
21 determined, provided that the sentence is within the range set
22 forth in paragraph 15 and is constitutional. Defendant also
23 gives up any right to bring a post-conviction collateral attack
24 on the conviction or sentence.

25 26. The USAO gives up its right to appeal the sentence,
26 provided that the Court imposes a sentence within the range set
27 forth in paragraph 15.

28

COURT NOT A PARTY

1
2 27. The Court is not a party to this agreement and need
3 not accept any of the USAO's sentencing recommendations or the
4 parties' stipulations.

5 28. This agreement has no effect on any proceedings
6 against defendant not expressly mentioned herein.

NO ADDITIONAL AGREEMENTS

7
8 29. Except as set forth herein, there are no promises,
9 understandings or agreements between the USAO and defendant or
10 defendant's counsel. Nor may any additional agreement,
11 understanding or condition be entered into unless in a writing
12 signed by all parties or on the record in court.

PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

13
14 30. The parties agree and stipulate that this agreement
15 will be considered part of the record of defendant's guilty plea
16 hearing as if this entire agreement had been read into the
17 record of such proceedings.

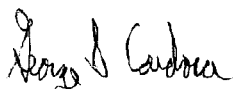
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1 31. This agreement is effective upon signature by
2 defendant, defendant's attorney, and an Assistant United States
3 Attorney.

4 AGREED AND ACCEPTED

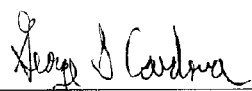
5 UNITED STATES DEPARTMENT OF JUSTICE
6 (as to paragraphs 22(a) and (b) only)

7 
8 _____
9 GEORGE S. CARDONA
10 United States Attorney

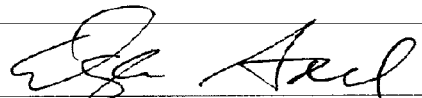
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10 AGREED AND ACCEPTED

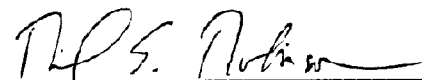
11 UNITED STATES ATTORNEY'S OFFICE
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

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14 _____
15 GEORGE S. CARDONA
16 United States Attorney


9/17/07
Date

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18 _____
19 DOUGLAS A. AXEL
20 Assistant United States Attorney
21 Deputy Chief, Major Frauds Section

9/17/07
Date

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24 RICHARD F. ROBINSON
25 Assistant United States Attorney
26 Major Frauds Section

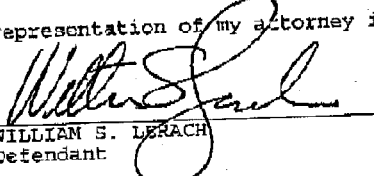
9/17/07
Date

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28 _____
29 ROBERT J. MCGAHAN
30 Assistant United States Attorney
31 Major Frauds Section

9/17/07
Date

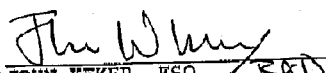
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I, WILLIAM S. LERACH, have read this agreement and carefully discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. My attorney has advised me of my rights, of possible defenses, of the Sentencing Guideline provisions, and of the consequences of entering into this agreement. No promises or inducements have been made to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. Finally, I am satisfied with the representation of my attorney in this matter.


WILLIAM S. LERACH
Defendant

9/17/07
Date

I am WILLIAM S. LERACH's attorney. I have carefully discussed every part of this agreement with my client. Further, I have fully advised my client of his rights, of possible defenses, of the sentencing factors set forth in 18 U.S.C. § 3553(c), including the relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. To my knowledge, my client's decision to enter into this agreement is an informed and voluntary one.


JOHN KEKER, ESQ. *ESQ*
KEKER & VAN NEST LLP
Counsel for Defendant
WILLIAM S. LERACH

9/17/07
Date

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	CR 07-_____
Plaintiff,)	<u>I N F O R M A T I O N</u>
v.)	[18 U.S.C. § 371: Conspiracy]
WILLIAM S. LERACH,)	
Defendant.)	

The United States Attorney charges:

COUNT ONE

[18 U.S.C. § 371]

[Conspiracy]

1. Beginning on a date unknown but at least as early as in or about 1981, and continuing into at least in or about 2002, within the Central District of California and elsewhere, defendant WILLIAM S. LERACH, together with the law firm Milberg Weiss Bershad Hynes & Lerach LLP (formerly known as "Milberg Weiss Bershad Spechthrie & Lerach") ("Milberg Weiss"); David J. Bershad ("Bershad"); other partners in Milberg Weiss; and others known and unknown to the United States Attorney, knowingly combined, conspired, and agreed to commit the following offenses

DAA:RER:RJM
DAA BER RJM

1 against the United States:

2 (a) to commit obstruction of justice by corruptly
3 influencing, obstructing, and impeding, and endeavoring to
4 influence, obstruct, and impede, the due administration of
5 justice in lawsuits filed and litigated in federal courts, in
6 violation of Title 18, United States Code, Section 1503; and

7 (b) to make false material declarations under oath in
8 proceedings before and ancillary to courts of the United States,
9 in connection with lawsuits filed and litigated in federal
10 courts, in violation of Title 18, United States Code,
11 Section 1623(a).

12 2. In furtherance of the conspiracy and to accomplish its
13 objects, defendant LERACH and other co-conspirators committed and
14 caused others to commit the following overt acts, among others:

15 (a) On or about November 6, 1996, in Steven Cooperman
16 v. Individual, Inc. et al., 96-CV-12272 (United States District
17 Court, District of Massachusetts), in which Steven Cooperman was
18 a named plaintiff, Cooperman falsely certified, under penalty of
19 perjury, that he would "not accept any payment for serving as a
20 representative party on behalf of a class beyond plaintiff's pro
21 rata share of any recovery, except such reasonable costs and
22 expenses (including lost wages) directly relating to the
23 representation of the Class as ordered or approved by the Court."

24 (b) On or about December 13, 1999, in Helene Giarputo
25 and Seymour Lazar v. Xerox Corp. et al., 99-CV-2374 (United
26 States District Court, District of Connecticut), in which Seymour
27 Lazar was a named plaintiff, Lazar falsely certified, under
28 penalty of perjury, that he would "not accept any payment for

1 serving as a representative party on behalf of a class beyond
2 plaintiff's pro rata share of any recovery, except such
3 reasonable costs and expenses (including lost wages) directly
4 relating to the representation of the Class as ordered or
5 approved by the Court."

6 SALLY L. MELOCH
7 Acting United States Attorney

8 *James L. Goodman, Deputy Chief,
Criminal Division, FOR:*

9 THOMAS P. O'BRIEN
10 Assistant United States Attorney
Chief, Criminal Division

11 DOUGLAS A. AXEL
12 Assistant United States Attorney
Deputy Chief, Major Frauds Section

13 RICHARD E. ROBINSON
14 ROBERT J. MCGAHAN
Assistant United States Attorneys
15 Major Frauds Section

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EXHIBIT A

STATEMENT OF FACTS IN SUPPORT OF WILLIAM S. LERACH
PLEA AGREEMENT AND INFORMATION

Defendant WILLIAM S. LERACH ("LERACH") represents and admits that the following facts are true. Pseudonyms, capitalized terms, and case names herein have the same meanings as are ascribed to them in the first superseding indictment in United States v. Milberg Weiss Bershad & Schulman LLP, et al., CR 05-587(A)-JFW (the "FSI").

Introduction

1. LERACH joined Milberg Weiss in 1976. LERACH worked in Milberg Weiss's office in San Diego, California. LERACH later became a name partner in Milberg Weiss Bershad Hynes & Lerach, LLP, formerly known as "Milberg Weiss Bershad Specthrie & Lerach" (hereinafter "Milberg Weiss").

2. Milberg Weiss specialized in serving as plaintiff's counsel in class actions and shareholder derivative actions (collectively "Class Actions") brought in federal and state courts throughout the United States, including in the Central District of California.

3. As counsel representing class members or shareholders not before the courts (collectively "absent class members"), Milberg Weiss and its attorneys, including LERACH, had fiduciary duties of loyalty, honesty, and trust to absent class members. Individuals who served as representative plaintiffs on behalf of absent class

members (hereinafter "named plaintiffs") likewise had fiduciary duties of loyalty, honesty, and trust to those absent class members.

Overview of Secret Payment Arrangement

4. Beginning in or about the 1970s and continuing at least into 2002, in order to facilitate the recruitment and retention of named plaintiffs, certain senior Milberg Weiss partners agreed with various individuals that Milberg Weiss would secretly pay those individuals a portion of the attorneys' fees that Milberg Weiss obtained in Class Actions in which such individuals served, or caused a relative or associate to serve, as a named plaintiff.

5. The Milberg Weiss partners who agreed during the relevant times to secretly pay the named plaintiffs included LERACH, David J. Bershad ("Bershad"), and others.

6. The individuals who agreed to serve as named plaintiffs in Class Actions pursuant to the secret payment arrangement with Milberg Weiss included Steven G. Cooperman ("Cooperman") and others. Generally, these individuals were promised that they would be paid approximately 10% of the net attorneys' fees that Milberg Weiss obtained in their respective Class Actions. They were also told that the amount would be lower if they were paid in cash or if Milberg Weiss had payment obligations on the same case to others.

7. By entering into such payment arrangements, LERACH and other conspiring partners were able to secure a reliable source of

individuals who were ready, willing, and able to serve as named plaintiffs in Class Actions that Milberg Weiss wanted to bring. In addition, some of these individuals would investigate and propose to LERACH and other conspiring partners lucrative potential Class Actions for Milberg Weiss to bring. Such payment arrangements generally enabled Milberg Weiss to file more Class Actions and to file them more quickly than would be possible absent such arrangements.

8. At all relevant times, LERACH, other conspiring partners, and the paid plaintiffs understood that, to the extent necessary, they would make or cause to be made false and/or misleading statements in documents filed in federal Class Actions (including complaints, motions, and under-oath certifications) and in under-oath testimony and other discovery in such actions in order to conceal the existence of their secret payment arrangements.

9. LERACH believed that discovery in a Class Action of the secret payment arrangement with a named plaintiff could have resulted in, among other things: (a) the disqualification of the named plaintiff from serving as a class representative in that action and other Class Actions; and (b) the disqualification of Milberg Weiss, including the conspiring partners, from serving as class counsel in that action and other Class Actions.

10. LERACH and other conspiring partners concealed the payments to named plaintiffs. They had the paid plaintiffs select intermediary law firms, lawyers, and other professionals through

whom they would be paid their payments. LERACH and other conspiring partners would cause Milberg Weiss checks to be issued to these intermediaries, with the understanding and intent that the money would be distributed to or used for the benefit of the paid plaintiffs. LERACH and other conspiring partners knew that although these payments were variously documented and described as, among other things, "referral fees" and "professional fees" owed by Milberg Weiss to the intermediaries, they were actually disguised payments to the paid plaintiffs.

Secret Payment Arrangements With
Steven Cooperman

11. LERACH, on behalf of Milberg Weiss, established a secret payment arrangement with Steven Cooperman, pursuant to which Milberg Weiss would pay Cooperman a percentage of the attorneys' fees that Milberg Weiss obtained in Cooperman's cases, as described in paragraph 6 above. LERACH discussed Cooperman's payment arrangement with other conspiring partners.

12. Cooperman, Cooperman Plaintiff 1, Cooperman Plaintiff 2, and certain of Cooperman's relatives and associates served as named plaintiffs for Milberg Weiss in numerous other Class Actions. To satisfy Milberg Weiss's payment obligation to Cooperman on these cases, LERACH caused Milberg Weiss checks to be written to intermediary attorneys and their associated law firms selected by Cooperman, namely Richard R. Purtich and James P. Tierney (referred to as Cooperman Intermediary A and Cooperman

Intermediary B in the FSI). These payments were documented and disguised as, among other things, "referral fees" and the "share" of attorneys' fees owed by Milberg Weiss to these intermediaries, even though such payments represented monies that Milberg Weiss owed to Cooperman, were made solely to satisfy Milberg Weiss's payment obligation to Cooperman, and would be used for Cooperman's benefit or at his direction.

Overt Act

13. In furtherance of the conspiracy described above, LERACH and other members of the conspiracy committed and caused to be committed the following act, among others:

On or about November 6, 1996, in the Individual class action, brought by Milberg Weiss in the United States District Court for the District of Massachusetts, in which Cooperman was a named plaintiff, Cooperman falsely certified, under penalty of perjury, that he would "not accept any payment for serving as a representative party on behalf of a class beyond plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the Class as ordered or approved by the Court."

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

PLAINTIFF,

v.

WILLIAM S. LERACH,

DEFENDANT.

CASE NUMBER

CR 07- _____

WAIVER OF INDICTMENT

I, William S. Lerach, the above-named defendant, who is accused of violating Title 18, United States Code, Section 371, Conspiracy to Obstruct Justice and to Make False Material Statements being advised of the nature of the charge(s), the proposed information, and of my rights, hereby waive in open court on _____ prosecution by indictment and consent that the proceedings may be by information rather than by indictment.

Date: _____

William S. Lerach
Defendant

John Keeker
Keeker & Van Nest
Counsel for Defendant William S. Lerach

Before _____
Judicial Officer

Case 2:07-cr-00964-UA Document 6 Filed 09/18/2007 Page 27 of 31

STATUTE OF LIMITATIONS WAIVER AGREEMENT
BETWEEN WILLIAM S. LERACH AND THE UNITED STATES
ATTORNEY'S OFFICE FOR THE CENTRAL DISTRICT OF CALIFORNIA

Dated September 17, 2007

Effective as of the Effective Date of the Plea Agreement
Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C)
in the Matter of United States v. William S. Lerach,
Cr. 07-__-JFW

This Statute of Limitations Waiver Agreement ("Waiver") is entered into between William S. Lerach ("LERACH") and the United States Attorney's Office for the Central District of California ("the USAO"), in connection with a Plea Agreement Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) in the matter of United States v. William S. Lerach, Cr. No. 07-__-JFW (hereinafter "United States v. Lerach").

RECITALS

WHEREAS, LERACH has entered into a Plea Agreement Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) ("the Binding Plea Agreement") to resolve a pending criminal investigation in the Central District of California;

WHEREAS, pursuant to the Binding Plea Agreement LERACH has agreed to plead guilty to a one-count Information charging him with conspiracy to obstruct justice and to make material false declarations under oath, in violation of Title 18, United States Code, Section 371 ("the Information");

WHEREAS, pursuant to the Binding Plea Agreement, LERACH has agreed to waive any affirmative defenses he may have, including

EXHIBIT C

Case 2:07-cr-00964-UA Document 6 Filed 09/18/2007 Page 28 of 31

any applicable statute of limitations, relating to the conduct charged in the Information;

NOW, THEREFORE, IT IS HEREBY AGREED as follows:


LERACH hereby waives any affirmative defense based on the statute of limitations or any claims relating to preindictment delay relating to the conduct charged in the Information;

This Waiver shall be effective upon the effective date of the Binding Plea Agreement; and

This Waiver shall be deemed void and shall no longer have any effect in the event that the Court presiding over the matter of United States v. Lerach refuses to accept the Binding Plea Agreement.

READ AND AGREED TO:

UNITED STATES ATTORNEY'S OFFICE
FOR THE CENTRAL DISTRICT OF CALIFORNIA



DOUGLAS A. AXEL
RICHARD E. ROBINSON
ROBERT J. MCGAHAN
Assistant United States Attorneys
Major Frauds Section

9.17.2007

Date

WILLIAM S. LERACH:

WILLIAM S. LERACH

Date

JOHN W. KEKER
Keker & Van Nest
Counsel for William S. Lerach

Date

any applicable statute of limitations, relating to the conduct charged in the Information:

NOW, THEREFORE, IT IS HEREBY AGREED as follows:

LERACH hereby waives any affirmative defense based on the statute of limitations or any claims relating to preindictment delay relating to the conduct charged in the Information:

This Waiver shall be effective upon the effective date of the Binding Plea Agreement; and

This Waiver shall be deemed void and shall no longer have any effect in the event that the Court presiding over the matter of United States v. Lerach refuses to accept the Binding Plea Agreement.

READ AND AGREED TO:

UNITED STATES ATTORNEY'S OFFICE
FOR THE CENTRAL DISTRICT OF CALIFORNIA

DOUGLAS A. AXEL
RICHARD E. ROBINSON
ROBERT J. McGAHAN
Assistant United States Attorneys
Major Frauds Section

Date

WILLIAM S. LERACH

William S. Lerach

WILLIAM S. LERACH

9/17/07

Date

John W. Keke

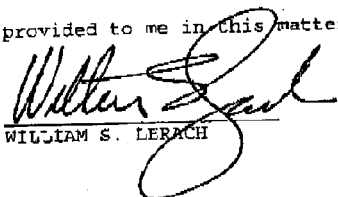
JOHN W. KEKER
Keker & Van Nest
Counsel for William S. Lerach

9/17/07

Date

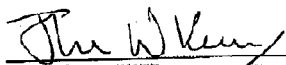
CERTIFICATIONS

I, William S. Lerach, have read this statute of Limitations Waiver carefully and discussed it with my counsel, John W. Keke of Keke & Van Nest. I understand the terms of this Statute of Limitations Waiver, and I voluntarily, knowingly, and willfully agree to all of those terms, after due consideration and without force, threat, or coercion. No promises, representations, or inducements, other than those set forth in this Statute of Limitations Waiver and the Binding Plea Agreement, have been made to cause me to enter into this Statute of Limitations Waiver. I am satisfied with the representation that Keke & Van Nest have provided to me in this matter.


WILLIAM S. LERACH

9/17/07
Date

I am counsel for William S. Lerach in this matter. I have carefully reviewed and discussed the terms of this Statute of Limitations Waiver with Mr. Lerach. To the best of my knowledge, his decision to enter into this Agreement was informed and voluntary.


JOHN W. KEKE
Keke & Van Nest
Counsel for William S. Lerach **BxD**

9/17/07
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CERTIFICATE OF SERVICE

I, **Temeria Wylie**, declare:

That I am a citizen of the United States and resident or employed in Los Angeles County, California; that my business address is the Office of United States Attorney, United States Courthouse, 312 North Spring Street, Los Angeles, California 90012; that I am over the age of eighteen years, and am not a party to the above-entitled action;

That I am employed by the United States Attorney for the Central District of California who is a member of the Bar of the United States District Court for the Central District of California, at whose direction I served a copy of: **PLEA AGREEMENT FOR DEFENDANT WILLIAM S. LERACH PURSUANT TO FEDERAL RULE OF CRIMINAL PROCEDURE 11 (c) (1) (C)**

service was: **John Keeker, Esq.
710 Sansome Street
San Francisco, California 94111**

Placed in a closed envelope, for collection and interoffice delivery addressed as follows: Placed in a sealed envelope for collection and mailing via United States Mail, addressed as follows:

By hand delivery addressed as follows: **IN COURT** By e-mail as follows
 By facsimile as follows

By messenger as follows: By federal express as follows:

This Certificate is executed on **September 18, 2007**, at Los Angeles, California.

I certify under penalty of perjury that the foregoing is true and correct.


TEMERIA WYLIE