

ARCHIE GARGA-RICHARDSON, Defendant in Pro Per

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
CENTRAL DIVISION – STANLEY MOSK COURTHOUSE

INTERNET SOLUTIONS CORPORATION,	)	Case No.: BC394102
a Nevada Corporation,	)	
Plaintiff,	)	DECLARATION OF
vs.	)	ARCHIE GARGA-RICHARDSON
	)	IN SUPPORT SPECIAL MOTION TO
	)	STRIKE
ARCHIE GARGA-RICHARDSON, an	)	
individual; and DOFS 1 through 25, inclusive,	)	
Defendants	)	

DECLARATION OF ARCHIE GARGA-RICHARDSON IN SUPPORT OF  
SPECIAL MOTION TO STRIKE  
PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 425.16

I ARCHIE GARGA-RICHARDSON declare:

1. I am over eighteen years old.
2. I am the Defendant in the above-referenced action and have personal knowledge of the facts set forth herein and could and would testify competently to them if called to do so.

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3. I am also a member of InfraGard. The Department of Justice and FBI community partnership program in information sharing to combat crimes (cybercrimes). [Exhibit F2]
4. I have owned and operated the website www.scamfraudalert.com for the past three years and seven months.
5. I operate the website alone and do not have employees nor do I conspire with others when posting comments on my site.
6. My website (www.ScamFraudAlert.com) is a public forum, in which I and forum members post comments, commentary, and personal opinions on research or observations relating to internet scams, consumer frauds and other online security risks that affect the general public.
7. The website is accessible free of charge to any member of the public. Readers of the website, its members, visitors, and guests may view my opinions and commentary as well as the opinions and commentary of other members.
8. The style of the website is intentionally irreverent to scammers who appear to be attempting to defraud the general public by deceptive means.
9. I have occasionally post comments others may consider insulting and hyperbole directed at perceived scammers who generate numerous consumer complaints or concerns or operate their businesses in a seemingly deceptive manner.
10. The website was created as a job seekers consumer guide and its title "Your guide to job search online and websites due diligence" and bears such subheadings as "Misrepresentation, rip-offs, unfulfilled claims, consumer dissatisfactions, Attorney General ALERTS, POLICE ALERTS - TELL US YOUR EXPERIENCE".
11. In addition to providing warnings to the general public, the website also expresses my views as reflected by such generic statements as "Internet Scam/Spam or Fraudulent

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1 Websires – ScamFraudAlert.com believe that this is a cancer that is under the radar. If  
2 we the public do not ACT we might just get HIT.” “Beware of thugs, crooks, criminals,  
3 and scumbags targeting the unemployed, elderly, students, stay-at-home moms, retirees  
4 and the innocent, luring them into cashing fraudulent checks.”

- 5
- 6 12. I declare that my postings about domains or websites owned, operated or associated with  
7 ISC may date back as far as 2004. Most of these websites or domains that I posted about  
8 were based on online job advertisements in which the domain owners’ identities were  
9 either bogus, concealed, stolen identities, or just plain non-existent. Never had any of  
10 ISC subsidiaries contacted me or expressed their concerns, dissatisfaction or  
11 disagreement regarding these postings until May 29 of 2008 when I received an e-mailed  
12 from one Mr. Keith H. Kress representing himself as Attorney for Internet Solutions  
13 Corporation requesting Cease & Desist [Exhibit E]
- 14 13. I have worked with major online job search engines such as www.careerbuilder.com,  
15 www.monster.com and www.hotjobs.com in identifying misleading jobs. Based on my  
16 findings, careerbuilder.com and other jobs search engines have acted on my  
17 recommendation in removing fraudulent jobs. I believe because of this past relationship,  
18 they find my ability to identify these jobs credible. [Exhibit G]
- 19 14. I declare that Internet Solutions Corporation as a Nevada Corporation is NOT in good  
20 standing or FIT to bring this LAWSUIT because of DEFAULT or REVOCATION of  
21 its Corporate status by the Secretary of State of Nevada. [Exhibit H 1,2]
- 22 15. I declare that Mr. Ayman A. Difrawi a/k/a alexandersimon5@aol.com by his own  
23 admission have imply that the purpose of this lawsuits and subsequent to follow is to  
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1 have the Defendant incur legal expenses beyond his means of support causing him undue  
2 financial hardship. [Exhibit I 1-5]

- 3 16. Approximately 98% of the information that gets posted on the website comes from my  
4 daily searches of job solicitation emails, daily searches of search engines database, daily  
5 news findings and other information of public interest. As a result of this research,  
6 information that gets posted comes from news that has appeared or previously appeared  
7 elsewhere on the internet. The other 2% of the information that gets posted consists of  
8 my opinion and commentary.
- 9 17. I have viewed many news reports on job related scams that originate from solicitations  
10 via the Internet that have appeared in major media publications.
- 11 18. I have read numerous reports regarding the danger to the public of providing personal  
12 information to unknown or suspect entities and how it border on identity theft.
- 13 19. I am capable of recognizing fraudulent internet job offerings as a result of my diligent  
14 daily searches of online job search engine databases and my focus in this area of  
15 consumer fraud, having been a victim myself.
- 16 20. I have several generic headings posted throughout my site which express my general  
17 opinion of how job scammers operate, some of which appeared in a section related to the  
18 Plaintiff but did not represent factual assertions regarding the Plaintiff. ✓
- 19 21. At the time I posted, or allowed the challenged statements posted by others or myself to  
20 remain on my website, I believed those statements to be true.
- 21 22. I have relied upon reputable sources of information such as the LA Times, Washington  
22 Post, the Better Business Bureau and lawsuits on forming my opinion regarding the  
23 Plaintiffs (ISC) business practices. [Exhibits J,K,L]
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23. I have determined through online research of court documents that Mr. Ayman el-Difrawi a/k/a Alec Difrawi is the majority shareholder of Internet Solutions Corporation.

[Exhibit H]

24. I have determined through online research that Mr. Alec Difrawi was convicted of a federal crime and has served time in Federal prison the crime he committed [Exhibit F]

25. I have determined through online research and consultation with consumer fraud expert Mr. Les Henderson that Ayman A. el-Difrawi aka Alec Difrawi has been accused of using a multitude of personal aliases inclusive of Alec Defrawy, Michael Difrawi, Michael el-Difrawi, Michael Chandler, Alec Simon, Mark Davis, Ken Gibson, Alan Madison, Michael Jensen, David Katz and David Mellon.

26. I have determined through online research that Mr. Alec Difrawi is a business associate of Ralph Edward Bell, an individual who was investigated by the Federal Trade Commission for consumer fraud. [Exhibit D]

27. I have determined through online research that Internet Solutions Corporation and other entities of Mr. Difrawi operate under numerous fictitious business names and an insurmountable number of websites or domains, most of which can not be easily identified as a means of canceling their identity as stated in Mr. Difrawi's Press Release.)

28. I have determined through online research that Internet Solutions Corporation uses its vast inventory of domains to contact potential job seekers based on the online application the prospective applicant completes on each of ISC's job offer websites.

29. I have determined through online research that Internet Solutions Corporation (ISC) has been the focus of nationwide media attention for questionable business practices that relate to closely about identity theft. [Exhibit A]

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1 30. I have determined through online research that Internet Solutions Corporation (ISC) has  
2 been the Defendant in several lawsuits related to theft of trademark and intellectual  
3 property. **[Exhibits, J,C]**

4 31. I have determined through online research that Internet Solutions Corporation (ISC) has  
5 threaten or filed lawsuits against bloggers such as [iscwatch.bayword.com] and other  
6 individuals who have commented on ISC business practices, exercising their First  
7 Amendment Rights to Free Speech. **[Exhibits N, I]**

8 32. I have determined that there have been numerous complaints to the Better Business  
9 Bureau about Internet Solutions Corporation's business practices by job seekers.  
10 **[Exhibit A]**

11 33. I have read the February 2007 article by the Washington Post in which the reporter stated  
12 that an associated company of Internet Solutions Corporation (ISC) could be guilty of  
13 identity theft. Excerpts included the following commentary "The scam came to the  
14 attention of the D.C. area Better Business Bureau because USA Voice uses a downtown  
15 Washington address, which turns out to be little more than a mail drop. A related site,  
16 Instant Human Resources, lists an address in Rockville, also a mail drop." In that sense,  
17 the personal info that appears on job sites may not be as lucrative. But even a name, e-  
18 mail, address and telephone number are worth something to scammers. They can turn  
19 around and sell those or use them to perpetrate "synthetic identity theft," where a phony  
20 identity is created using bits of real people's information. "In this particular case, the  
21 success of the scam relied on a two-pronged strategy. Not only do they advertise on the  
22 job sites, but they also contacted people who used them. Job seekers who posted their  
23 resumes on Monster, Career Builder and Yahoo received e-mails from either USA Voice  
24 or Instant Human Resources, and the many other aliases telling them that based on the  
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1 their resumes they found on these job search engines, the applicant qualified for a  
2 promising sounding position. Those who didn't smell a scam right away filled out online  
3 applications, in the process disclosing personal information. Together, they've generated  
4 more than 8,000 inquiries since June 2007. **[Exhibit K]**

5 34. I have determined that Internet Solutions Corporation has not sued the Washington Post  
6 for its article.

7 35. I have read a LA Times article dated September 11, 2007 which contained the following  
8 quote regarding the company: "In one wide-ranging operation that attracted attention this  
9 year, a series of companies that placed advertisements that used similar wording sought  
10 people for jobs that included writing for an online newspaper called USA Voice. After  
11 numerous complaints and media scrutiny, job sites pulled down recruitment ads for USA  
12 Voice and related firms. USA Voice had posted 1,200 listings on HotJobs alone.

13 "Consumers allege that the only thing they have received is bulk unsolicited e-mail,"  
14 Chief Executive Edward J. Johnson III of the Better Business Bureau in Washington,  
15 where USA Voice was based, told the Washington Post in February 2007. The companies  
16 appear to be "a scheme to amass and sell personal contact information." **[Exhibit L]**

17 36. I have determined that Internet Solutions Corporation (ISC) has not sued the LA Times  
18 for the article.

19 37. I have viewed an investigative report by the Orlando, Florida television station WFTV  
20 which suggested that Internet Solutions Corporation (ISC) was deceiving the general  
21 public and obtaining personal information for purposes unknown.

22 38. I have determined that Internet Solutions Corporation (ISC) has not sued the television  
23 station for their investigative report.

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1 39. I did a search of the Florida Department of Corporations website and determined that  
2 Internet Solutions Corporation provided address and ownership details that were  
3 unrelated to actual operational locations or principals.

4 40. I have had conversations with consumer fraud expert Mr. Les Henderson who indicated  
5 that the operation of Internet Solutions Corporation (ISC) bore all the trademarks of a  
6 consumer fraud in that it obtained personal information from recipients of mass email  
7 solicitations which were sent under apparently false pretences for purposes unrelated to  
8 the advertised enticement of a job opportunity.

9 41. I have read a federal prosecutor's report [Crim. N. 94-0162-01] on Mr. Alec Difrawi  
10 that states that he was the mastermind behind a criminal enterprise designed to defraud  
11 the general public through non-existent career and job opportunities. [Exhibit M]

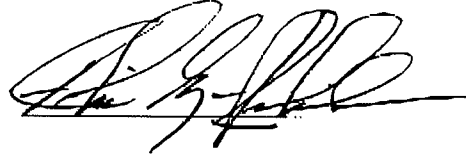
12 42. Any allegedly defamatory statements regarding the Plaintiffs posted by myself or by  
13 members were broad generic statements of my opinion and disgust with online scamming  
14 or deceptive business practices based on my reliance on media publication online.  
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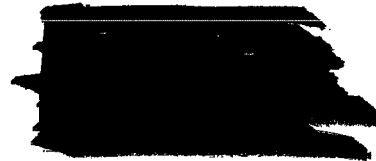


1 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
2 true and correct.  
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4 Executed this 17<sup>th</sup> day of September 2008, Los Angeles, California  
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8 ARCHIE GARGA-RICHARDSON  
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**EXHIBITS**  
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- E -** ISC Cease & Desist Letter – Keith Kress
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FILED

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

DOMINION ENTERPRISES,

Plaintiff,

v.

NETWORK SOLUTIONS, INC./JOHN DOES 1  
THROUGH 10ALEC DEFRAWI, individually  
and d/b/a DENVER EMPLOYMENT  
SOLUTIONS, IMPACT 210, LAJENUESSE  
COSMETICS, SPEARS EVENTS, ALEC  
DEFRAWI CONSULTING, and USAVOICE,  
INTERNET SOLUTIONS CORPORATION,  
individually, and d/b/a USAVOICE,  
and APTIMUS, INC.,

Defendants.

Civil Action No.:

1:08cv 107  
40/TCB

**COMPLAINT**

Plaintiff Dominion Enterprises (together with its predecessors in interest hereinafter "Dominion") states the following for its Complaint against Defendants Network Solutions/John Doe, Alec Defrawi, individually and d/b/a Denver Employment Solutions, Impact 210, Lajenuesse Cosmetics, Spears Events, Alec Defrawi Consulting, and USAVoice, Internet Solutions Corporation, individually and d/b/a USAVoice, and Aptimus, Inc. (collectively, "Defendants").

**Nature of the Action**

1. This is an action at law and in equity for trademark infringement, cybersquatting, and unfair competition arising under the federal Lanham Act, codified as amended at 15 U.S.C. §§ 1051-1127, the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d), and the

common law, for computer fraud and abuse arising under the federal Computer Fraud and Abuse Act, codified as amended at 18 U.S.C. § 1030, and under the Virginia Computer Crimes Act, VA. CODE ANN. § 18.2 et al., for computer trespass under the Virginia Computer Crimes Act, VA. CODE ANN. § 18.2 et al., and for breach of contract under the laws of the state of Virginia.

### **Parties and Jurisdiction**

2. Plaintiff Dominion Enterprises ("Dominion") is a partnership organized under the laws of Virginia, with its principal place of business located in Norfolk, Virginia. Dominion is the owner of the trademarks at issue and the registrant of the domain name consisting of the trademarks at issue.

3. On information and belief, Defendant Network Solutions, Inc. ("Network Solutions") is a corporation with its principal place of business located at 505 Huntmar Park Drive, Herndon, Virginia 20170. Defendant Network Solutions is the registrant of the domain name <employmentguides.org>.

4. On information and belief, Defendant John Does 1 through 10 are individuals or companies whose names are unknown to Plaintiff at this time. Defendant Does registered the domain name <employmentguides.org> through Defendant Network Solutions. The domain name is currently registered in the name of Defendant Network Solutions. On information and belief, Defendant Does 1 through 10 are the true registrant(s) of the domain name <employmentguides.org>.

5. On information and belief, Defendant Alec Defrawi is an individual doing business as numerous fictitious names, including Denver Employment Solutions (under the individual name Ben Tissol), Impact 210 (under the individual name Michael Fomkin), Lajenuesse Cosmetics (under the individual name Alan Vincent), Spears Events (under the

individual name Holly Spears), Alec Defrawi Consulting (under the individual name Alec Defrawi), and USAVoice (under the individual name Heather Williams), with a principal place of business at 5401 Kirkman Road, Suite 310, Orlando, Florida 32819. Defendant Alec Defrawi and his fictitious names are collectively hereinafter referred to as "Defrawi." On information and belief, Defrawi is associated, affiliated, or acting in concert with Defendant Aptimus, Inc. identified in paragraph 6.

6. On information and belief, Defendant Internet Solutions Corporation ("ISC") is a corporation organized under the laws of Florida with a principal place of business at 5401 Kirkman Road, Suite 310, Orlando, Florida 32819. On information and belief, Defendant ISC is doing business as USAVoice.

7. On information and belief, Defendant Aptimus, Inc. ("Aptimus") is a corporation organized under the laws of Washington with a principal place of business at 199 Fremont Street, Suite 1800, San Francisco, California, 94105. Defendants Network Solutions, Does 1 through 10, Defrawi, ISC, and Aptimus will be collectively hereinafter referred to as "Defendants."

8. On information and belief, each of the Defendants is acting for or in concert with each of the other Defendants.

9. This Court has subject matter jurisdiction under Section 39 of the Lanham Act, 15 U.S.C. § 1121, under 15 U.S.C. §§ 1331 and 1338.

10. This Court has personal jurisdiction over Defendants because, on information and belief, Defendants are transacting business within this District, have engaged in acts or omissions within this district causing injury, or have otherwise made or established contacts with this district sufficient to permit the exercise of personal jurisdiction.

11. Venue is proper in this district under 28 U.S.C. § 1391 because on information and belief, a substantial part of the events or omissions giving rise to the claims stated herein occurred in this district.

**FACTUAL BACKGROUND**  
**Dominion's Trademark and Service Mark Rights**

12. For more than seventeen (17) years, Dominion has adopted and used the trademark EMPLOYMENT GUIDE (the "EMPLOYMENT GUIDE Mark") in connection with print publications offering job openings and employment opportunities distributed throughout the United States. A true and correct copy of the front cover of an EMPLOYMENT GUIDE publication is attached hereto as **Exhibit A**.

13. For at least the last nine (9) years, in addition to the print publications, Dominion has also offered information about job openings and job applicants and goods and services related to them via an online electronic communications network, featuring its offerings under the EMPLOYMENT GUIDE Mark at its <employmentguide.com> website. A true and correct print-out of the homepage for the <employmentguide.com> website, prominently displaying the EMPLOYMENT GUIDE Mark, is attached hereto as **Exhibit B**.

14. Dominion's <employmentguide.com> website contains a Visitor Agreement, which is binding on every visitor that uses Dominion's <employmentguide.com> website. Dominion's Visitor Agreement includes the following provisions:

- The materials on this site are the property of EmploymentGuide.com or its licensors, and are protected by U.S. copyright laws, other copyright laws, and international conventions. Except as explicitly provided in this agreement, you may not distribute, transmit, display, reproduce, modify, create derivative works from, or otherwise exploit any of the materials on this site. You may display and occasionally print a single copy of any page on the site for your personal, non-commercial use, but you may not otherwise reproduce any material appearing on this site without the prior written consent of the owner. You may not store any significant portion of, nor distribute copies of,

materials found on this site, in any form (including electronic form), without prior written permission from the owner.

- You may not charge any potential jobseeker for information about any job listed on EmploymentGuide.com, nor may you use our website to promote, without our prior written permission, any other website, product or service.
- No spamming or data scrapping [sic]. We want potential jobseekers visiting EmploymentGuide.com to feel free to share their email addresses with those listing jobs on our site. By listing a job on this site, you agree to use the email addresses of those responding to your listing only for purposes of communicating with them about the potential job opportunity. By using this website, you agree not to use information concerning other users of EmploymentGuide.com, or the job they've listed or searched for on this website (including listing information, user names, email addresses, telephone numbers, and/or other information), for any purpose other than to explore the potential job opportunity.

A true and correct print-out of the Visitor Agreement found on the <employmentguide.com> website is attached hereto as **Exhibit C**.

15. Dominion is the owner of the following federal trademark registrations for its EMPLOYMENT GUIDE Mark:

Mark	Reg. No.	Reg. Date
EMPLOYMENT GUIDE (& Design)	1687101	5/12/1992
THE EMPLOYMENT GUIDE	3026225	12/13/2005
EMPLOYMENTGUIDE.COM	3302202	10/2/2007

True and correct copies of print-outs from the U.S. Patent and Trademark Office online database showing these registrations are attached as **Exhibit D**. All of these registrations constitute prima facie evidence, and those that are incontestable constitute conclusive evidence, of Dominion's exclusive right to use the mark in connection with the goods and services specified in the registrations.

16. Based on Dominion's substantial, continuous, and exclusive use, as well as substantial advertising, promotion, and sales under the EMPLOYMENT GUIDE Mark, Dominion's trademark is strong and extremely well known to the public as an exclusive source

identifier of Dominion's high quality reliable services. The public has come to expect that marks used in connection with job offerings and opportunities and that consist of EMPLOYMENT GUIDE, are associated or affiliated with, or authorized by, Dominion.

**Defendants' Wrongful Acts**

17. Long after Dominion's EMPLOYMENT GUIDE Mark had become well known as a source identifier for Dominion's job listings and related services, and after Dominion had begun offering its services online in connection with the EMPLOYMENT GUIDE Mark, on information and belief, Defendants registered the <employmentguides.org> domain name (the "Infringing Domain Name") with Network Solutions on October 8, 2007. A true and correct copy of the WHOIS database information respecting the <employmentguides.org> domain name registration is attached hereto as **Exhibit E**.

18. On information and belief, Defendants' <employmentguides.org> website prominently displays the mark EMPLOYMENT GUIDES with the tagline "Welcome to the Employment Guides Network." A true and correct copy of the homepage associated with the <employmentguides.org> website is attached hereto as **Exhibit F**. Defendants operate the <employmentguides.org> website as a website offering job listings for people seeking jobs in direct competition with Dominion.

19. On information and belief, Defendants registered with Dominion's <employmentguide.com> website as employers under the following names: Denver Employment Solutions, Impact 210, Lajenuesse Cosmetics, Spears Events, Alec Defrawi Consulting, and USAVoice. On information and belief, Defendants then used the accounts under these names to conduct searches for the maximum number of job applicants that the <employmentguide.com> website allows each employer to search. On information and belief,



instead of using Dominion's <employmentguide.com> website legitimately to post job offerings or find qualified applicants for *its* positions, Defendants copy Dominion's customers' applicant information with the intent to use such information competitively and to market other services to Dominion's customers..

20. By copying the applicant information on Dominion's <employmentguide.com> site, Defendants have exploited their use of Dominion's <employmentguide.com> website and have violated the terms of the Visitor Agreement.

21. On information and belief, using the applicant information they have wrongfully taken from the <employmentguide.com> website, Defendants have recently begun contacting Dominion's customers throughout the United States, including customers in Virginia, via text message and email to deceive them into believing that information about their respective job applications awaits them, when in fact Defendants intend to induce them to sign up for other services. For example, the text message that Defendants send to Dominion's customers reads: "Please call me at 8663013840 about your job ap." A true and correct copy of a text message sent to one of Dominion's customers is attached hereto as **Exhibit G**.

22. When one calls the number 866-301-3840 in the text message referenced in paragraph 21, one reaches a voice recording that tells the caller that he or she has reached "Employment Guides" and instructs the caller to login to the website <employmentguides.org> with the caller's first and last name. On information and belief, when Dominion's customer logs on to the <employmentguides.org> website, Defendants ask them for more information in order to market educational programs, credit assistance services, and work at home jobs to them and to offer them job opportunities in direct competition with Dominion.

23. Defendants' email solicitations to Dominion's customers come from the email address "careers@employmentguides.org" and state that job openings are available for the customer and direct the customer to click on the link provided in the email, which is a link to Defendants' <employmentguides.org> website. A true and correct copy of an email solicitation from Defendants to a Dominion customer is attached hereto as **Exhibit H**.

24. On information and belief, once a customer logs on to the <employmentguides.org> website (either as a result of the text message or email solicitation), Defendants solicit Dominion's customers to sign up for additional opportunities. When one clicks on one of these opportunities, one is re-directed to the website <searchforcolleges.com>, a website owned and operated by Defendant Aptimus.

25. Defendants' emails and text message solicitations under the name EMPLOYMENT GUIDES have deceived, confused, and misled Dominion's customers into believing that the emails and text messages originated with Dominion. Indeed, Dominion learned of Defendants' activities because customers of Dominion's contacted Dominion to complain about or address difficulties they were experiencing in trying to access the <employmentguides.org> website, to inquire why they needed to provide further information, or otherwise to address Defendants' solicitations.

26. On information and belief, before Defendants registered or began using the Infringing Domain name as a website or a mark, Defendants had actual knowledge of Dominion's rights and mark because of Dominion's longstanding and extensive use of the EMPLOYMENT GUIDE Mark and because of its online presence and domain name registration using the EMPLOYMENT GUIDE Mark. Defendants' knowledge is further evidenced by the elaborate scheme Defendants planned and executed to steal information from Dominion's

<employmentguide.com> website and use that information to solicit Dominion's customers. Defendants are also charged with constructive knowledge of Dominion's trademark registrations.

27. Defendants' use of the EMPLOYMENT GUIDES name and mark on the <employmentguides.org> website, and Defendants' marketing of services virtually identical to the type of services offered by Dominion under the name and mark EMPLOYMENT GUIDE  
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have deceived, confused, and misled Dominion's customers into believing that the entities operating the website at <employmentguides.org> are affiliated with, sponsored by, or otherwise connected to Dominion's company and related website, on which they have depended for services integral to finding job opportunities.

28. In view of the similarity between the federally registered EMPLOYMENT GUIDE marks and Defendants' website using the name EMPLOYMENT GUIDES and the domain name <employmentguides.org>, all of Defendants' uses of the EMPLOYMENT GUIDES mark and name are likely to cause confusion, mistake, and deception in the marketplace.

29. Defendants' activities throughout the United States and in this judicial district are deceiving and misleading members of the public and have caused and will continue to cause irreparable harm to the goodwill symbolized by the EMPLOYMENT GUIDE name and marks and to the reputation of Dominion. Defendants' activities have created, and are creating, a substantial likelihood of confusion, and indeed actual confusion, as to the origin, sponsorship, approval, and quality of the products and services Dominion provides and have infringed upon Dominion's rights in its names and marks, including its trademark and service mark rights.

**COUNT I**  
**VIOLATION OF THE ANTICYBERSQUATTING CONSUMER**  
**PROTECTION ACT**

30. Dominion repeats and incorporates by reference the allegations contained in Paragraphs 1 through 29 as if set forth fully herein.

31. By registering and using the Infringing Domain Name, Defendants have registered, trafficked in, and used a domain name that is confusingly similar to Dominion's EMPLOYMENT GUIDE Mark. Upon information and belief, Defendants registered the Infringing Domain Name with the bad faith intent of profiting unlawfully from Dominion's EMPLOYMENT GUIDE Mark.

32. On information and belief, Defendants registered and are using the Infringing Domain Name with the intent to divert consumers from Dominion's online locations to a website accessible under and via the Infringing Domain Name and with the bad faith intent to profit from Plaintiff's marks by creating a likelihood of confusion as to source, sponsorship, affiliation, or endorsement of the site.

33. On information and belief, Defendants are in fact deriving profit from the use of the Infringing Domain Name and the consequent confusion of internet users.

34. Defendants' actions constitute cyberpiracy in violation of 15 U.S.C. § 1125(d).

35. The unauthorized registration and use of the Infringing Domain Name has caused and unless preliminarily and permanently enjoined, Defendants' registration and continued use of the Infringing Domain Name will continue to cause, irreparable injury to Dominion and to the goodwill associated with Dominion's EMPLOYMENT GUIDE Mark.

36. Because Defendants' infringing conduct is causing and is likely to cause substantial injury to the public and to Dominion, Dominion is entitled to injunctive relief, and to

recover either statutory damages under 15 U.S.C. § 1117(d) or Defendants' trebled profits, together with Dominion's costs and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a).

**COUNT II**  
**FEDERAL TRADEMARK AND SERVICE MARK INFRINGEMENT**

37. Dominion repeats and incorporates by reference the allegations contained in Paragraphs 1 through 36 as if set forth fully herein.

38. Defendants' unauthorized use of confusingly similar imitations of Dominion's registered EMPLOYMENT GUIDE Mark is causing and is likely to cause confusion, deception, and mistake by creating the false and misleading impression that its business and services are affiliated, connected, or associated with Dominion or have the sponsorship, endorsement, or approval of Dominion, all in violation of 15 U.S.C. § 1114.

39. Defendants' unauthorized use of confusingly similar imitations of Dominion's registered EMPLOYMENT GUIDE Mark, notwithstanding its knowledge of Dominion's ownership of the EMPLOYMENT GUIDE Mark, demonstrates an intentional, willful, and bad faith intent to trade on the goodwill of Dominion's EMPLOYMENT GUIDE Mark and to cause confusion, deception, and mistake in the minds of Dominion's customers and potential customers to the great and irreparable injury of Dominion. Defendants have acted knowingly and have been unjustly enriched thereby.

40. Because Defendants' conduct is causing and is likely to cause substantial injury to the public and to Dominion, Dominion is entitled to injunctive relief, and to recover Defendants' trebled profits, Dominion's costs, and Dominion's reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

**COUNT III**  
**FEDERAL UNFAIR COMPETITION**

41. Dominion repeats and incorporates by reference the allegations contained in Paragraphs 1 through 40 as if set forth fully herein.

42. Defendant's use of confusingly similar imitations of Dominion's EMPLOYMENT GUIDE Mark is causing and is likely to cause confusion, deception, and mistake by creating the false and misleading impression that Defendants' businesses are affiliated, connected, or associated with Dominion or have the sponsorship, endorsement, or approval of Dominion, in violation of 15 U.S.C. § 1125(a).

43. Defendants' unauthorized use of a confusingly similar imitation of Dominion's electronic URL address, <employmentguide.com>, is causing and is likely to cause confusion, deception, and mistake by creating the false and misleading impression that Defendants' online business is affiliated, connected, or associated with Dominion or has the sponsorship, endorsement, or approval of Dominion, in violation of 15 U.S.C. § 1125(a).

44. Defendants' actions have misrepresented the nature, characteristics, quality, or geographic origin of its services by virtue of stealing Dominion's customer information and then soliciting those customers under the EMPLOYMENT GUIDES mark.

45. Defendants' actions demonstrate an intentional, willful, and bad faith intent to trade on Dominion's goodwill and to cause confusion, deception, and mistake in the minds of Dominion's customers and potential customers by implying a nonexistent affiliation or relationship between Defendants and Dominion to the great and irreparable injury of Dominion.

46. Because Defendants' unfair competition is causing and is likely to cause substantial injury to the public and to Dominion, Dominion is entitled to injunctive relief, and to

recover Defendants' trebled profits, Dominion's costs, and Dominion's reasonable attorneys' fees pursuant to 15 U.S.C. §§ 1116 and 1117.

**COUNT IV**  
**COMMON LAW INFRINGEMENT AND UNFAIR COMPETITION**

47. Dominion repeats and incorporates by reference the allegations contained in Paragraphs I through 46 as if set forth fully herein.

48. Defendants have used confusingly similar imitations of Dominion's EMPLOYMENT GUIDE Mark with full knowledge of Dominion's rights to that mark and with the willful and calculated purpose of trading upon Dominion's established goodwill and business reputation, and in a manner calculated to imply false sponsorship of or approval by Dominion, for the purpose of misleading and deceiving the public.

49. Defendants have used confusingly similar imitations of Dominion's electronic URL address, <employmentguide.com>, with full knowledge of Dominion's rights to that address, and with the willful and calculated purpose of trading upon Dominion's established goodwill and business reputation, and in a manner calculated to imply false sponsorship of or approval by Dominion, for the purpose of misleading and deceiving the public.

50. Defendants' conduct constitutes infringement of Dominion's common law rights to the EMPLOYMENT GUIDE Mark and has damaged and will continue to damage irreparably Dominion's goodwill and reputation unless restrained by this Court.

51. Independent of their liability for common law infringement, Defendants also engaged in unfair competition under the common law of Virginia and the other states in which it has engaged in its activities through its attempted reliance on consumer mistakes and confusion, and its deliberate efforts to poach upon Dominion's goodwill.

52. Dominion has no adequate remedy at law for remedying Defendants' conduct.

**COUNT V**  
**VIOLATION OF THE COMPUTER FRAUD AND ABUSE ACT**

53. Dominion repeats and incorporates by reference the allegations contained in Paragraphs 1 through 52 as if set forth fully herein.

54. Defendants have, knowingly and with the intent to defraud, fraudulently accessed Dominion's protected computer via the <employmentguide.com> website and exceeded the authorized access granted by Dominion. As a result of Defendants' conduct, Defendants' obtained valuable and protected information, which Defendants used to further their fraudulent activity.

55. Because Defendants' fraud and computer abuse has caused and is causing substantial damage to Dominion, Dominion is entitled to injunctive relief and compensatory damages pursuant to 18 U.S.C. § 1030(g).

**COUNT VI**  
**COMPUTER FRAUD UNDER THE VIRGINIA COMPUTER CRIMES ACT**

56. Dominion repeats and incorporates by reference the allegations contained in Paragraphs 1 through 55 as if fully set forth herein.

57. Defendants have used Dominion's computer network via the <employmentguide.com> website without authority and have obtained property or services by false pretenses, in violation of VA. CODE ANN. § 18.2-152.3(1) (1985).

58. Defendants have used Dominion's computer network via the <employmentguide.com> website without authorization and have converted the property of Dominion for the unauthorized and unlawful use of Defendants, in violation of VA. CODE ANN. § 18.2-152.3(3) (1985).



59. Because Defendants' computer fraud has caused and is causing substantial injury to Dominion, Dominion is entitled to its damages, including lost profits, and its costs in bringing this action pursuant to VA. CODE ANN. § 18.2-152.12 (1985).

**COUNT VII**  
**COMPUTER TRESPASS UNDER THE VIRGINIA COMPUTER CRIMES ACT**

60. Dominion repeats and incorporates by reference the allegations contained in Paragraphs 1 through 59 as if fully set forth herein.

61. Defendants have used Dominion's computer network via the <employmentguide.com> website without authorization and, with the intent to make or cause to be made unauthorized copies of data contained on Dominion's computer network, have made or caused to be made such unauthorized copies of data on Dominion's computer network, in violation of VA. CODE ANN. § 18.2-152.4 (1985).

62. Because Defendants' computer trespass has caused and is causing substantial injury to Dominion, Dominion is entitled to its damages, including lost profits, and its costs in bringing this action pursuant to VA. CODE ANN. § 18.2-152.12 (1985).

**COUNT VIII**  
**BREACH OF CONTRACT**

63. Dominion repeats and incorporates by reference the allegations contained in Paragraphs 1 through 62 as if fully set forth herein.

64. By using Dominion's <employmentguide.com> website, Defendants agreed to the terms of the Visitor Agreement.

65. Despite Defendants' obligation to refrain from reproducing, data scraping, or otherwise exploiting any of the materials on the <employmentguide.com> website, Defendants have, without authorization and in violation of the Visitor Agreement for the

<employmentguide.com> website, taken Dominion's customer information and solicited Dominion's customers for opportunities other than those listed on Dominion's <employmentguide.com> website.

66. By violating Dominion's Visitor Agreement, Defendants have breached their contractual obligations to Dominion, thereby causing Dominion substantial damage. As a direct and proximate result of Defendants' breaches, Dominion has suffered damage.

**PRAYER FOR RELIEF**

WHEREFORE, Dominion prays:

1. That Defendants, their partners, agents, employees, and all persons in active concert or participation with Defendants, be permanently enjoined and restrained from:
  - (a) using the domain name <employmentguides.org> and any trademark, company name, or domain name that is confusingly similar to Dominion's EMPLOYMENT GUIDE Marks;
  - (b) passing off to the public that Defendants' business or products or services are those of or originate with Dominion;
  - (c) engaging in any other conduct which will cause, or is likely to cause, confusion, mistake, deception, or misunderstanding as to the affiliation, connection, association, origin, sponsorship, or approval of Defendants' online business, products, or services with or by Dominion; and
  - (d) otherwise infringing upon Dominion's EMPLOYMENT GUIDE Mark or unfairly competing with Dominion in any manner whatsoever.
2. That Defendants be ordered to transfer and assign to Dominion the <employmentguides.org> domain name.

3. That an accounting be ordered and judgment be rendered against Defendants for all profits received from the sale, rental, or provision of products or services directly or indirectly in connection with, or advertised or promoted in any manner, utilizing the infringing <employmentguides.org> domain name and confusingly similar imitations of Dominion's EMPLOYMENT GUIDE Mark.
4. That the award of profits resulting from Defendants' infringement, unfair competition, and false designation of origin of products and services be trebled.
5. That Dominion recover its actual damages.
6. That the award of actual damages from Defendants' infringement, unfair competition, and false designation of origin of products and services be trebled.
7. That Dominion recover statutory damages under 15 U.S.C. § 1117(d) in the amount of \$100,000.
8. That Defendants be required to deliver up for destruction all advertising and promotional materials, labels, cartons, brochures, business stationary, calling cards, information sheets, posters, signs, and any and all other printed or graphic materials of any type, including the plates, molds, or other means of producing the materials, which bear references to Dominion's EMPLOYMENT GUIDE Mark, confusingly similar imitations of Dominion's EMPLOYMENT GUIDE Mark, or to the <employmentguides.org> domain name.
9. That Defendants be directed to file with the Court and serve on Dominion, within thirty (30) days after entry of a final injunction, a report in writing under oath setting forth in detail the manner and form in which Defendants have complied with the injunction.

10. That Dominion be awarded its costs in connection with this suit, including reasonable attorneys' fees and expenses.

11. That Dominion have such other and further relief as the Court may deem just and proper.

This the 4th day of February, 2008.

A handwritten signature in black ink, appearing to read "Daniel H. Marti", written over a horizontal line.

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*Attorney for Plaintiff*

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

\*

,CLERK, U. S. SHIPCT CO:jrr

v.

Crim. No. 94-0162-01  
(TFH)

\*

AYMAN A. EL-DIFRAWI

\*

GOVERNMENT'S PROFFER

The United States of America by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits the following proffer of evidence in support of defendant Ayman A. El-Difrawi's plea to Count One of the Indictment charging Conspiracy to Commit Bank Fraud in violation of 18 United States Code Section 371.

The government expects that the evidence would show that the defendant Ayman A. El-Difrawi founded the company Small Business Loan Association (SBLA) with the codefendant Patrick F. Read in April 1990, and that he and codefendants Patrick F. Read and Marwan Moheyeldien founded the Shearson Management Group (SMG) in July 1990. Although Patrick Read served as President of both companies, the codefendant Ayman A. El-Difrawi was the guiding and primary force behind the organization and operation of both companies. The defendant Ayman A. El-Difrawi served as Vice-President of SMG and SBLA. The codefendant Marwan Moheyeldien was a Vice-President of SMG. Both companies continued to operate until February 1991, when the Federal Bureau of Investigation executed search warrants at their places of business in the District of Columbia and in Orlando, Florida and seized all the companies' records. At the

time of the search, Mr. El-Difrawi was still Vice-President of both SBLA and SMG.

SBLA operated as a loan brokerage or referral agency. When the company began operation it guaranteed within 90 days a loan or your money back to customers seeking small business loans for new businesses or for expansion of existing businesses. During the fall of 1990, the guarantee was changed to one which offered 5 loan referrals within 90 days or your money back. During its time of operation, SBLA incrementally raised its fee for its services from \$35 to \$275. Additionally SBLA charged extra fees for credit reports and business plans which were sold to customers as purportedly prepared by the independent companies of Brenner Business and Dunn, Krause Jones & Associates. In reality, Brenner Business and Dunn, Krause Jones & Associates were inter-related companies of SBLA. Fees for these additional services ranged from approximately \$35 for a credit report to several hundred dollars for a business plan.

SBLA obtained its customers through advertisements placed nationwide in newspapers and journals. The company advertised that it had lending sources available and provided services that would pre-screen, match and expedite the lending process. At the time the company began running such ads, it had no available lending sources, no existing special relationship with lending sources and no capital independent of customer funds to operate or make refunds. The company's operating capital consisted of \$500 used to open SBLA's bank account. Ayman A. El-Difrawi full well knew that SBLA had no viable means of fulfilling the representations or

guarantee.

At no time in fact during SBLA's operation did the company have any true working relationship with any lending institutions or sources. Although cold call solicitations to banks or other lending sources commenced several months after SBLA began operation, and in late July 1990, the company purchased a publicly available software program listing possible lending sources, SBLA was still unable to fulfill its general guarantee of a loan or a refund. Even during the fall of 1990 when SBLA changed its guarantee to 5 referrals, defendant Ayman A. El-Difrawi and others through the oral representations made by sales representatives and written materials continued to mislead customers into believing that an actual and meaningful association with lending sources existed when in fact it did not.

SMG operated as an employment referral agency. When SMG began operating, the company charged clients an advance fee for a test that purportedly would be used by SMG as part of its employment referral services. A purported independent testing company, Brenner Business, was represented as administering the test and the fee was allegedly charged by it for the cost of administering the test. In fact, as previously noted, Brenner Business was merely a paper corporation controlled by defendant Ayman El-Difrawi and others. The tests were not graded, were not required by any employers and were not forwarded to any employers.

When SMG began operation, the company promised clients a position within their desired field, at their salary level and in

their geographic region or the client would receive a full refund if the company failed to perform within 90 days. SMG obtained clients through the placement of advertisements in local newspapers for jobs allegedly available. Clients were then allegedly pre-screened for suitability for the position. Clients paid the fee after coming into SMG offices for an interview with a job counselor. In fact, the job counselors were the telemarketers who answered the phones and screened the applicants for the interviews for the advertised positions. No screening of clients was done by SMG. Anyone who agreed to pay the required fee was accepted as a SMG client.

During SMG's operation, the fee paid by clients and the promises made by SMG changed. For instance, testing by the independent agency was dropped but the advance fee was still charged. The guarantee of a job offer was also dropped. The company instead offered 10 employment referrals to clients in their desired field, salary range and geographic region or they would receive a full refund after 90 days.

In January 1991, the company changed from a walk-in service where clients met one-on-one with job counselors to a fully tele-marketed operation where sales were handled exclusively over the phone. At the time that these changes were made, the company also became more national in scope. They advertised positions in papers across the nation. They ran the same advertisements in all markets for positions that allegedly were available. The advertisements for these specific positions were for the most part merely made up



by SMG staff. The ads were selected solely because they generated a high volume of sales response and were not based on known actual jobs. The company repeatedly ran the same ads in multiple markets without actual jobs backing the ads.

Mr. El-Difrawi was aware that no specific jobs were the basis for the ads that were run to bring in customers for SMG. Any efforts made to locate jobs were limited in scope and were not commenced until several weeks after the initial ads had begun to run. Such efforts had no meaningful correlation to the jobs being advertised. Robert Knight notified defendant Ayman A. El-Difrawi and others that SMG had information on only a limited number of positions that were substantially fewer than its client base and obligations. In addition, defendant Ayman A. El-Difrawi and others knew that SMG had no special relationship or association with prospective employers as its customers were led to believe.

The success of this fraud for both SBLA and SMG was largely dependent on access to a merchant account to run the charges received for services. Defendant Ayman A. El-Difrawi and others knowingly and intentionally made material misrepresentations to banks in order to obtain approval for merchant accounts which were subsequently used to continue and facilitate the scheme to defraud customers of SBLA and SMG.

In or about April 1990, the defendant Ayman A. El-Difrawi and others knowingly and intentionally filed a merchant account application with Sun Bank of Orlando, Florida, containing material misrepresentations regarding their company. The application was

completed by Ayman A. El-Difrawi and signed by Patrick Read and Anita Atherton. The application contained misrepresentations about the type of goods or services provided by the SBLA and failed to list all the corporate officers including the defendant El-Difrawi. Ayman A. El-Difrawi and others used this merchant account to process SBLA sales made between April 1990 and September 1990, at which point the account was closed by Sun Bank. From late July 1990, through September 1990, Ayman A. El-Difrawi and others also used the Sun Bank merchant account to improperly process charges made from SMG sales as SMG had not yet obtained access to a merchant account. Sales of SMG services made in the District of Columbia were sent by carrier to the SBLA offices in Maitland, Florida, for processing.

Ayman A. El-Difrawi was aware prior to September 1990 that the Sun Bank merchant account was to be terminated. Prior to that date defendant Ayman A. El-Difrawi and others took steps to secure another merchant account. The codefendant Marwan Moheyeldien notified Ayman A. El-Difrawi that he had access to the existing merchant account with First American Bank using the name Video World of Arlington, a business managed by Moheyeldien's father. The defendant Ayman A. El-Difrawi knew that through misrepresentations to the bank, he and others gained access to the merchant account at First American which was utilized to process SBLA and SMG sales from September 1990 until January 1991, when the account was terminated by the bank.

In July 1990 the defendant Ayman A. El-Difrawi and codefendant

Patrick F. Read also applied with Credit Card Software Systems Inc. for a merchant account. That application was accepted by First Tennessee Bank in approximately November 1990, but the account was not actively used by SMG and SBLA until late January 1991. Read and El-Difrawi knowingly and intentionally made misrepresentations on the merchant account application to assure the issuance of the account. For instance, with defendant Ayman A. El-Difrawi's knowledge, the application was submitted and signed by Read in the name of defendant El-Difrawi's father, Ahmed A. Difrawi. The original application failed to list the actual corporate officers, and the application was submitted under the company name of Dunn, Krause Jones and Associates because that company had an earlier date of incorporation than SMG or SBLA, the companies that, in fact, intended to utilize the account. Additionally, oral misrepresentations about the nature of the business were made to a representative of Credit Card Software Systems Inc. Based on these misrepresentations a merchant account for Dunn, Krause Jones and Associates DBA Brenner Business was authorized. The point-of-sale terminal for this account was issued for use in Orlando, Florida. However, at the direction of defendants Ayman A. El-Difrawi and Marwan Moheyeldien, defendant Patrick Read sent the terminal from Orlando, Florida, to Washington, D.C., for use in SMG and SBLA's offices there. The terminal was keyed to operate from Orlando, Florida. Defendant El-Difrawi to correct this problem, telephoned a representative of Credit Card Software Systems Inc. and made misrepresentations about problems regarding the terminal's

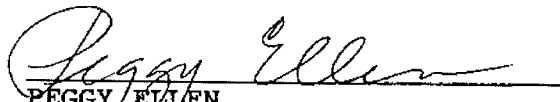
operation under the Florida area code. Based on these misrepresentations, the terminal was keyed to an 800 number. Beginning in late January 1991 until the account was closed by First Tennessee in early February 1991, charges made through SMG and SBLA sales were processed through this merchant account.

Through such acts as specified herein the defendant Ayman A. El-Difrawi and others, willfully and knowingly executed a scheme and artifice to defraud financial institutions, that is, Sun Bank, First American Bank and First Tennessee Bank. The amount of sales activity fraudulently obtained and processed through these fraudulently obtained accounts was more than \$800,000 but less than \$1.5 million.

Respectfully submitted,

ERIC H. HOLDER, JR.  
United States Attorney

BY:

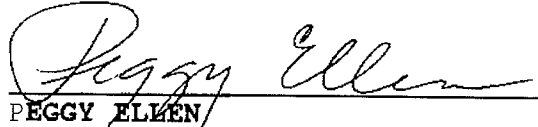
  
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Government's Proffer was delivered by hand to the defendant Ayman A. El-Difrawi, Pro Se, 1481 Old Chain Bridge Road, Suite 103, McLean Virginia 22101 this 4<sup>th</sup> day of November, 1995.



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*Hogan, J.*

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

Crim. No. 94-162 (TFH)

AYMAN A. EL-DIFRAWI  
PATRICK F. READ  
MARWAN MOHEYELDIEN  
DAVID B. ELLIOTT  
GEORGE THOMAS BRADSHAW  
DAREN RUBENFELD  
ROBERT KNIGHT

**FILED**

OCT 04 1995

Clerk, U.S. District Court  
District of Columbia

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GOVERNMENT'S 404(b) EVIDENTIARY HEARING WITNESS LIST

The United States Attorney, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits, pursuant to this Court's September 27, 1995 Order, the attached list of witnesses who may testify in the 404(b) Evidentiary Hearing in the above-captioned case. The government respectfully reserves its right to modify the witness list in a timely manner.

Respectfully submitted,

ERIC H. HOLDER, JR.  
United States Attorney

BY: *LPr r F/ZE./L/f./*  
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*305*

**FILED**

OCT 0 1995

Clerk, U.S. District Court  
District of Columbia

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STATLER, KRISTI DAVIS  
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WERNER, LISA  
WOLFORD, JANICE

CERTIFICATE OF SERVICE

I certify that copies of the foregoing Government's 404(b)  
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