

LAW OFFICES OF KAMILLE DEAN, P.L.C.

Kamille R. Dean
Attorney at Law

Licensed to practice in AZ, CA, UT & MN

4545 N. 36th St., Ste. 202
Phoenix, AZ 85018
Telephone (602) 252-5601
Fax (602) 916-1982
kamille@kamilledean.com

September 26, 2017

The Honorable Jefferson B. Sessions III.
Attorney General
Office of the Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Via email: *Jeff.Sessions@usdoj.gov*

The Honorable Rod J. Rosenstein
Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Via email: *Rod.Rosenstein@usdoj.gov*

Sandra Brown
Acting United States Attorney
United States Attorney's Office
U.S. Courthouse, Suite 1208
312 North Spring Street
Los Angeles, CA 90012
Via email: *Sandra.Brown@usdoj.gov*

Lawrence Middleton
Assistant United States Attorney
Chief, Criminal Division
Central District of California
1100 U.S. Courthouse
312 N. Spring Street
Los Angeles, CA 90012
Via email: *Lawrence.Middleton@usdoj.gov*

Scott Garringer
Assistant United States Attorney
Deputy Chief, Criminal Division
Central District of California
1100 U.S. Courthouse
312 N. Spring Street
Los Angeles, CA 90012
Via email: Scott.Garringer@usdoj.gov

George Cardona
Assistant United States Attorney
Chief, Major Frauds Section
United States Attorney's Office
Central District of California
1100 U.S. Courthouse
312 N. Spring Street
Los Angeles, CA 90012
Via email: George.S.Cardona@usdoj.gov

Kristen Williams
Assistant United States Attorney
Deputy Chief, Major Frauds Section
United States Attorney's Office
Central District of California
1100 U.S. Courthouse
312 N. Spring Street
Los Angeles, CA 90012
Via email: Kristen.Williams@usdoj.gov

Robin C. Ashton
Head, Office of Professional Responsibility
United States Department of Justice
950 Pennsylvania Avenue NW, Suite 3266
Washington, DC 20530-0001
Via email: Robin.Ashton@usdoj.gov
Via email: OPR.complaints@usdoj.gov

Dear Messrs. Sessions, Rosenstein, Middleton, Garringer, and Cardona, Ms. Brown, Ms. Williams, and Ms. Ashton:

Upon information and belief, the prosecution team at the U.S. Attorney's Office in the C.D. of California is engaging in misconduct by presenting false recantation testimony from an illegal alien, Sherwin Hong ("Hong"), to the grand jury in the investigation of 1 800 GET THIN. The government investigation of 1 800 GET THIN involves alleged falsification of medical records to obtain insurance approval of the Lap Band® weight loss procedure.

A. Hong Signed a Declaration Under Penalty of Perjury that He Never Altered Records Nor was He Told by Anyone to Alter Records to Improve the Chances a Patient Will be Approved by Insurance

Hong signed a declaration, under penalty of perjury, that he never falsified records to improve the chances that a patient would be approved for the lap-band procedure and that he had not been asked to do so by anyone. Hong further declared under penalty of perjury that he was not aware of anyone falsifying patient records nor had he instructed anyone else to falsify patient records. We will provide you Hong's under oath statements, and other evidence should you request it.

B. The Presentation of Hong's Perjured Recantation Testimony to the Grand Jury, Whether Intentional or Not, Violates My Client's Due Process Rights

In *United States v. Samango*, the Ninth Circuit held:

The prosecutor has a duty of good faith to the Court, the grand jury, and the defendant. *United States v. Basurto*, 497 F.2d 781, 786 (9th Cir. 1974). In *Basurto*, this Court held that the defendants' right to due process was violated where they had to stand trial on an indictment which the Government knew was based partially on perjured testimony.

607 F.2d 877, 884 (9th Cir. 1979).

Here, too, the record shows the prosecutors have apparently presented perjured testimony from illegal alien Hong to the grand jury. *Phillips v. Woodford*, 267 F.3d 966, 984-85 (9th Cir. 2001) ("[i]t is well settled that the presentation of false evidence violates due process") (citation omitted). Hong has already signed a declaration under penalty of perjury stating that my clients did nothing wrong. Presentation of any recantation testimony from Hong to the grand jury constitutes presentation of perjured testimony.

This type of flagrant misconduct is not necessary to establish a due process violation. *Samango* extended *Basurto*'s holding to any situation where "other prosecutorial behavior, even if unintentional, [] cause[s] improper influence and usurpation of the grand jury's role. *Samango*, 607 F.2d at 882. The presentation of Hong's recanted testimony is presenting perjured testimony to the grand jury.

C. Hong's Recantation Testimony Does Not Have The Indicia of Reliability to be Presented to the Grand Jury

Any recantation by Hong may years later, contradicting his prior sworn declaration that my clients did nothing wrong, makes Hong's recantation " '**especially unreliable** ' ". *Jones v. Taylor*, 763 F.3d 1242, 1249 (9th Cir. 2014) (citation omitted) (emphasis added); *id.* at 1248 ("[a]s a general matter, '**r]ecantation testimony is properly viewed with great suspicion.**'") (citation omitted) (emphasis added). No proper justification exists for the belated recantation. *Id.* at 1249 (discounting evidence from witnesses who did not provide a good explanation for why they delayed in coming forward).

D. Illegal Alien Hong Clearly Has A Motive To Lie and to Recant His Prior Testimony to Prevent Incarceration and Deportation by the Government

The government has cause to prosecute, incarcerate, and deport Hong and his family, because they are all in this country illegally. Because of his illegal alien status, Hong is not in a position to decline any prosecution request to provide false recantation testimony implicating my clients, contrary to his prior declaration under oath.

Illegal alien Hong is not a good samaritan who, on his own, volunteered to give recantation testimony to the government. Rather, the government contacted Hong years later to recant his declaration which stated under penalty of perjury my clients did nothing wrong. " '**Recanting testimony is easy to find** but difficult to confirm or refute: witnesses forget, witnesses disappear, **witnesses with personal motives change their stories many times**, before and after trial.'" *Jones*, 763 F.3d at 1248 (citation omitted) (emphasis added). There can be no question the prosecutors easily obtained recantation testimony from Hong. Hong has extremely powerful "personal motives [to] change [his] stor[y]" to curry favor with the prosecutors to prevent prosecution, incarceration, and deportation. In fact, that is exactly what has occurred here. As further discussed below, illegal alien Hong remains free and continues to stay in this country and work unlawfully with 1 800 GET THIN's main competitor, all with the prosecutor's blessing in an unlawful *quid pro quo* in exchange for the recantation testimony. **Under these circumstances, there is zero benefit to Hong to not recant.**

From the six-year investigation and interviews of a multitude of witnesses, the government prosecutors are clearly aware: (1) Hong is in our country illegally, and (2) Hong has expressed to several witnesses his extreme fear of being deported. The prosecutors cannot

claim ignorance and still be willfully ignorant of Hong's illegal activity and illegal alien status, i.e., the elephant to the room. *Northern Mariana Islands v. Bowie*, 243 F.3d 1109, 1118 (9th Cir. 2001) (although "put on notice of the real possibility" that the government claims were false, the prosecution "press[ed] ahead without a diligent and good faith attempt to resolve it." The government's "duty is not discharged by attempting to finesse the problem by pressing ahead without a diligent and a good faith attempt to resolve it. A prosecutor cannot avoid this obligation by refusing to search for the truth and remaining willfully ignorant of the facts.")

Hong has a motive to lie to curry favor with the government prosecutors to avoid prosecution, incarceration and deportation. The prosecutors cannot pretend this situation does not exist to obtain whatever manipulated recantation testimony against my clients they desire from Hong. Under these circumstances, the use of Hong's recantation testimony **cannot** be justified under any circumstances, and cannot render false Hong's prior favorable testimony regarding my clients. *Allen v. Woodford*, 395 F.3d 979, 994 (9th Cir. 2005) ("later recantation of [earlier] testimony does not render his earlier testimony false.") (citing *Dobbert v. Wainwright*, 468 U.S. 1231, 1233, (1984) (Brennan, J., dissenting from denial of cert.) ("Recantation testimony is properly viewed with great suspicion."); 58 Am.Jur., New Trial § 345 ("recantation testimony is generally considered exceedingly unreliable").

E. The Government is Enabling Hong to Work Illegally for 1 800 GET THIN's Main Competitor Who Has Repeatedly Tried to Destroy 1 800 GET THIN

Furthering undermining the use of any recantation testimony from Hong is that Hong now works as a full time independent contractor for West Medical, a direct and main competitor of 1 800 GET THIN and related entities. West Medical has been trying to destroy my clients' businesses by stealing employees and patients, making false allegations, and other destructive activities. Hong's employment relationship with West Medical creates not only a conflict, but Hong would clearly act as a biased and hostile grand jury witness against my clients to curry favor with his new employer who has illegally hired him. **Obviously, Hong is providing whatever manipulated and coerced testimony the government desires to appease his new employer.** The realities of this case cannot be ignored.

///
///
///
///
///
///

F. The Record Indicates the Government is Aiding and Abetting Hong's Illegality in an Unlawful *Quid Pro Quo* in Return for Manipulated Recantation Testimony Against My Clients

1. The Department of Justice Policy does not permit the C.D. of California U.S. Attorney's Office to disregard Immigration Law in order to obtain recantation testimony from an Illegal Alien to use against my clients

The position of the federal government and Main Justice is that an illegal alien's presence in this country is unlawful, and the illegal alien **must** be deported. Attorney General Jeff Sessions in July 2017 reiterated Justice Department Policy:

One of the Department's top priorities is criminal immigration enforcement. Enforcement of our immigration laws is not only a fundamental issue of sovereignty but is essential to ensuring public safety for all Americans.

SESSIONS, JEFF, A.G., *Introduction*, Vol. 4, N. 4., Prosecuting Criminal Immigration Offenses, at 1, available at <https://goo.gl/yF9Lnx>.

At minimum, Hong is in violation of 8 U.S.C. §1253 for his years-long failure to depart.

Thus, the U.S. Attorney's Office in the C.D. of California is apparently conspiring with illegal alien Hong. In return for not prosecuting, incarcerating and deporting Hong, the prosecutors are obtaining whatever manipulated and recantation testimony they desire from Hong to improperly use in their investigation and present to it the grand jury.

2. Case law is clear that the government and its agents must follow immigration law and may not improperly benefit from illegal aliens in *quid pro quo* schemes, as the record shows has occurred here

Recent decisions have very clearly indicated that the government is not only bound to follow federal immigration law, but its officers will be criminally charged when willfully flouting and circumventing the provisions of immigration law relating to providing refuge to, and aiding and abetting, illegal aliens. *See generally, United States vs. Echevarria*, No. 2:16-cr-00073-ES (D.N.J. 2017). In *Echevarria*, Arnaldo Echevarria was a government officer for ICE, and he was charged with engaging in an unlawful *quid pro quo* scheme with an illegal alien. In his case, Echevarria suppressed an illegal alien's status in the context of employment. He was charged with numerous felonies, including the harboring of an illegal alien in violation of 8 USC §1324, and convicted of the same. Subsection (a)(1)(A)(iii) and (B) of §1324 states that "any person, knowing or in reckless disregard of the fact that an alien

has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation ... shall be punished by imprisonment for up to 10 years.”

The prosecutors know that Hong is an illegal alien. Nonetheless the prosecutors continue to unlawfully collaborate with Hong by using him to serve as a coerced false witness against my clients, all the while concealing and shielding Hong from the grips of ICE agents and prosecution in violation of §1324. The prosecutors are accordingly engaged in precisely the sort of detestable *quid pro quo* arrangement that enraged the federal prosecutors (and jury) in *Echevarria*, and subsequently resulted in the conviction and imprisonment of the former ICE agent. Here, Hong is pressed for extortionate and manipulated recantation testimony which he has no choice but to give to avoid ICE and prosecution, incarceration and deportation.

Moreover, it is well known to the prosecutors in this case that Hong also operates an ambulance or medical transport business, and is paid in part by federal and state funds, and other public coffers. Thus, the government is not only transacting with Hong for tainted testimony; the government is also intentionally harboring an illegal alien to conduct business with and profit from the federal and state governments. This double-dealing should trouble even the most immigration-friendly lawmakers and policy makers. The government apparently sets aside §1324 if and whenever it chooses, as long the illegal alien can be coerced to provide manipulated testimony in return. Hong gets to keep his side business and stay out of ICE’s reach, and in exchange, the government gets wonderfully convenient and customized recantation testimony from Hong who has no real choice but to provide.

However, “[t]he ends in our system do *not* justify the means. Our Constitution does not promise every criminal will go to jail, it promises due process of law.” *Bowie*, 243 F.3d at 1124. My clients are innocent and the government’s use of Hong to provide manipulated recantation testimony against them is highly offensive to the principles of due process and justice.

G. The History of the Government’s Rampant Interference and Coercion of Multiple Independent Witnesses in this Investigation Establishes that the Prosecution’s Misconduct and Coercion of Hong is Deliberate

There have been multiple prior complaints regarding the U.S. Attorney’s Office in the C.D. of California’s interference with and coercion of witnesses. Attached as Exhibit 1, please find the July 21, 2016 letter to Main Justice, which details a consistent pattern of witness intimidation, interference, and even demanding that potential witnesses testify “*against*” their former employers (my clients). The history of this investigation demonstrates the sort of testimony the government demands and expects from Hong. For example, Grand Jury Witness Rosa McDonald stated that the government told her she was required to testify

against 1 800 GET THIN. See Exhibit 1, 7-21-16 Complaint Letter at pp. 1-2. The government never refuted Rosa McDonald's assertion.

Most recently, grand jury subpoenaed witness Alywin Calado was unlawfully coerced by governmental agents. Calado declares "word for word **that I had to testify against my former employer in front of a grand jury investigating the company.** At that point, it was clear to me that the only acceptable testimony I was permitted to present to the grand jury would be against my former employer." Exhibit 2, September 5, 2017 Alywin Calado Declaration, ¶3. Pertinent to the government manipulated testimony of Hong, Alywin Calado further declared "**I am extremely concerned that if I do not testify against my former employer as the government has required of me, there will be legal problems for me.**" Exhibit 2, September 5, 2017 Alywin Calado Declaration, ¶6 (emphasis added).

Even more compelling is the prosecutors' improper influence on the Grand Jury itself. Undersigned has information that the grand jury foreman was hostile toward witness Ashkan Rajabi. The grand jury foreman made accusatory statements to Mr. Rajabi and the prosecutors refused to allow Mr. Rajabi to address the accusations. See Exhibit 3, Declaration of Ashkan Rajabi. The Grand Jury proceeding is an *ex parte* proceeding and is supposed to be a fair and impartial presentation of evidence. How can the presentation be fair when the prosecutors allow this to happen?

The multiple documented independent attestations of witness interference and intimidation by the government and the scope of the material violations are shocking. Indeed, the destruction of my clients' former attorney, Robert Silverman, not only as an attorney but also as a material witness, with the coercive false claim of a grand jury subpoena in order to procure Silverman's repeated in office interrogations at the U.S. Attorney's Office in the C.D. of California in violation of Rule 17 of the Federal Rules of Criminal Procedure, is currently before the Ninth Circuit in CA 16-50252. It is inexcusable that the prosecutors are permitted to exploit their positions without having to answer for documented witness tampering and collaborating with illegal alien Hong to provide perjured recantation testimony to the grand jury in violation of §1324.

H. Conclusion

The record shows the prosecutors in this case are aiding and abetting illegal activity by allowing Hong to remain in this country unlawfully and refusing to prosecute, incarcerate and deport him. Worse, and most appalling, the prosecutors are currying favor with an illegal alien to improperly further their investigation of my clients, an unlawful means to an end, in a case that they have been unable to secure, even with harassment and intimidation of multiple witnesses, including my clients' former counsel. The conduct of the U.S. Attorney's Office in the C.D. of California cannot be reconciled with the federal government's top priority of criminal immigration enforcement. The supervisors must act.

I have been practicing as a criminal defense attorney for over a decade, and whenever there is an illegal alien witness my client intends to call, the government uniformly raises the issue of illegal entry, deportation and criminal action against the alien. There is a double standard in this case. The U.S. Attorney's Office in the C.D. of California is not exempt from following federal immigration law.

Based on the information I have stated herein, there is **no** way the government can ensure that Hong's recantation testimony is not false, and that it does not constitute the presentation of perjured testimony to the grand jury. Hong's illegal alien status, his extreme fear of being deported, and his employment with my clients' main competitor further compromises him as a witness.

We request that you immediately address and rectify this serious issue of the use of false recantation testimony from Hong by the prosecutors to the extreme prejudice of my clients. We request a response to this complaint. We are extremely concerned that the prosecutors will retaliate against my clients for again exposing their serious misconduct. We respectfully request a meeting to discuss these serious issues and provide you with any additional information you need to investigate this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Kamille Dean", with a stylized flourish at the end.

Kamille Dean

EXHIBIT 1

LAW OFFICES OF ROBERT J. RICE

6380 Wilshire Blvd., Suite 820
Los Angeles, CA 90048
(323) 297-3700

Robert J. Rice Esq.
robert@robertricelaw.com

ARISTOV LAW

6380 Wilshire Blvd., Suite 820
Los Angeles, CA 90048
(323) 297-3700

Dmitriy Aristov Esq.
dima@aristovlaw.com

William J. Birney (Via email and mail)

william.j.birney@usdoj.gov

Associate Counsel
Office of Professional Responsibility
United States Department of Justice
950 Pennsylvania Avenue NW, Suite 3266
Washington, DC 20530-0001
Telephone: (202) 514-3365

Robin C. Ashton (Via email and mail)

robin.ashton@usdoj.gov ; opr.complaints@usdoj.gov

Head Office of Professional Responsibility
United States Department of Justice
950 Pennsylvania Avenue NW, Suite 3266
Washington, DC 20530-0001
Telephone: (202) 514-3365

Sally Quillian Yates (Via Facsimile and Mail)

Deputy Attorney General
Office of the Deputy Attorney General
Public Integrity Section
Criminal Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Telephone: (202) 514-2101
Facsimile: (202) 514-0467

Josh Flynn-Brown, Esq. (Via email and mail)

josh_flynn-brown@judiciary-rep.senate.gov

Senator Grassley's Judiciary Committee Staff
Investigative Counsel
U.S. Senate Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050
Telephone: (202) 224-5225

Leslie R. Caldwell (Via email and mail)

criminal.division@usdoj.gov

Assistant Attorney General
Criminal Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Telephone: (202) 353-4641

William Levi, Esq. (Via email and mail)

william_levi@judiciary-rep.senate.gov

Senator Lee's Judiciary Committee Staff
Chief Counsel
U.S. Senate Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Telephone: (202) 224-2791

Monty Wilkinson (Via email and mail)

monty.wilkinson@usdoj.gov

Director, Executive Office for U.S. Attorneys
Executive Office for United States Attorneys
United States Department of Justice
950 Pennsylvania Avenue, NW, Room 2242
Washington, DC 20530-0001
Telephone: (202) 514-2000

Marc Marie, Esq. (Via email and mail)

marc_marie@judiciary-rep.senate.gov

Senator Lee's Judiciary Committee Staff Counsel
U.S. Senate Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Telephone: (202) 731-1824

Paul M. O'Brien (Via email and mail)

paul.obrien@usdoj.gov

Deputy Assistant Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Telephone: (202) 353-4641

Eileen M. Decker (Via email and mail)

eileen.decker@usdoj.gov

United States Attorney
United States Attorney's Office
U.S. Courthouse, Suite 1208
312 North Spring Street
Los Angeles, CA 90012
Telephone: (213) 894-1092

Re: Improper Influence of Witnesses
Request for Meeting and Independent Investigation

Dear Ms. Ashton, Ms. Caldwell, Ms. Yates, and Messrs. Birney, O'Brien, and Wilkinson:

The investigation of 1 800 Get Thin has been going for five (5) years, and for more than two (2) years, the government has been holding \$109,000,000.00 in seized funds. We have written to you twenty-five (25) different times previously complaining of extreme misconduct in the investigation and government acts which shock the conscience of every attorney who has reviewed the incidents (*See Appendix 1*, attached herein for the correspondence list, ER1). These Letters chronicle with hard documentary evidence the government's course of misconduct which cannot be ignored and present serious incidents with which the Department of Justice should be concerned.¹

We are writing you once again because of new acts of misconduct from the government investigators and attorneys which no reasonable member of the Department of Justice should permit under their supervision. Counsel for the Senate Judiciary Committee Senators Chuck Grassley, Chairman, and Mike Lee, Member, are copied on this communication because they are contemporaneously investigating grand jury misconduct and witness interference by the federal government. *See e.g.*, Senators Grassley and Lee Letter to Sally Quillian Yates of May 19, 2016 re prosecution of Vascular Solutions and its CEO Howard Root.

This letter will first examine the government's systematic interference with Witnesses Rosa McDonald, Farrell Newton, Alexander Robertson, Charles Klasky, and Jeffrey Detubio. Second, we will examine the legal implications of that interference. This Letter will demonstrate the government has engaged in serious misconduct designed to make witnesses unavailable to the defense in the 1 800 Get Thin investigation which has destroyed evidence.

I. THE GOVERNMENT HAS ENGAGED IN A SYSTEMATIC EFFORT TO INFLUENCE WITNESSES

A. Interference With Grand Jury Witness Rosa McDonald

Call center employee Rosa McDonald was approached by FDA Agent Samanta Kelley, who is still the lead agent of the government's criminal investigation, in early 2012

¹ The investigation started in late 2011. There have been no charges and its allegations and validity are vigorously disputed. Throughout this process, in excess of twenty formal complaint letters, spanning over 1000 pages, protesting significant government misconduct, have been submitted to the DOJ by multiple separate attorneys to include former AUSAs, and even a former Associate Deputy Attorney General at the US Department of Justice. Moreover, former California Supreme Court Justice Armand Arabian has written an extensive Independent Opinion severely chastising the government's conduct and investigation.

and was told she needed to appear at the grand jury and “testify against 1-800-Get-Thin” when Agent Kelley handed her the Grand Jury subpoena. Agent Kelley further told Ms. McDonald if she did not show up she would go to jail. Ms. McDonald was distraught to the point of tears due to her interaction with Agent Kelley. Former Attorney Konrad Trope spoke with Ms. McDonald and attested to this. Ms. McDonald was so intimidated by the government’s conduct that when she appeared to the Grand Jury, she took the Fifth Amendment privilege. The government’s conduct has made Ms. McDonald become unavailable as an important witness favorable to the Omidis. This issue has been previously communicated to the USAO.

B. Obstruction With Accountant Farrell Newton

Account Farrell Newton in a declaration under oath testified that AUSA Evan Davis, after the tape for his interview was shut off, stated that “any assistance to the Omidis and their legal issues would result in repercussions”:

On June 4, 2014, **I was told by Evan Davis that any assistance to the Omidis and their legal issues would result in repercussions.** He was obsessed with getting the Omidis. I did not want to face, antagonize, or get in the way of Evan Davis who threatened me with charges and is the very same prosecutor for Cindy Omidis. As a result of all the events on that day, the likes of which I have never experienced before, I have been frightened and intimidated. **I was intimidated from testifying for Cindy Omidis not only because I was interrogated with the door broken down and guns pointed at me, but also because I was threatened with criminal charges when Mr. Davis said it was really about the Omidis.**

See Exhibit A, April 15, 2015 Declaration of Farrell Newton at ¶ 31, ER 7-8. The government’s alleged conduct is a violation of 18 USCS § 1512 (b)(1) and (b)(2)A. This issue was brought to Department of Justice attention in Attorney Roger Diamond’s September 3, 2015 letter at 6, attached as Exhibit B, ER 10. Department of Justice office has not responded to this issue.

C. Obstruction With Attorney Alexander Robertson And His Client Witnesses, Which Interfered With The Omidis’ Defense

The USAO directly interfered with Witness Robertson, who is adverse to the Omidis, by instructing him “to refrain from providing the defendants with information or documents my clients gave to law enforcement investigators.” In Mr. Robertson’s own words:

I believe that it was this discovery request which prompted the letter from the U.S. Attorney's Office I provided you to be sent to me, instructing my office to refrain from providing the

defendants with information or documents my clients gave to law enforcement investigators.

See Exhibit B, Attorney Roger Diamond's September 3, 2015 letter at 2-5, ER 11-14. See also Exhibit 3 attached to Exhibit B, ER 27-28.

Attempts to silence witnesses, including grand jury witnesses, are unlawful. The record is clear, with Mr. Robertson's admission against interest, that the USAO improperly imposed a prior restraint on him. In fact, the USAO's letter threatened him by stating if Mr. Robertson did not agree to the prior restraint, the USAO would take "action as may be appropriate":

you [Alexander Robertson] and your clients, Dyanne Deuel and Karla Osorio, refrain from providing information on the status of the above-referenced investigation in civil discovery including (a) responding to questions concerning contacts with investigators, (b) providing documents reflecting such contacts and (c) identifying documents as having been produced to investigators ... ¶ if you feel you cannot comply with this request, please advise me so that we can take **such action as may be appropriate**.

See Exhibit 1 attached to Exhibit B, Attorney Roger Diamond's September 3, 2015 (emphasis added); see also, Exhibit B at 4-8.

In *Story v. State*, 721 P.2d 1020 (Wyo. 1986), *cert. denied*, 479 U.S. 962 (1986), the prosecutor instructed the State's witnesses "not to talk to anyone without his approval". 721 P.2d at 1042. The defendant took exception, and the Wyoming Supreme Court held "that it was misconduct for the prosecutor to instruct the witnesses as he did". 721 P.2d at 1043. This is what has happened here with the USAO's conduct with Mr. Robertson. Mr. Robertson was told not to disclose anything without the government's approval. In addition there was the further improper demand that the witness state to the government whether he would "comply". Then the government asked the witness to interpose "an objection" to any discovery request. And if this wasn't enough, there was a follow up threat by the government that "If you feel you cannot comply with this request, please advise me so that we can take such action as may be appropriate." The government's actions in this case were by no means just casual comments informing the witness he has discretion to speak or not speak. This is your garden variety obstruction of justice, a felony. *United States v. Lester*, 749 F.2d 1288, 1293 (9th Cir. 1984) (The omnibus clause of section 1503... includes noncoercive witness tampering"). This type of conduct would never be tolerated if committed by a private individual and certainly cannot be tolerated by the United States Attorney's Office.

The United States Attorney's Office has directly and deliberately interfered with witnesses which resulted in interference with the defense. Because of the government's threat and instruction, Mr. Robertson falsely stated in his August 3, 2014 letter, that the

documents Mr. deHeras had requested had “never been produced to any third party”. Mr. Robertson knew this was not accurate yet had to submit to government pressure. The government’s interference resulted in concealment of material facts and documents by Mr. Robertson. Only when confronted with contrary evidence, was Mr. Robertson forced to disclose that he had provided information to the grand jury and the government but was “instructed” not to disclose such information. Obviously, the defense cannot engage in this sort of effort for every witness the government has interfered with to get to the truth. Further, after three (3) years of deliberate government obstruction, memories fade and the utility of Mr. Robertson and his clients to the defense has been compromised. The same is true of other grand jury witnesses who were instructed by the United States Attorney’s Office not to talk or disclose.

Furthermore, the defense does not have the identity of all the witnesses with whom there has been interference. Given the reluctance of Mr. Robertson to speak accurately, it is unlikely that witnesses who have been interfered with will come forward and reveal governmental pressure and disclose what they know fully to the defense.

D. Obstruction With Manager Charles Klasky

The government has interfered and influenced sleep study program manager Charles Klasky to falsify claims against the Omidis to the point Mr. Klasky quit his position, destroyed company records, and wiped clean his computer clean of information which would help his superiors defend themselves. Mr. Klasky stated the government had promised him immunity if he would be on the “right side” of the investigation.

1. The Government Improperly Threatened Mr. Klasky With The Official Defamation Of Being In “A Big Press Release” If He Did Not Cooperate And Be On The “Right Side”, And Offered Him “Immunity” In Exchange For Falsely Pointing A Finger At Julian Omididi For Alleged Wrongdoing

The government conducted a search and seizure of Mr. Klasky’s residence on March 24, 2016. Even though Mr. Klasky and his family have never owned any firearms, the government stormed his residence at close to 7 a.m. with agents brandishing automatic weapons. At the March 24, 2016 search and seizure, despite the government’s knowledge that Mr. Klasky was represented by an attorney evidenced by the government’s prior communications with Mr. Klasky’s attorneys, the government did not allow Mr. Klasky to leave to meet with his attorney, and interrogated him regarding sleep studies during the search without his attorney for 3 ½ hours. The government had known about claims that sleep studies had been altered since late 2011, but decided after four and one-half (4 ½) years that they would pick-up an abandoned claim which had been thoroughly discredited. Charles Klasky confirmed FDA Agent Zeva Pettigrew and FBI Agent Mark Coleman interrogated him and would not let him leave to meet his attorney.

Mr. Klasky was not arrested, but was told he had to be on the “right side” of the investigation, because there was going to be “a big press release.”

Agents Pettigrew and Coleman told Mr. Klasky that if he cooperated, he would get “immunity”.

Mr. Klasky also confirmed that “the whole point” of the raid and the interrogation was not to get at the truth, but solely to incriminate Julian Omidy by having Charles Klasky point a finger at Julian Omidy, without any concern for the truth.

Mr. Klasky hesitated. The government then sent him a Target Letter on April 5, 2016, stating he was the target of a federal grand jury investigation into health care fraud, conspiracy to commit health care fraud, and false statements to a welfare benefits program. (Exhibit C),² ER 54-55.

2. Prior To A Planned Meeting With USAO To Refute Government Claims Regarding The Sleep Studies, Mr. Klasky Destroyed Computer Records, Which Handicapped The Omidy’s Defense Strategy

Following these events, attorneys for the Omidys met with the government on July 5, 2016, and made a presentation which refuted the government’s allegations regarding sleep studies. The evidence showed that the Omidys had no involvement with any alleged Sleep Study fraud.

The attorneys also showed the USAO that on June 17, 2016, which unknowingly to his employers also became his last day, Mr. Klasky destroyed computer records critical to the Omidys’ defense. The destruction handicapped the Omidys in defending themselves, because the records contained vital information the Omidys needed for a defense strategy.

Mr. Klasky had worked as the sleep study manager since mid-2010 and this conduct of destruction of records was uncharacteristic of him. Mr. Klasky’s conduct occurred only after the government’s extreme conduct toward him as explained above.

Misconduct towards Mr. Klasky requires a referral to an **independent investigator** to determine if the government influenced Mr. Klasky, directly or indirectly, to destroy the computer records in an effort to hamper the Omidys’ defense and thereby obtain “immunity” as was promised to him by the government at the March 24, 2016 search and seizure. We will provide additional evidence to the independent investigator which confirm the above facts. The government’s conduct toward Mr. Klasky has been extreme, violating

² The Target Letter to Mr. Klasky stated: “At least one patient whose sleep study results were falsified and used to make fraudulent representations appears to have died as a result of the Lap-Band Surgery.” However, multiple attorney firms have repeatedly written to main justice on ten (10) separate occasions telling main justice that the US Attorneys had in fact interfered with the Paula Rojas death investigation to fabricate a homicide, in order to then use the false claim in its fraud investigation. The Central District of California US Attorney has informed main justice it had no involvement in that case. However, the claims the US Attorney has made to the Department of Justice are untrue and refuted by the record.

fair play and justice.

E. Obstruction Of Justice With Jeffrey Detubio

The government set out to “build a fraud case against the Omidis” because after five (5) years of investigation, the government had not made that case. Attached is the Declaration of Jeffrey Detubio (Exhibit D, ER 57), who was former employee involved in the Sleep Study program. Mr. Detubio testifies that Agent Mark Coleman contacted him several times by telephone, telling him that “he just wanted to build a case against the Omidis” and that Mr. Detubio would have immunity in that no matter what Mr. Detubio has done, he was “not going to get in trouble:

2. I called Mr. Coleman back that night on June 29, 2016. We spoke for about 5-10 minutes. I identified myself and said that I was returning his call.
3. He said the FBI wants to build a fraud case against the Omidis and wanted my help to do that.
4. He said no matter what I say or what I have done, I am not going to get in trouble. He emphasized it doesn't matter what I have done, I am not going to get in trouble. He just wanted to build a case against the Omidis. He said I know already what you have done with the Omidis before.
5. He said that the Omidis have big issues with the FBI.”

See Exhibit H, July 9, 2016 Declaration of Jeffrey Detubio, ER 57.

II. REFERRAL TO AN INDEPENDENT INVESTIGATOR IS REQUIRED TO ASSESS THE GOVERNMENT'S INVESTIGATIVE MISCONDUCT WHICH HAS GONE UNHERALDED DESPITE REPEATED COMPLAINTS SUPPORTED WITH UNREBUTTED EVIDENCE

A. The Government Has Systematically Engaged In Serious Witness Misconduct

1. Government's Denial Of Access To Witnesses Is Contrary To Established Law And Principles

The rule is well established that witnesses do not “belong” to either the prosecution or the defense and that both sides should have equal access for witness interviews. *United States v. Black*, 767 F.2d 1334, 1337 (9th Cir. 1985). Prosecutors are not permitted to tell witnesses that they cannot disclose the fact that they have received a subpoena nor can they tell anyone what they produced or what they said in response to a grand jury subpoena. These restrictions are improper. Rule 6(e)(2)(A) of the Federal Rules of Criminal Procedure states, "No obligation of secrecy may be imposed on any person except in accordance with Rule 6(e)(2)(B)." See *United States v. Sells Eng'g, Inc.*, 463 U.S. 418, 425 (1983) ("witnesses are not under the prohibition [of grand jury secrecy] unless they also happen to fit into one of

the enumerated classes [in Rule 6(e)].") Courts have held that prosecutors may not restrict the ability of witnesses to talk. *In re Grand Jury Proceedings*, 814 F.2d 61 (1st Cir. 1987) (prosecutor's letter directing witness not to disclose existence of subpoena duces tecum for 90 days, was misconduct); *United States v. Leung*, 351 F. Supp. 2d 992 (C.D. Cal. 2005) (dismissing indictment where prosecution's plea agreements with cooperating witnesses forbade them from speaking to the defense); *United States v. Pinto*, 755 F.2d 150, 152 (10th Cir. 1985) ("the prosecution may not interfere with the free choice of a witness to speak with the defense . . ."); *United States v. White*, 454 F.2d 435, 438-39 (7th Cir. 1971) (the prosecution cannot tell a witness not to talk to the defense, and if it does, it may be grounds for dismissal of the charges or reversal of the conviction.); *Callahan v. United States*, 371 F.2d 658 (9th Cir. 1967) (a witness belongs neither to the government nor to the defense.); *Gregory v. United States*, 369 F.2d 185, 188 (D.C. Cir. 1966) (prosecutorial interference with a defendant's access to witnesses required reversal because it denied the constitutional guarantee of due process and notions of "elemental fairness."); *United States v. Soape*, 169 F.3d 257, 270 (5th Cir. 1999) ("Witnesses . . . are the property of neither the prosecution nor the defense [and] both sides have an equal right, and should have an equal opportunity, to interview them.") (quoting *Gregory v. United States*, 369 F.2d 185, 188 (D.C. Cir. 1966)); see also Model Rules of Professional Conduct 3.4(d and f); American Bar Association's Standards for Criminal Justice, 3-3.1(c) ("A prosecutor should not discourage or obstruct communication between prospective witnesses and defense counsel. A prosecutor should not advise any person or cause any person to be advised to decline to give to the defense information which such person has the right to give.")

2. The Government's Conduct Resulted In Prejudice Due To Interference With The Defense And Also Violated Due Process Rights

The grand jury investigation has been known since February 2012. In this complex and expansive case, the defense had a right to interview witnesses and prepare a defense in the intervening period. As the United States Supreme Court recognized in *United States v. Ash*, "the interviewing of witnesses before trial is a procedure that predates the Sixth Amendment. In England in the 16th and 17th centuries counsel regularly interviewed witnesses before trial. 9 W. Holdsworth, *History of English Law* 226-228 (1926). The traditional counterbalance in the American adversary system for these interviews arises from the equal ability of defense counsel to seek and interview witnesses himself." 413 U.S. 300, 318 (1973).

Likewise, as stated in *Gregory v. United States* 369 F.2d 185 (D.C.Cir. 1966): "A criminal trial, like its civil counterpart, is a quest for truth. That quest will more often be successful if both sides have an equal opportunity to interview the persons who have the information from which the truth may be determined. The current tendency in the criminal law is in the direction of discovery of the facts before trial and elimination of surprise at trial. A related development in the criminal law is the requirement that the prosecution not frustrate the defense in the preparation of its case." *Id.* at 188.

In a criminal case, the government has available to it vast resources not available to the defense through which to investigate and prepare for trial. Highly professional

government investigators gather the evidence while government attorneys assimilate and organize it for the courtroom. Potential witnesses can be subpoenaed for interviews, or summoned before the grand jury and they may fear retribution from the government if they refuse to cooperate in a criminal investigation. This power is likely to have a chilling effect on witnesses.

We know of nothing in the law which gives the prosecutor the right to unilaterally interfere with the preparation of the defense by effectively denying defense counsel access to the witnesses. The prosecutors, in interviewing the witnesses, were unencumbered by such interference.

In this case there is evidence of direct suppression of evidence specifically due to the government's actions. In the case of the other witnesses with whom the government has unlawfully interfered, unquestionably there was a suppression of the means by which the defense could obtain evidence. The defense could not know what the witnesses to the events were to testify to or how firm they were in their testimony unless defense counsel was provided a fair opportunity for interview. The United States Attorney's Office instructions to witnesses have frustrated that effort, substantially discouraged witnesses from communicating with the defense, and denied the opportunity of a fair trial to the Omidis should charges ever be filed. Even if the witnesses were told to speak now, it is unlikely that they would fully do so because they are aware of the government's desire and no witness would want to suffer the wrath of the government, especially in a case such as this where there is so much prosecutorial vindictiveness and retaliation. The witnesses know what was expected of them by the government, and the possibility that they would now feel free to be interviewed on behalf of Omidis is ephemeral at best. Further, due to the in excess of three (3) years of interference, memories have faded prejudicing the Omidis.

3. The Government's Misconduct Is Conclusive But The DOJ Has Taken No Action Against The Responsible Prosecutors, Encouraging Further Misconduct

Here, obstruction of justice in addition to violations of Rule 6e(2) and ethical rules have been established by the undeniable record. The evidence here shows "substantial government interference" by "a preponderance of the evidence" of witnesses amounting to a violation of due process. *United States v. Vavages*, 151 F.3d 1185, 1188 (9th Cir. 1998) ("It is well established that 'substantial government interference with a defense witness's free and unhampered choice to testify amounts to a violation of due process.' [Citation]. A defendant alleging such interference is required to demonstrate misconduct by a preponderance of the evidence.") The government's misconduct cannot be brushed aside as due process rights were violated impeding a meaningful search for the truth.

There is the clear showing that the government "instructed the witness not to cooperate with the defense". The court's holding in *United States v. Linder*, is on point:

To challenge the government's conduct on Sixth Amendment or due process grounds for witness interference, the defendant is required to make a "clear showing" that the government

instructed the witness not to cooperate with the defense. *Roach*, 502 F.3d at 437. With respect to interviewing witnesses “our constitutional notions of fair play and due process dictate that defense counsel be free from obstruction, whether it comes from the prosecutor in the case or from a state official or another state action under color of law.” *Int’l Bus. Machs. Corp. v. Edelstein*, 526 F.2d 37, 44 (2nd Cir.1975). Government interference with potential defense witnesses requires dismissal of an indictment where a substantial right of the defendant has been jeopardized, such as the right to due process of law secured by the Fifth Amendment or the right to compulsory process of defense witnesses secured by the Sixth Amendment. *United States v. Wilson*, 715 F.2d 1164, 1169 (7th Cir.1983).

No. 12 CR 22, 2013 WL 812382, at *44 (N.D. Ill. Mar. 5, 2013). The *Linder* court concluded:

When the government's actions substantially impair a witness's decision to testify, such as by threat, coercion, interference, or intimidation, and the witness's free decision to testify is hampered, the government has denied the defendant of his Fifth Amendment right to due process of law and his Sixth Amendment right to compulsory process of witnesses in his favor. *Burke*, 425 F.3d at 411. In this case, the e-mails sent from the Marshal's office threatened, interfered with, and intimidated potential defense witnesses. The proper remedy for such misconduct is the dismissal of the Indictment. *Id.* The Government's action here goes well beyond merely advising witnesses of their choice to testify. *See Bittner*, 728 F.2d at 1041. “It is well-settled that substantial government interference with a defense witness's free and unhampered choice to testify violates the defendant's due process rights.” *Newell*, 283 F.3d at 837. The Court concludes that the Government substantially interfered with potential defense witnesses's free and unhampered choice to testify and blocked the defense's ability to interview potential witnesses who had material evidence that would be beneficial to the defense.

Id. at *52.

Here, despite conclusive evidence of the misconduct, the DOJ has taken no action against the responsible prosecutors. We respectfully submit that such attempts at whitewash and looking the other way when misconduct is undeniable, result in encouragement of further misconduct as has occurred in this case, and as described below.

B. The Misconduct And Destruction Of Evidence Has Been Prejudicial

We, along with other counsel, have written repeatedly to the DOJ about the government's improper influence on witnesses, but our requests are ignored. The USAO's confirmed attempts to induce testimony through false promises, unauthorized offers of immunity, and other inducements which are likely to induce false testimony against the Omidis and 1 800 Get Thin, constitute an obstruction of justice in violation of 18 U.S.C. section 1503.

Furthermore, such coerced and/or induced testimony is inadmissible as it is considered involuntary. As the Ninth Circuit held in *United States v. Leon Guerrero*, 847 F.2d 1363 (9th Cir. 1988):

A statement is involuntary if it is "extracted by any sort of threats or violence, [or] obtained by any direct or implied promises, however slight, [or] by the exertion of any improper influence." *Hutto v. Ross*, 429 U.S. 28, 30, 97 S.Ct. 202, 203, 50 L.Ed.2d 194 (1976) quoting *Bram v. United States*, 168 U.S. 532, 542-43, 18 S.Ct. 183, 186-87, 42 L.Ed. 568 (1897).

Id. at 1366. See *United States v. Escandar*, 465 F.2d 438, 442 (5th Cir.1972) ("The hallmark of compulsion is the presence of some operative force producing an involuntary response. ... the response must be free from improper influences (e.g., fear, ignorance, trickery, etc.) such as would render it less than the exercise of unfettered free will."); *United States v. Cahill*, 920 F.2d 421, 427 (7th Cir. 1990) ("Of course, if [the witness's] testimony was induced by the government's promise of immunity, it was involuntary and must be suppressed." (citing *United States v. Gonzalez*, 736 F.2d 981 (4th Cir.1984) (If the government agent "induced the admission by [the witness] by a promise of immunity, the admission is "involuntary and inadmissible."); see also *Crawford v. United States*, 219 F.2d 207 (5th Cir. 1955) (statements involuntary where induced by offer of "bargain" in which defendant would incriminate others).

Here, the record shows witnesses are both coerced *and* promised immunity. The truth-seeking function of the government's investigation has been irrevocably compromised.

C. Independent Investigation Is Required

The foregoing details an astounding five (5) separate instances of the government's improper influence on witness which we have fortuitously discovered. Given this repeated track record that we have happened to expose, the only reasonable conclusion is that the government has done this same kind of mischief with all of its other witnesses who have not come forward because of their fear of the government. The course of history in these incidents spanning almost five (5) years demonstrates the government's repeated efforts to create false claims against the Omidis where no claims exist.

An independent investigation is required now, prior to any further trampling of the

statutory and constitutional rights of the Omidis in this investigation. Only referral to an independent investigation can appropriately assess the serious misconduct and the violations of constitutional dimensions which are being committed in the name of the USA against the Omidis. The government's misconduct is substantiated by hard evidence. Yet, the complaints are repeatedly ignored..

The Department of Justice must not turn blind eye to the misconduct in this matter. Terrifying Mr. Charles Klasky by accusing him of being a killer, when the claim is patently false and refuted, is beyond belief. Threatening Mr. Klasky with official defamation by implying he will be the subject of "a big press release" if he is not on the "right side", and promising him "immunity" for falsely pointing a finger at the Omidis in a coerced interrogation, where is not allowed to leave to see his lawyer, are not legitimate government activities.

The Assistant United States Attorney threatening former Accountant Farrell Newton with false criminal charges and telling him any assistance to the Omidis and their legal issues would result in repercussions, is not only a grotesque display of the abuse of power of the Office of the United States Attorney but also constitutes an obstruction of justice. *See* Exhibit A, April 15, 2015 Declaration of Farrell Newton at ¶ 31, ER 7-8.

Promising Jeffrey Detubio nothing will happen to him, no matter what he has done, if he helps the government build a case against the Omidis, cannot be argued to be in the interest of justice by any civilized standard. *See* Exhibit D, July 9, 2016 Declaration of Jeffrey Detubio, ER 57.

Inducing former Grand Jury witness Alexander Robertson to refuse to cooperate with 1 800 Get Thin, and frightening Grand Jury witness Rosa McDonald with the outrageous instruction that she "must testify against 1 800 Get Thin" and show up or go to "jail", are not only reprehensible but also part of a systemic pattern of abuse. *See* Exhibit B, ER 10. The Department of Justice must put a stop to the extreme government misconduct, which has been ongoing for the last five (5) years.

We request an immediate meeting to discuss these serious issues. The veracity and legitimacy of the government's entire investigation is at issue and suspect.

We look forward to your prompt response.

Sincerely,

/s/ Robert Rice

Robert J. Rice Esq.
Law Offices of Robert J. Rice

/s/ Dmitriy Aristov

Dmitriy A. Aristov Esq.
Aristov Law

APPENDIX 1

CORRESPONDENCE LIST TO THE DEPARTMENT OF JUSTICE

Exhibit No.	Date-Author-Recipient	Subject
G1	09-19-13 Sheppard Mullin Ltr to USAO	Gov't Leaks
G2	10-17-13 Sheppard Mullin Ltr to USAO	Grand Jury Leaks
G3	10-18-13 Sheppard Mullin Ltr to USAO	Gov't Interference w/ Coroner
G4	12-27-13 Sheppard Mullin Ltr to USAO	Gov't Interference w/ Coroner
G5	12-27-13 Sheppard Mullin Ltr to USAO	Gov't Interference w/ Coroner
G6	01-30-14 Lanny Davis Ltr to USAO	Grand Jury Leaks plus
G7	02-24-14 Lanny Davis Ltr to USAO	Grand Jury Leaks plus
G8	03-17-14 Justice Arabian Declaration	Medical Board Interference
G9	03-17-14 Justice Arabian Declaration	Gov't Interference w/ Coroner
G10	03-26-14 Lanny Davis Ltr to USAO	Grand Jury Leaks plus Coroner
G11	04-01-14 Sheppard Mullin Ltr to USAO	Insurance Co. Illegal Conduct
G12	04-18-14 Sheppard Mullin Ltr to USAO	Insurance Co. Illegal Conduct
G13	04-24-14 Lanny Davis Ltr to USAO	Grand Jury Leaks plus Coroner
G14	05-02-14 Lanny Davis Ltr to USAO	Gov't Interference w/ Corner
G15	05-20-14 Lanny Davis Ltr to USAO	Grand Jury Leaks plus
G16	06-26-14 Arnold & Porter LTR to USAO	Grand Jury Leaks plus
G17	07-02-15 Roger Diamond Ltr to USA	Gov't Interference w/ Coroner and Obstruction of Justice
G18	09-03-15 Roger Diamond Ltr to USA	Gov't Obstruction of Justice and Grand Jury Witnesses
G19	11-17-15 Ian Shakramy Ltr to USA	Gov't Illegal Use of Seized Funds
G20	11-19-15 Roger Diamond Ltr to USA	Gov't Obstruction of Justice
G21	11-25-15 Robert Rice Ltr to USA	Gov't Contempt of Court and Destruction of Attorney Client Relationships
G22	12-1-15 Robert Rice Ltr to USA	Gov't Professional Misconduct
G23	12-2-15 Roger Diamond Ltr to USA	Gov't Investigative Misconduct
G24	12-10-15 Robert Rice Ltr to USA	Gov't Misconduct w/ Coroner – False Homicide Determination
G25	12-16-15 Robert Rice Ltr to USA	Gov't Improper Use of Seized Funds

EXHIBIT A

DECLARATION OF FARRELL NEWTON

I, Farrell Newton, declare and say:

1. I am a resident of Las Vegas, Nevada. From 2008 through December, 2010, I was the accountant for Pacific West Dermatology, Cindy Omidi, and other companies and individuals. I filed the tax returns for Pacific West Dermatology and Cindy Omidi for 2008 and 2009.

2. In the course of my work I examined the books, records, documents, bank accounts, and the accountings provided to me regarding Pacific West Dermatology and Mrs. Omidi. I investigated and examined how the money in the company was handled. I did my due diligence to verify the source of the monies handled by the company and Mrs. Omidi, and determined how the money, receipts, expenditures, credits, and debits should be characterized. Based on the discussions stated below, I prepared the tax returns.

3. In November, 2006, Pacific West Dermatology experienced a significant embezzlement of more than \$700,000 by an employee. Attached as Exhibit "A" is the Complaint which Cindy Omidi filed with law enforcement regarding the embezzlement. The employee had turned billing charges into cash and then embezzled the funds. Because of that criminal activity, I discussed the incident with Ken Pezeshk and recommended a policy of having cash be held only in the form of money orders, which was designed to limit and prevent the ability of employees to embezzle funds. Mr. Pezeshk followed my recommendation.

4. Ken wanted to account for the cash. Therefore, he took the cash and purchased money orders. Ken handled payroll and accounting. Cindy Omidi was not involved in this decision. He also wanted proof of loan repayment which was possible with the money orders.

5. I personally saw Ken Pezeshk deal with the money orders. I saw Ken with the money orders in his hand and he gave them to Cindy Omidi because he was repaying loans. I saw the money order purchases amounting to \$2,900 and asked Ken Pezeshk about them. I was concerned if this was reportable income. Ken told me that these money orders were loan repayments and not taxable income. As part of my determination of whether there was taxable income, I determined he purchased them in \$2,900 increments because he didn't want to deal with the paperwork regarding the money orders. Cindy Omidi was not involved with this.

6. I spoke to Cindy Omidi who told me that Ken Pezeshk was paying back his loans.

7. Ken Pezeshk was in charge of payroll. The majority of the money orders were deposited into the Pacific West Dermatology Payroll Account which was used to pay for payroll expenses. Ken took the money orders and deposited them into the payroll account. Cindy Omidi and Julian Omidi had signatory authority on the account for deposits, and their signature on the back of the money orders, just like other checks, was to ensure proper deposits. The deposited

money orders were formally booked into the company's records as sales. I recently reviewed the company books of Pacific West Dermatology which I originally relied upon for the tax returns, and these monies were deposited into the Pacific West Dermatology payroll account and the monies were accounted for on both the books and the company's taxes.

8. Based upon my review after the court case concluded, the money orders were repayment of loan, but were being booked as sales. This was an error. They were loan repayment from Ken Pezeshk, and as discussed below, this resulted in an overpayment of taxes by the Pacific West Dermatology. There was no benefit or hiding of income with the money orders. In fact, there was an overstatement of income and overpayment of taxes.

9. Pacific West Dermatology was a very large business, and I directed the bookkeepers that all monies be deposited as income.

10. As a result, all of the money order deposits were booked as sales into the Pacific West Dermatology account. That was incorrect because in excess of approximately \$172,000 was loan repayment from Ken Pezeshk. As shown below, there was more than \$100,000 in excess funds which were declared as sales upon which excess taxes were paid when the amount was actually loan repayment, not sales.

11. Cindy Omidi received approximately \$20,000 of the money orders from Pacific West Dermatology which were deposited into Cindy Omidi's personal bank account to facilitate its use by Pacific West Dermatology which was solely owned by Julian Omidi. Cindy Omidi used that money to purchase items for the company and its owner, Julian Omidi's benefit. I prepared Cindy Omidi's tax returns for 2008 and 2009. There was no unreported income because all income and receipts due and owing to Pacific West Dermatology was reported. Any receipt or expenditure of that money was because of her responsibilities to the company and for the benefit of the company and its sole owner, Julian Omidi. The \$20,000 was not declared as income because it was payback of the loan from Ken Pezeshk and was not taxable. There was nothing suspicious here, and there was an overpayment of taxes in favor of the government.

12. There was \$302,000 in money orders for 2008-10. Of this, \$172,000 was placed into Pacific West Dermatology's bank account and \$20,000 went into the personal bank account of Cindy Omidi, for a total of \$192,000. All \$172,000 of the deposits into Pacific West Dermatology's accounts were booked as sales and reported as income. All of that money was therefore reported and taxed when it should not have been because it was an accounting error.

13. I reviewed the \$200,000 loan to Ken Pezeshk from Pacific West Dermatology, plus an additional \$30,400 in loans to Ken Pezeshk. See Exhibit "B." The repayment of these loans should not have been booked as income. Because the loan repayments were booked in error as

income, Pacific West Dermatology declared \$172,00, on in income when it should have only declared \$71,600, which is the difference between the \$302,000 (total sum of money orders) and the \$230,400 (total sum in loans to Ken Pezeshk. So as long as Pacific West Dermatology declared \$71,600 of income, there was no unreported income or failure to pay taxes. The company over-reported income of \$100,400 (\$172,000 deposited - \$71,600 actual income).

14. The following is a calculation of the \$302,000 in money orders and its reconciliation with the \$230,400 loan to Ken Pezeshk.

\$ 302,000	Money Orders to Pacific West Dermatology
- 230,400	Loan to Ken Pezeshk
\$ 71,600	Income to report for Pacific West Dermatology
\$ 172,000	Money Order deposits into Pacific West Dermatology
- 71,600	Income to Pacific West Dermatology from the \$302,000 total
\$ 100,400	Overstated income

15. Of the \$302,000 in money orders, only \$71,600 needed to be deposited into the Pacific West Dermatology account. Instead, \$172,000 was deposited. This is an overpayment and overstated income for Pacific West Dermatology.

16. On June 4, 2014, Assistant United States Attorney Evan Davis led a group of federal agents on a search and seizure of my home at 6 a.m. Within about 30 seconds they broke down my door without even allowing me an opportunity to open it. They had their guns drawn on me, including automatic weapons. They burst into my home and forced me to stand against the wall at gunpoint in my underwear. At gunpoint they pushed me out of the apartment while still in my underwear in front of my neighbors. The government seized all of my books, records, computers, and other materials, including all of the materials for Pacific West Dermatology and the Omidis, including Cindy Omid. This was the worst and most frightening day of my life.

17. Without allowing me the opportunity to compose myself, Assistant US Attorney Evan Davis and Agent Carlos Tropea started interviewing me in my underwear without allowing me to put on clothes and respond in a dignified fashion. I asked if I was in trouble, and I asked if I was under investigation. They did not answer. Davis said we have "evidence" on the Omidis for tax charges and "other stuff" and extensively asked me regarding my accounting and tax work for the Omidis. Pacific West Dermatology, and especially Cindy Omid, were extensively discussed during the interview. I was terribly upset and frightened.

18. Early in the questioning I said do I need a lawyer? Davis said "I can't give legal advice." I asked for a lawyer, and said I was going to call the Omidis to provide a lawyer for me. However, Mr. Davis ignored my request for counsel and continued the interrogation.

19. When I again requested the Omidis provide me a lawyer, Mr. Davis then said the Omidis are busy now. However, I later discover Mr. Davis did not tell me the truth. Julian and Michael Omidis were not detained or arrested on June 4, 2014. I explained to them I could not afford a lawyer and wanted the Omidis to provide me with one. Mr. Davis made false statements regarding the availability of the Omidis to me to prevent me from obtaining an attorney.

20. Mr. Davis asked me to confirm that Cindy Omidis had managerial duties and Julian Omidis was running the business strategy. The government on several occasions tried to interject its own views and having me agree with their views.

21. IRS agent Carlos Tropea asked Evan Davis if they should bring up the "second subject." Evan Davis said yes. Davis said you haven't filed your taxes for 2008-2011. I asked if I was in trouble. The agents did not respond to me and Carlos Tropea continued his questioning. I repeatedly asked if I was in trouble or being investigated. Evan Davis said I could be charged. I asked if I was under investigation. Finally Carlos Tropea said yes for tax and tax related charges. Evan Davis then said there are "no charges yet." Tropea added I was under criminal investigation by the IRS. I was shocked.

22. I asked why Mr. Davis why he didn't tell me at the beginning of the interview I was under investigation for a crime. Evan Davis would not answer my question but instead he replied the main focus of the investigation was the Omidis. It was clear from his statement that I was being subjected to the interrogation and a criminal investigation by the IRS and US Attorney's Office in this matter because they wanted to get the Omidis. I felt threatened and intimidated. The government was leveraging my personal problems trying to get the Omidis.

23. Evan Davis then added "we have no obligation" to tell you that you are under criminal investigation when we interview you. I then asked Evan Davis if by not telling me I was under criminal investigation and putting me under extensive questions, was this was an effort by the government to trap me? Evan Davis replied "no." Obviously, his answer was untrue because he had hidden the fact I was under investigation.

24. Several times during the interview I tried to stop and wanted to speak to an attorney, but they simple just continued asking their questions. I don't understand how it is possible for an assistant United States Attorney to repeatedly make untrue statements to me when I was under criminal investigation. I thought prosecutors of the US Attorney's Office were not permitted to make false statements to me about me being under criminal investigation.

25. Close to the end of the interview, both Carlos Tropea and Evan Davis said they will work with me to get you all the documents I need for me to files my taxes. However, this was another falsehood. It has been almost nine months since the search, and, to date I have not been

able to get my paper records despite requests from my lawyer so that I could file my taxes. I have the threat of criminal charges by Mr. Davis over my head, and it is as if the government doesn't want to get my taxes done in order to maintain control over me.

26. Toward the end of the interview, Carlos Tropea said you are free to go. However, every time I tried to go anywhere during the interview someone followed me. Based on the Agents' actions, I was not free to go anywhere alone. Evan Davis, then looked at Tropea glancing at the tape recorder, and said you have always been free to leave when by their actions it was not true.

27. Either I asked Tropea, or Mr. Davis ordered Tropea, to shut off the tape recorder because I was being criminally investigated. Initially, he wouldn't and said the tape recorder being on would help both of us. However, this was again untrue because I was under a federal criminal investigation and being recorded was not helpful to me. I asked again for him to shut off the tape before he finally did.

28. After the tape recorder was turned off, Evan Davis again told me I had committed a federal crime and was in significant trouble because I had not filed my personal tax returns. I told him I had not heard of the IRS criminally investigating and charging someone for not filing tax returns when the amount due was not large. He said that this is serious and that I could be in trouble even if it is a small amount. I interpreted his statements such that this is about the Omidis, the Omidis have legal trouble, and I should not be helping the Omidis with it. He repeated charges were not filed against me yet, and I interpreted that I should not become involved in the Omidis matter. I interpreted his actions that I would face charges if I helped them with their in the legal troubles. I had never been so shocked and afraid in my life. I was shaking. He frightened and intimidated me and there was no question regarding his intentions.

29. When we were walking to the garage and car so they could do further searches, I asked Evan Davis, "Does this mean that all my other clients will be audited as well?" He looked me in the eye and smirked. That smirk on his face made it the scariest day of my life. Auditing my other clients would devastate me. I advised some of my clients about what happened.

30. Mr. Davis knew I was the only tax preparer for the 2008-2009 period where the Structuring of money order purchases is alleged to have occurred. My knowledge of the overpayment of taxes on the alleged funds and what Ken Pezeshk had done was critical and exonerating for Cindy Omidis. I was intentionally intimidated on the day of Mrs. Omidis's arrest as it was obvious I was a critical witness for her and the government did not want me to testify.

31. On June 4, 2014, I was told by Evan Davis that any assistance to the Omidis and their legal issues would result in repercussions. He was obsessed with getting the Omidis. I did not

want to face, antagonize, or get in the way of Evan Davis who threatened me with charges and is the very same prosecutor for Cindy Omid. As a result of all the events on that day, the likes of which I have never experienced before, I have been frightened and intimidated. I was intimidated from testifying for Cindy Omid not only because I was interrogated with the door broken down and guns pointed at me, but also because I was threatened with criminal charges when Mr. Davis said it was really about the Omidis. However, I believe there was a severe miscarriage of justice with Cindy Omid, and my conscience tells me I must now come forward with my information. I also believe that it was a severe mischarge of justice because the taxes were paid on this money when it really was not taxable income. An innocent person has been convicted because I did not provide critical and material information and expertise.

I declare under penalty of perjury under the laws of the United States of America the foregoing is true and correct.

Executed this 15 day of April, 2015, at Los Angeles, California.



Farrell Newton

EXHIBIT B

LAW OFFICES OF
ROGER JON DIAMOND
2115 MAIN STREET
SANTA MONICA, CALIFORNIA 90405-2215
TELEPHONE (310) 399-3259
FAX (310) 392-9029
rogdiamond@aol.com

September 3, 2015

Sally Quillian Yates
Deputy Attorney General of the United States
Office of the Deputy Attorney General
Public Integrity Section
Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Telephone: (202) 514-2101

Leslie R. Caldwell
Assistant Attorney General for the Criminal Division
Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Telephone: (202) 353-4641

Monty Wilkinson
Director, Executive Office for U.S. Attorneys
Executive Office for United States Attorneys
United States Department of Justice
950 Pennsylvania Avenue, NW, Room 2242
Washington, DC 20530-0001
Telephone: (202) 514-2000
E-mail: monty.wilkinson@usdoj.gov

Paul M. O'Brien
Deputy Assistant Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Telephone: (202) 353-4641

George Cardona,
Assistant United States Attorney
Section Chief

The United States Attorney's Office
Central District of California
Criminal Division
Attn: Major Frauds Section
312 North Spring Street
Los Angeles, California 90012
Telephone: (213) 894-8323
E-mail: George.S.Cardona@usdoj.gov

RE: 1. Formal Complaint RE: Intentional Interference with Witnesses
- Obstruction of Justice, Violation of Due Process, Interference with Defense,
Violation of Rule 6(e)(2)
2. Request for immediate disqualification of the prosecutors, end to
investigation, and prevention of further retaliatory acts.

Dear Ms. Yates, Ms. Caldwell, Mr. Wilkinson, Mr. O'Brien and Mr. Cardona,

I. RELEVANT FACTS:

I represent Cindy Omid and Property Care Insurance. We have recently discovered that the Department of Justice employees have been intentionally interfering with witnesses and imposing upon witnesses to conceal material information from the defense under the threat of taking "action". I have tried to meet with Mr. Cardona regarding the issue but he wanted a formal letter with the details first. Pursuant to Mr. Cardona's request, please see the following:

A. Obstruction with Alexander Robertson and his Clients

Attorney Doug deHeras who represents the defense in the Rojaske wrongful death action reached out to attorneys Alexander Robertson and John Walker to obtain information and documents relevant to the Rojaske issue on June 29, 2015 as follows:

From: Douglas S. deHeras [mailto:ddeheras@prindlelaw.com]
Sent: Wednesday, July 29, 2015 10:28 AM
To: Alexander Robertson
Cc: johnmwalker@earthlink.net
Subject: Rojaske

Alex and John:

Hope all is well. I am counsel for Valley Surgical Center in the Rojaske wrongful death action. I am reaching out to both of you to see if we can agree on the informal production of records identified on the attached document request. I prefer to avoid serving a document subpoena; therefore I was hoping we can work out an informal agreement for document production. We will pay for any duplication costs. Please contact me if you have any questions. Thanks for your anticipated cooperation.

Best Regards,

Douglas S. de Heras, Esq.
Prindle, Amaro, Goetz, Hillyard, Barnes & Reinholtz LLP
310 Goldenshore, 4th Floor
Long Beach, CA 90802

Telephone: (562) 436-3946
Firm Fax: (562) 495-0564
Direct Fax: (866) 262-7784
E-mail: ddeheras@prindlelaw.com
Firm Website: www.prindlelaw.com

In response to the request for information, attorney Alexander Robertson incorrectly stated that the requested information has “never been produced to any third party” and thus remained “privileged”. Mr. Robertson failed to acknowledge that he had provided documents to the grand jury and the government:

On Aug 3, 2015, at 8:58 AM, Alexander Robertson <arobertson@arobertsonlaw.com> wrote:

Doug:

Any notes, whether handwritten, or recorded in any manner, of the client interview conducted by John and myself of Dyane Deuel are **attorney-client privileged** and our work product. **They have never been produced to any third party** and we intend to assert these privileges to any attempt you or others may take to obtain our interview notes and records. Further, we never had a copy of our client's letter she sent to the Coroner, which occurred prior to our representation of her.

Thank you,
Alexander "Trey" Robertson, IV
Robertson & Associates, LLP

Attorneys at Law
32121 Lindero Canyon Rd. Suite 200
Westlake Village, CA., 91361

Upon further inquiry by Doug deHeras contradicting Mr. Robertson's August 3, 2015 email, Mr. Robertson stated the United States Attorney's Office "instructed" him and his clients "not to disclose any information about what was produced" to the grand jury and the government. It is clear Mr. Robertson did not disclose because of explicit interference and direction from the Office of the United States Attorney:

On Aug 6, 2015, at 11:01 AM, Alexander Robertson <arobertson@arobertsonlaw.com> wrote:

Doug:

Our clients produced certain documents in response to **federal grand jury subpoenas** a long time ago. Prior attempts by your clients to discovery what documents were

produced were objected to by the U.S. Attorney's Office and we were instructed by the U.S. Attorney's Office not to disclose any information about what was produced.

Thank you,
Alexander "Trey" Robertson, IV
Robertson & Associates, LLP

Attorneys at Law
32121 Lindero Canyon Rd. Suite 200
Westlake Village, CA., 91361

Mr. Robertson was asked to provide the letter from the United States Attorney instructing him not to disclose any information. Mr. Robertson provided the attached letter (Exhibit 1) from then Deputy Chief of the Major Frauds Section, AUSA Consuelo S. Woodhead. In the letter, which was apparently written in May 2012, Ms. Woodhead sought to impose improper prior restraint on Grand Jury witnesses and threatened that if the witnesses did not comply, "action as may be appropriate" would be taken by the United States Attorney's Office:

you [Alexander Robertson] and your clients, Dyanne Deuel and Karla Osorio, **refrain from** providing information on the status of the above-referenced investigation in civil discovery including (a) responding to questions concerning contacts with investigators, (b) providing documents reflecting such contacts and (c) identifying documents as having been produced to investigators. . . **If you feel you cannot comply with this request, please advise me so that we can take such action as may be appropriate.**

Doug deHeras had a subsequent conversation with Mr. Robertson which he memorialized in his August 26, 2015 letter (Exhibit 2). Mr. Robertson admitted he was in contact with and had submitted Mr. deHeras's communications to the United States Attorney's Office. Mr. deHeras confirmed that pursuant to Consuelo Woodhead's direction, Mr. Robertson could not discuss, disclose or release information without the consent of the USAO:

Dear Mr. Robertson,

Per our conversation today, you informed me that in 2012, Attorney Charles Kreindler requested your files to include those of Dyanne Deuel, Karla Osorio and matters pertaining to the death of Paula Rojas. You confirmed that Assistant United States Attorney Deputy Chief Consuelo Woodhead instructed you and your clients not to discuss, disclose or release the information you produced to federal investigators in the federal criminal investigation of 1-800- GET-THIN. Subsequently in 2012 Deputy Chief Woodhead sent you a letter directing you of the same.

On our call today, you confirmed that Deputy Chief Woodhead contacted you by telephone this week clarifying that transcripts of Dyanne Deuel and Karla Osorio were produced by your office to investigators. You had initiated contact with Deputy Chief Woodhead in response to my recent discovery requests. I requested the production of these transcripts because they were relevant and discoverable in the Rojas wrongful death action. You declined stating that pursuant to instruction from the United States Attorney; you cannot discuss, disclose or

release the subpoenaed documents without the consent of the United States Attorney.

If any of these representations are inadvertently misstated or incorrect, please advise immediately. Thank you for your cooperation.

Mr. Robertson responded and confirmed that the United States Attorney's Office was "instructing my office to refrain from providing the defendants with information or documents" (Exhibit 3):

Dear Doug:

Regarding your letter, dated August 26, 2015, there are several inaccuracies which I feel compelled to clarify. First, the responses I gave to your multiple telephonic inquiries were based upon my recollection of events which occurred back in 2012. I told you I believed it was Chuck Kriendler's office who originally requested documents my clients had produced to law enforcement investigators, but I was not certain. After receiving your letter, I went back and researched our files and have determined that the original request was made in the case of Deuel, et al. v. 1 800 GET THIN, U.S.D.C. Case No. 2:12-cv-00755 by Dan Chambers, Esq. at Troutman Sanders, LLP, who represented Cindy Omid, New Life Surgery Center, LLC., Beverly Hills Surgery Center, LLC., Valley Surgery Center, LLC., Antelope Surgical Center, LLC, Robert Macatangay and Maria Abaca. On February 13, 2012, Mr. Chambers served a Notice of Deposition of Plaintiff Dyanne C. Deuel and Request for Production of Documents. Document request number 22 requested all documents provided to the Los Angeles County Coroner, law enforcement agencies, the California Medical Board and other regulatory bodies. My office filed an objection to this deposition notice because the defendants had not yet appeared in the case at the time the notice was served. This deposition never went forward and no documents were ever produced.

I believe that it was this discovery request which prompted the letter from the U.S. Attorney's Office I provided you to be sent to me, instructing my office to refrain from providing the defendants with information or documents my clients gave to law enforcement investigators.

Because you informally requested my office to provide you with the very same information and documents which the U.S. Attorneys' Office asked me not to produce three years ago, I provided you with a copy of the letter from Conuelo Woodhead, Deputy Chief, Major Frauds Section of the U.S. Attorney's Office.

To date, you have not served my office with any subpoena, and to my knowledge have not subpoenaed my former clients, seeking the production of these records. I advised you that if and when I did receive a subpoena from you, I intend to give notice of the subpoena to the U.S. Attorney's Office as requested in AUSA Woodhead's letter. It will then be up to the U.S. Attorney's Office to decide what action, if any, the government will take to seek a protective order preventing me from producing the requested documents.

B. Obstruction with Other Grand Jury Witnesses

Subsequently, it has come to my attention that aside from interfering with the Grand Jury Witnesses such as Mr. Robertson and his clients who provided information and

documents, several other Grand Jury Witnesses have said they were told by the prosecutors they were not allowed to discuss their testimony and questions from the Grand Jury. Some of these Grand Jury Witnesses go as far back as 2012. These witnesses state that they felt intimidated by the Government's Instructions. They add their memories have faded regarding issues because the events occurred years ago. Also, they feel even if they wanted to assist the defense, they cannot do so fully because of the fear of retaliation since the government has expressed its desire to the contrary.

C. Obstruction with Accountant Farrell Newton

Further, Account Farrell Newton in a declaration under oath (Exhibit 4) testified that AUSA Evan Davis, after the tape for the interview shut off, stated that "any assistance to the Omidis and their legal issues would result in repercussions". Such conduct is a violation of 18 USCS § 1512 (b)(1) and (b)(2)A:

On June 4, 2014, I was told by Evan Davis that any assistance to the Omidis and their legal issues would result in repercussions. He was obsessed with getting the Omidis. I did not want to face, antagonize, or get in the way of Evan Davis who threatened me with charges and is the very same prosecutor for Cindy Omid. As a result of all the events on that day, the likes of which I have never experienced before, I have been frightened and intimidated. I was intimidated from testifying for Cindy Omid not only because I was interrogated with the door broken down and guns pointed at me, but also because I was threatened with criminal charges when Mr. Davis said it was really about the Omidis.

D. Obstruction with Witness Robertson

Alexander Robertson, aside from being a Grand Jury Witness providing documents and information, is also a witness in the Tiffany Burrows matter where he operated as a confidential source for the government. He has information regarding the credibility of Tiffany Burrows which the government has used against the Omidis in *in camera* filings.

II. Legal Issues

A. Obstruction of Justice, Violation of Rule 6(e) and Violation of Ethical Rules Demonstrate Clear and Convincing Evidence of Misconduct

As you know, attempts to silence witnesses, including grand jury witnesses, are illegal. The record is crystal clear with what the USAO did with Mr. Robertson. The USAO improperly imposed a prior restraint. If Mr. Robertson did not agree, the USAO threatened "action as may be appropriate". No court would approve of such clear and convincing evidence of misconduct. Aside from the interference with the criminal investigation, my client has been prejudiced as she had to settle with Mr. Robertson based on incomplete evidence specifically because of the government's interference. This is not a situation where Mr. Robertson, an experienced lawyer with multiple client

witnesses, was simply educated of his right not to speak to the defense. The USAO crossed the line.

The rule is well established that witnesses do not "belong" to either the prosecution or the defense and that both sides should have equal access for witness interviews. *United States v. Black*, 767 F.2d 1334, 1337 (9th Cir. 1985). Prosecutors are not permitted to tell witnesses that they cannot disclose the fact that they have received a subpoena nor can they tell anyone what they produced or what they said in response to a grand jury subpoena. These restrictions are improper. Rule 6(e)(2)(A) of the Federal Rules of Criminal Procedure states, "No obligation of secrecy may be imposed on any person except in accordance with Rule 6(e)(2)(B)." *See United States v. Sells Eng'g, Inc.*, 463 U.S. 418, 425 (1983) ("witnesses are not under the prohibition [of grand jury secrecy] unless they also happen to fit into one of the enumerated classes [in Rule 6(e)].") Courts have held that prosecutors may not restrict the ability of witnesses to talk. *In re Grand Jury Proceedings*, 814 F.2d 61 (1st Cir. 1987) (prosecutor's letter directing witness not to disclose existence of subpoena duces tecum for 90 days, was misconduct); *United States v. Leung*, 351 F. Supp. 2d 992 (C.D. Cal. 2005) (dismissing indictment where prosecution's plea agreements with cooperating witnesses forbade them from speaking to the defense); *United States v. Pinto*, 755 F.2d 150, 152 (10th Cir. 1985) ("the prosecution may not interfere with the free choice of a witness to speak with the defense . . ."); *United States v. White*, 454 F.2d 435, 438-39 (7th Cir. 1971) (the prosecution cannot tell a witness not to talk to the defense, and if it does, it may be grounds for dismissal of the charges or reversal of the conviction.); *Callahan v. United States*, 371 F.2d 658 (9th Cir. 1967) (a witness belongs neither to the government nor to the defense.); *Gregory v. United States*, 369 F.2d 185, 188 (D.C. Cir. 1966) (prosecutorial interference with a defendant's access to witnesses required reversal because it denied the constitutional guarantee of due process and notions of "elemental fairness."); *United States v. Soape*, 169 F.3d 257, 270 (5th Cir. 1999) ("Witnesses ... are the property of neither the prosecution nor the defense [and] both sides have an equal right, and should have an equal opportunity, to interview them.") (quoting *Gregory v. United States*, 369 F.2d 185, 188 (D.C. Cir. 1966)); *See also* Model Rules of Professional Conduct 3.4(d and f); American Bar Association's Standards for Criminal Justice, 3-3.1(c) ("A prosecutor should not discourage or obstruct communication between prospective witnesses and defense counsel. A prosecutor should not advise any person or cause any person to be advised to decline to give to the defense information which such person has the right to give.")

In *Story v. State*, 721 P.2d 1020 (Wyo. 1986), *cert. denied*, 479 U.S. 962 (1986), the prosecutor instructed the State's witnesses "not to talk to anyone without his approval". 721 P.2d at 1042. The defendant took exception, and the Wyoming Supreme Court held "that it was misconduct for the prosecutor to instruct the witnesses as he did". 721 P.2d at 1043. This is what has happened here with the USAO's conduct with Mr. Robertson. Mr. Robertson was told not to disclose anything without the government's approval. In addition there was the further improper demand that the witness state to the government whether he would "comply". Then the government asked the witness to interpose "an objection" to any discovery request. And if this wasn't enough, there was a follow up threat by the government that "If you feel you cannot comply with this

request, please advise me so that we can take such action as may be appropriate.” The government’s actions in this case were by no means just casual comments informing the witness he has discretion to speak or not speak. This is your garden variety obstruction of justice, a felony. *United States v. Lester*, 749 F.2d 1288, 1293 (9th Cir. 1984) (The omnibus clause of section 1503... includes noncoercive witness tampering”). This type of conduct would never be tolerated if committed by a private individual and certainly cannot be tolerated by the United States Attorney’s Office.

B. Interference with the Defense and Due Process

The grand jury investigation has been known since February 2012. In this complex and expansive case, the defense had a right to interview witnesses and prepare a defense in the intervening period. As the United States Supreme Court recognized in *United States v. Ash*, “the interviewing of witnesses before trial is a procedure that predates the Sixth Amendment. In England in the 16th and 17th centuries counsel regularly interviewed witnesses before trial. 9 W. Holdsworth, *History of English Law* 226-228 (1926). The traditional counterbalance in the American adversary system for these interviews arises from the equal ability of defense counsel to seek and interview witnesses himself.” 413 U.S. 300, 318 (1973).

Likewise, as stated in *Gregory v. United States* 369 F.2d 185 (D.C.Cir. 1966): “A criminal trial, like its civil counterpart, is a quest for truth. That quest will more often be successful if both sides have an equal opportunity to interview the persons who have the information from which the truth may be determined. The current tendency in the criminal law is in the direction of discovery of the facts before trial and elimination of surprise at trial. A related development in the criminal law is the requirement that the prosecution not frustrate the defense in the preparation of its case.” *Id.* at 188.

In a criminal case, the government has available to it vast resources not available to the defense through which to investigate and prepare for trial. Highly professional government investigators gather the evidence while government attorneys assimilate and organize it for the courtroom. Potential witnesses can be subpoenaed for interviews, or summoned before the grand jury and they may fear retribution from the government if they refuse to cooperate in a criminal investigation. This power is likely to have a chilling effect on witnesses.

Despite its incredible resources, here the United States Attorney’s Office has directly and deliberately interfered with witnesses which resulted in interference with the defense. Because of the government’s threat and instruction, Mr. Robertson inaccurately stated in his August 3, 2014 that the documents Mr. deHeras had requested were “never been produced to any third party”. Mr. Robertson knew this was not accurate yet had to submit to government pressure. The government’s interference resulted in concealment of material facts and documents by Mr. Robertson. Only when confronted with contrary evidence, was Mr. Robertson forced to disclose that he had provided information to the grand jury and the government but was “instructed” not to disclose such information. Obviously, the defense cannot engage in this sort of effort for every witness the government has interfered with to get to the truth. Further, after three

(3) years of deliberate government obstruction, memories fade and the utility of Mr. Robertson and his clients to the defense has been compromised. The same is true of other grand jury witnesses who were instructed by the United States Attorney's Office not to talk or disclose.

Furthermore, the defense does not have the identity of all the witnesses with whom there has been interference. Given the reluctance of Mr. Robertson to speak accurately, it is unlikely that witnesses who have been interfered with will come forward and reveal governmental pressure and disclose what they know fully to the defense.

We know of nothing in the law which gives the prosecutor the right to unilaterally interfere with the preparation of the defense by effectively denying defense counsel access to the witnesses. The prosecutors, in interviewing the witnesses, were unencumbered by such interference. Further, in this case there is evidence of direct suppression of evidence specifically due to the government's actions. In the case of the other witnesses with whom the government has unlawfully interfered, unquestionably there was a suppression of the means by which the defense could obtain evidence. The defense could not know what the witnesses to the events were to testify to or how firm they were in their testimony unless defense counsel was provided a fair opportunity for interview. The United States Attorney's Office instructions to witnesses have frustrated that effort, substantially discouraged witnesses from communicating with the defense, and denied the opportunity of a fair trial to the Omidis should charges ever be filed. Even if the witnesses were told to speak now, it is unlikely that they would fully do so because they are aware of the government's desire and no witness would want to suffer the wrath of the government, especially in a case such as this where there is so much prosecutorial vindictiveness and retaliation. The witnesses know what was expected of them by the government, and the possibility that they would now feel free to be interviewed on behalf of Omidis is ephemeral at best. Further, due to the in excess of three (3) years of interference, memories have faded prejudicing the Omidis.

III. CONCLUSION

Obstruction of justice in addition to violations of Rule 6e(2) and ethical rules have been established. Further, the evidence here shows "substantial government interference" by "a preponderance of the evidence" of witnesses amounting to a violation of due process. *United States v. Vavages*, 151 F.3d 1185, 1188 (9th Cir. 1998) ("It is well established that 'substantial government interference with a defense witness's free and unhampered choice to testify amounts to a violation of due process.' *United States v. Little*, 753 F.2d 1420, 1438 (9th Cir. 1984). A defendant alleging such interference is required to demonstrate misconduct by a preponderance of the evidence.") The government's misconduct cannot be brushed aside as due process rights were violated impeding a meaningful search for the truth.

There is the clear showing that the government "instructed the witness not to cooperate with the defense". *United States v. Linder*, 2013 U.S. Dist. LEXIS 29641, *141-142, 2013 WL 812382 (N.D. Ill. Mar. 5, 2013) ("To challenge the government's conduct on Sixth

Amendment or due process grounds for witness interference, the defendant is required to make a 'clear showing' that the government instructed the witness not to cooperate with the defense. *Roach*, 502 F.3d at 437. With respect to interviewing witnesses 'our constitutional notions of fair play and due process dictate that defense counsel be free from obstruction, whether it comes from the prosecutor in the case or from a state official or another state action under color of law.' *Int'l Bus. Machs. Corp. v. Edelstein*, 526 F.2d 37, 44 (2nd Cir.1975). Government interference with potential defense witnesses requires dismissal of an indictment where a substantial right of the defendant has been jeopardized, such as the right to due process of law secured by the Fifth Amendment or the right to compulsory process of defense witnesses secured by the Sixth Amendment. *United States v. Wilson*, 715 F.2d 1164, 1169 (7th Cir. 1983).")

The "interference" is undeniable and the proper remedy is an end to this investigation. *United States v. Linder*, 2013 U.S. Dist. LEXIS 29641, *168-169, 2013 WL 812382 (N.D. Ill. Mar. 5, 2013) ("When the government's actions substantially impair a witness's decision to testify, such as by threat, coercion, interference, or intimidation, and the witness's free decision to testify is hampered, the government has denied the defendant of his Fifth Amendment right to due process of law and his Sixth Amendment right to compulsory process of witnesses in his favor. *Burke*, 425 F.3d at 411. In this case, the e-mails sent from the Marshal's office threatened, interfered with, and intimidated potential defense witnesses. The proper remedy for such misconduct is the dismissal of the Indictment. *Id.* The Government's action here goes well beyond merely advising witnesses of their choice to testify. *See Bittner*, 728 F.2d at 1041. 'It is well-settled that substantial government interference with a defense witness's free and unhampered choice to testify violates the defendant's due process rights.' *Newell*, 283 F.3d at 837. The Court concludes that the Government substantially interfered with potential defense witnesses's free and unhampered choice to testify and blocked the defense's ability to interview potential witnesses who had material evidence that would be beneficial to the defense.")

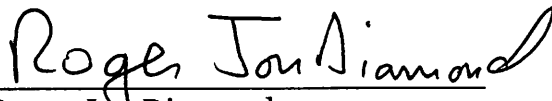
We are particularly concerned that retaliatory actions in response to our complaint may occur again, especially from AUSAs Consuelo Woodhead, Evan Davis and agents working on this investigation. Given the clear evidence of misconduct, we request the immediate disqualification of these investigators and associated agents. The process had been intentionally corrupted. The misconduct alone is sufficient for disqualification.

Last, other serious misconduct issues that have been raised and brought to the attention of Main Justice have not been addressed. There has been no response to Mr. Robert Weiner's letter from June 2014, and my letter of July 2, 2015. As stated in my July 2, 2015 letter, there "appears to be an unchecked pattern and practice of indefensible conduct." We object to further government communications to Mr. Robertson, his clients and other relevant witnesses as such actions would be evidence of additional witness tampering in an attempt to improperly "fix" the government's misconduct. Witness interference is yet another example of prosecutorial discretion gone awry. When prosecutors are not held to answer for their misconduct, many begin playing fast and loose with the law. This puts defendants—who have less resources, less access, and less power—in indescribable peril. The DOJ cannot turn a blind eye to the realities of

the misconduct. As seen in the recent Fifth Circuit Court of Appeals decision, the courts no longer will. *United States v. Bowen*, 2015 U.S. App. LEXIS 14498, *35 (5th Cir. La. Aug. 18, 2015) (What the government nowhere confronts is the incomplete, dilatory, and evasive nature of its efforts to respond to the district court's inquiries). The pervasive misconduct contaminating this government investigation is far worse than *Bowen*.

As you know, we would have rather discussed these issues in person. Unfortunately, this is the only route that I have been provided by the DOJ. Now that all the supervisory parties are on notice, we would appreciate a prompt response and appropriate action. We request the immediate production of a list of all witnesses, grand jury and otherwise, with whom the government has had contact in addition to those witnesses who have been told not to speak or disclose. We would also request a meeting in person to ventilate the issues.

Sincerely,



Roger Jon Diamond

EXHIBIT 1



U. S. Department of Justice

*United States Attorney
Central District of California*

*Consuelo S. Woodhead
Assistant United States Attorney
Deputy Chief, Major Frauds Section
(213) 894-3987*

*1100 United States Courthouse
312 North Spring Street
Los Angeles, California 90012*

By email and U.S. Mail

Alexander Robertson, IV
Robertson & Association, LLP
880 Hampshire Road, Suite B
Westlake Village, CA 91361
arobertson@arobertsonlaw.com

Re: Federal Criminal Investigation of 1-800-GET-THIN

Dear Mr. Robertson:

This will confirm my request that, in order to maintain the integrity of the federal investigation referenced above, you and your clients, Dyanne Deuel and Karla Osorio, refrain from providing information on the status of the above-referenced investigation in civil discovery including (a) responding to questions concerning contacts with investigators, (b) providing documents reflecting such contacts and (c) identifying documents as having been produced to investigators. To the extent you or your clients are asked to provide such information, we would appreciate your interposing an objection and providing us with notice and an opportunity to seek leave to intervene for the purpose of seeking a stay, protective order, or other relief.

If you feel you cannot comply with this request, please advise me so that we can take such action as may be appropriate.

ANDRÉ BIROTTE JR.
United States Attorney

ROBERT E. DUGDALE
Assistant United States Attorney
Chief, Criminal Division

CONSUELO S. WOODHEAD
Assistant United States Attorney
Deputy Chief, Major Frauds Section

EXHIBIT 2

LAW OFFICES OF

**PRINDLE, AMARO, GOETZ,
HILLYARD, BARNES & REINHOLTZ LLP**

310 GOLDEN SHORE, FOURTH FLOOR
LONG BEACH, CALIFORNIA 90802
TELEPHONE: 562.436.3946
FAX: 562.495.0564
PRINDLELAW.COM

OF COUNSEL
STEPHEN C. KLAUSEN
ROBERT H. BARONIAN
GARY T. DRUMMOND
CHARLES S. YESNICK
ALFRED G. LUCKY, JR.
DAVID M. HILLINGS
CYNTHIA A. PALIN
CELESTE M. SCOTT
JANE S. BLUMBERG
E. JANE WELLS
CORY M. MARTIN

MARY KIRK HILLYARD
RETIRED

GARY E. YARDUMIAN
(1961-2007)

J. LAWRENCE JUDY
(1945-2006)

† ALSO ADMITTED IN
HAWAII

‡ ALSO ADMITTED IN
HAWAII AND
WASHINGTON

* ALSO ADMITTED IN
COLORADO

** ALSO ADMITTED IN
MASSACHUSETTS

◊ ALSO ADMITTED IN
ARIZONA

KENNETH B. PRINDLE*
MICHAEL L. AMARO
ANDY J. GOETZ
TAHEREH K. BARNES
JACK R. REINHOLTZ
JACK C. NICK
JEREMY D. MILBRODT
JAMES G. MURRAY
THOMAS A. STEIG
R. DEREK CLASSEN
GRACE C. MORI
DOUGLAS S. DE HERAS
SUSETTE S. YI-RIES
CARLA LYNN CROCHET†
JENNIFER M. WAYS
MICHAEL H. SCHUCK
J. ANDREW BRANAM

HEATHER IJAMST
NICHOLAS PAULOS
RAMIE C. NIEDERKORN
GOPAL S. PATEL
TONY HSU
GRACE V. KOSMAN**
RUDIE D. BALDWIN
SHERRIE S. DIVEGLIA
ARPI GALFAYAN
ROBERT R. WILLIS
DANIELLE OCHI RENZI
MICHELLE C. GOLDEN
ALEX M. VALENZUELA
SANAZ CHERAZAIE
MICHAEL J. OLDS
LORIN D. SNYDER
BRETT T. ERICKSON
ADAM J. HOUTZ
DANIELLE N. LINCORS
VICTORIA L. WILLIS
DANIELLE M. CORKHILL
BRYAN G. QUICK

KRISTIE KAWAKAMI WONG†
CATHY MULLER DIEHL

August 26, 2015

DOUGLAS S. DE HERAS
DDEHERAS@PRINDLELAW.COM

VIA E-MAIL ONLY

Alexander "Trey" Robertson, IV
Robertson & Associates, LLP
Attorneys at Law
32121 Lindero Canyon Rd. Suite 200
Westlake Village, CA., 91361
Office Phone (818) 851-3850
Fax: (818) 851-3851
E-mail: arobertson@arobertsonlaw.com

Re: *Pelter (Estate of Paula Rojeski) v. 1-800-GET-THIN, LLC et al.*
Case No. BC491048

Dear Mr. Robertson,

Per our conversation today, you informed me that in 2012, Attorney Charles Kreindler requested your files to include those of Dyanne Deuel, Karla Osorio and matters pertaining to the death of Paula Rojeski. You confirmed that Assistant United States Attorney Deputy Chief Consuelo Woodhead instructed you and your clients not to discuss, disclose or release the information you produced to federal investigators in the federal criminal investigation of 1-800-GET-THIN. Subsequently in 2012 Deputy Chief Woodhead sent you a letter directing you of the same.

On our call today, you confirmed that Deputy Chief Woodhead contacted you by telephone this week clarifying that transcripts of Dyanne Deuel and Karla Osorio were produced by your office to investigators. You had initiated contact with Deputy Chief Woodhead in response to my recent discovery requests. I requested the production of these transcripts because they were relevant and discoverable in the Rojeski wrongful death action. You declined stating that pursuant to instruction from the United States Attorney; you cannot discuss, disclose or release the subpoenaed documents without the consent of the United States Attorney.

Re: Rojeski August 26, 2015

Page 2

If any of these representations are inadvertently misstated or incorrect, please advise immediately. Thank you for your cooperation.

Very truly yours,

PRINDLE, AMARO, GOETZ
HILLYARD, BARNES & REINHOLTZ LLP



BY: DOUGLAS S. DE HERAS

EXHIBIT 3

Robertson & Associates, LLP

Attorneys at Law

32121 Lindero Canyon Road, Suite 200
Westlake Village, California 91361
Telephone (818) 851-3850 | Fax (818) 851-3851
website: www.arobertsonlaw.com

August 31, 2015

VIA ELECTRONIC MAIL ONLY

Douglas S. De Heras, Esq.
PRINDLE, AMARO, GOETZ, HILLYARD,
BARNES & REINHOLTZ, LLP
310 Golden Shore
Fourth Floor
Long Beach, CA 90802

RE: PELTER (ESTATE OF ROJESKI) V. 1-800-GET-THIN
Our File No. 5125.80

Dear Doug:

Regarding your letter, dated August 26, 2015, there are several inaccuracies which I feel compelled to clarify. First, the responses I gave to your multiple telephonic inquiries were based upon my recollection of events which occurred back in 2012. I told you I believed it was Chuck Kriendler's office who originally requested documents my clients had produced to law enforcement investigators, but I was not certain. After receiving your letter, I went back and researched our files and have determined that the original request was made in the case of *Deuel, et al. v. 1 800 GET THIN*, U.S.D.C. Case No. 2:12-cv-00755 by Dan Chambers, Esq. at Troutman Sanders, LLP, who represented Cindy Omid, New Life Surgery Center, LLC., Beverly Hills Surgery Center, LLC., Valley Surgery Center, LLC., Antelope Surgical Center, LLC, Robert Macatangay and Maria Abaca. On February 13, 2012, Mr. Chambers served a Notice of Deposition of Plaintiff Dyanne C. Deuel and Request for Production of Documents. Document request number 22 requested all documents provided to the Los Angeles County Coroner, law enforcement agencies, the California Medical Board and other regulatory bodies. My office filed an objection to this deposition notice because the defendants had not yet appeared in the case at the time the notice was served. This deposition never went forward and no documents were ever produced.

I believe that it was this discovery request which prompted the letter from the U.S. Attorney's Office I provided you to be sent to me, instructing my office to refrain from providing the defendants with information or documents my clients gave to law enforcement investigators.

Douglas S. De Heras, Esq.
August 31, 2015
Page 2

Because you informally requested my office to provide you with the very same information and documents which the U.S. Attorneys' Office asked me not to produce three years ago, I provided you with a copy of the letter from Conuelo Woodhead, Deputy Chief, Major Frauds Section of the U.S. Attorney's Office.

To date, you have not served my office with any subpoena, and to my knowledge have not subpoenaed my former clients, seeking the production of these records. I advised you that if and when I did receive a subpoena from you, I intend to give notice of the subpoena to the U.S. Attorney's Office as requested in AUSA Woodhead's letter. It will then be up to the U.S. Attorney's Office to decide what action, if any, the government will take to seek a protective order preventing me from producing the requested documents.

Very truly yours,

ROBERTSON & ASSOCIATES, LLP



ALEXANDER ROBERTSON, IV

ATR:amr
cc: John Walker, Esq.

EXHIBIT 4

DECLARATION OF FARRELL NEWTON

I, Farrell Newton, declare and say:

1. I am a resident of Las Vegas, Nevada. From 2008 through December, 2010, I was the accountant for Pacific West Dermatology, Cindy Omidi, and other companies and individuals. I filed the tax returns for Pacific West Dermatology and Cindy Omidi for 2008 and 2009.

2. In the course of my work I examined the books, records, documents, bank accounts, and the accountings provided to me regarding Pacific West Dermatology and Mrs. Omidi. I investigated and examined how the money in the company was handled. I did my due diligence to verify the source of the monies handled by the company and Mrs. Omidi, and determined how the money, receipts, expenditures, credits, and debits should be characterized. Based on the discussions stated below, I prepared the tax returns.

3. In November, 2006, Pacific West Dermatology experienced a significant embezzlement of more than \$700,000 by an employee. Attached as Exhibit "A" is the Complaint which Cindy Omidi filed with law enforcement regarding the embezzlement. The employee had turned billing charges into cash and then embezzled the funds. Because of that criminal activity, I discussed the incident with Ken Pezeshk and recommended a policy of having cash be held only in the form of money orders, which was designed to limit and prevent the ability of employees to embezzle funds. Mr. Pezeshk followed my recommendation.

4. Ken wanted to account for the cash. Therefore, he took the cash and purchased money orders. Ken handled payroll and accounting. Cindy Omidi was not involved in this decision. He also wanted proof of loan repayment which was possible with the money orders.

5. I personally saw Ken Pezeshk deal with the money orders. I saw Ken with the money orders in his hand and he gave them to Cindy Omidi because he was repaying loans. I saw the money order purchases amounting to \$2,900 and asked Ken Pezeshk about them. I was concerned if this was reportable income. Ken told me that these money orders were loan repayments and not taxable income. As part of my determination of whether there was taxable income, I determined he purchased them in \$2,900 increments because he didn't want to deal with the paperwork regarding the money orders. Cindy Omidi was not involved with this.

6. I spoke to Cindy Omidi who told me that Ken Pezeshk was paying back his loans.

7. Ken Pezeshk was in charge of payroll. The majority of the money orders were deposited into the Pacific West Dermatology Payroll Account which was used to pay for payroll expenses. Ken took the money orders and deposited them into the payroll account. Cindy Omidi and Julian Omidi had signatory authority on the account for deposits, and their signature on the back of the money orders, just like other checks, was to ensure proper deposits. The deposited

money orders were formally booked into the company's records as sales. I recently reviewed the company books of Pacific West Dermatology which I originally relied upon for the tax returns, and these monies were deposited into the Pacific West Dermatology payroll account and the monies were accounted for on both the books and the company's taxes.

8. Based upon my review after the court case concluded, the money orders were repayment of loan, but were being booked as sales. This was an error. They were loan repayment from Ken Pezeshk, and as discussed below, this resulted in an overpayment of taxes by the Pacific West Dermatology. There was no benefit or hiding of income with the money orders. In fact, there was an overstatement of income and overpayment of taxes.

9. Pacific West Dermatology was a very large business, and I directed the bookkeepers that all monies be deposited as income.

10. As a result, all of the money order deposits were booked as sales into the Pacific West Dermatology account. That was incorrect because in excess of approximately \$172,000 was loan repayment from Ken Pezeshk. As shown below, there was more than \$100,000 in excess funds which were declared as sales upon which excess taxes were paid when the amount was actually loan repayment, not sales.

11. Cindy Omidi received approximately \$20,000 of the money orders from Pacific West Dermatology which were deposited into Cindy Omidi's personal bank account to facilitate its use by Pacific West Dermatology which was solely owned by Julian Omidi. Cindy Omidi used that money to purchase items for the company and its owner, Julian Omidi's benefit. I prepared Cindy Omidi's tax returns for 2008 and 2009. There was no unreported income because all income and receipts due and owing to Pacific West Dermatology was reported. Any receipt or expenditure of that money was because of her responsibilities to the company and for the benefit of the company and its sole owner, Julian Omidi. The \$20,000 was not declared as income because it was payback of the loan from Ken Pezeshk and was not taxable. There was nothing suspicious here, and there was an overpayment of taxes in favor of the government.

12. There was \$302,000 in money orders for 2008-10. Of this, \$172,000 was placed into Pacific West Dermatology's bank account and \$20,000 went into the personal bank account of Cindy Omidi, for a total of \$192,000. All \$172,000 of the deposits into Pacific West Dermatology's accounts were booked as sales and reported as income. All of that money was therefore reported and taxed when it should not have been because it was an accounting error.

13. I reviewed the \$200,000 loan to Ken Pezeshk from Pacific West Dermatology, plus an additional \$30,400 in loans to Ken Pezeshk. See Exhibit "B." The repayment of these loans should not have been booked as income. Because the loan repayments were booked in error as

income, Pacific West Dermatology declared \$172,000, on in income when it should have only declared \$71,600, which is the difference between the \$302,000 (total sum of money orders) and the \$230,400 (total sum in loans to Ken Pezeshk. So as long as Pacific West Dermatology declared \$71,600 of income, there was no unreported income or failure to pay taxes. The company over-reported income of \$100,400 (\$172,000 deposited - \$71,600 actual income).

14. The following is a calculation of the \$302,000 in money orders and its reconciliation with the \$230,400 loan to Ken Pezeshk.

\$ 302,000	Money Orders to Pacific West Dermatology
- 230,400	Loan to Ken Pezeshk
\$ 71,600	Income to report for Pacific West Dermatology
\$ 172,000	Money Order deposits into Pacific West Dermatology
- 71,600	Income to Pacific West Dermatology from the \$302,000 total
\$ 100,400	Overstated income

15. Of the \$302,000 in money orders, only \$71,600 needed to be deposited into the Pacific West Dermatology account. Instead, \$172,000 was deposited. This is an overpayment and overstated income for Pacific West Dermatology.

16. On June 4, 2014, Assistant United States Attorney Evan Davis led a group of federal agents on a search and seizure of my home at 6 a.m. Within about 30 seconds they broke down my door without even allowing me an opportunity to open it. They had their guns drawn on me, including automatic weapons. They burst into my home and forced me to stand against the wall at gunpoint in my underwear. At gunpoint they pushed me out of the apartment while still in my underwear in front of my neighbors. The government seized all of my books, records, computers, and other materials, including all of the materials for Pacific West Dermatology and the Omidis, including Cindy Omid. This was the worst and most frightening day of my life.

17. Without allowing me the opportunity to compose myself, Assistant US Attorney Evan Davis and Agent Carlos Tropea started interviewing me in my underwear without allowing me to put on clothes and respond in a dignified fashion. I asked if I was in trouble, and I asked if I was under investigation. They did not answer. Davis said we have "evidence" on the Omidis for tax charges and "other stuff" and extensively asked me regarding my accounting and tax work for the Omidis. Pacific West Dermatology, and especially Cindy Omid, were extensively discussed during the interview. I was terribly upset and frightened.

18. Early in the questioning I said do I need a lawyer? Davis said "I can't give legal advice." I asked for a lawyer, and said I was going to call the Omidis to provide a lawyer for me. However, Mr. Davis ignored my request for counsel and continued the interrogation.

19. When I again requested the Omidis provide me a lawyer, Mr. Davis then said the Omidis are busy now. However, I later discover Mr. Davis did not tell me the truth. Julian and Michael Omidis were not detained or arrested on June 4, 2014. I explained to them I could not afford a lawyer and wanted the Omidis to provide me with one. Mr. Davis made false statements regarding the availability of the Omidis to me to prevent me from obtaining an attorney.

20. Mr. Davis asked me to confirm that Cindy Omidis had managerial duties and Julian Omidis was running the business strategy. The government on several occasions tried to interject its own views and having me agree with their views.

21. IRS agent Carlos Tropea asked Evan Davis if they should bring up the "second subject." Evan Davis said yes. Davis said you haven't filed your taxes for 2008-2011. I asked if I was in trouble. The agents did not respond to me and Carlos Tropea continued his questioning. I repeatedly asked if I was in trouble or being investigated. Evan Davis said I could be charged. I asked if I was under investigation. Finally Carlos Tropea said yes for tax and tax related charges. Evan Davis then said there are "no charges yet." Tropea added I was under criminal investigation by the IRS. I was shocked.

22. I asked why Mr. Davis why he didn't tell me at the beginning of the interview I was under investigation for a crime. Evan Davis would not answer my question but instead he replied the main focus of the investigation was the Omidis. It was clear from his statement that I was being subjected to the interrogation and a criminal investigation by the IRS and US Attorney's Office in this matter because they wanted to get the Omidis. I felt threatened and intimidated. The government was leveraging my personal problems trying to get the Omidis.

23. Evan Davis then added "we have no obligation" to tell you that you are under criminal investigation when we interview you. I then asked Evan Davis if by not telling me I was under criminal investigation and putting me under extensive questions, was this was an effort by the government to trap me? Evan Davis replied "no." Obviously, his answer was untrue because he had hidden the fact I was under investigation.

24. Several times during the interview I tried to stop and wanted to speak to an attorney, but they simple just continued asking their questions. I don't understand how it is possible for an assistant United States Attorney to repeatedly make untrue statements to me when I was under criminal investigation. I thought prosecutors of the US Attorney's Office were not permitted to make false statements to me about me being under criminal investigation.

25. Close to the end of the interview, both Carlos Tropea and Evan Davis said they will work with me to get you all the documents I need for me to files my taxes. However, this was another falsehood. It has been almost nine months since the search, and, to date I have not been

able to get my paper records despite requests from my lawyer so that I could file my taxes. I have the threat of criminal charges by Mr. Davis over my head, and it is as if the government doesn't want to get my taxes done in order to maintain control over me.

26. Toward the end of the interview, Carlos Tropea said you are free to go. However, every time I tried to go anywhere during the interview someone followed me. Based on the Agents' actions, I was not free to go anywhere alone. Evan Davis, then looked at Tropea glancing at the tape recorder, and said you have always been free to leave when by their actions it was not true.

27. Either I asked Tropea, or Mr. Davis ordered Tropea, to shut off the tape recorder because I was being criminally investigated. Initially, he wouldn't and said the tape recorder being on would help both of us. However, this was again untrue because I was under a federal criminal investigation and being recorded was not helpful to me. I asked again for him to shut off the tape before he finally did.

28. After the tape recorder was turned off, Evan Davis again told me I had committed a federal crime and was in significant trouble because I had not filed my personal tax returns. I told him I had not heard of the IRS criminally investigating and charging someone for not filing tax returns when the amount due was not large. He said that this is serious and that I could be in trouble even if it is a small amount. I interpreted his statements such that this is about the Omidis, the Omidis have legal trouble, and I should not be helping the Omidis with it. He repeated charges were not filed against me yet, and I interpreted that I should not become involved in the Omidis matter. I interpreted his actions that I would face charges if I helped them with their in the legal troubles. I had never been so shocked and afraid in my life. I was shaking. He frightened and intimidated me and there was no question regarding his intentions.

29. When we were walking to the garage and car so they could do further searches, I asked Evan Davis, "Does this mean that all my other clients will be audited as well?" He looked me in the eye and smirked. That smirk on his face made it the scariest day of my life. Auditing my other clients would devastate me. I advised some of my clients about what happened.

30. Mr. Davis knew I was the only tax preparer for the 2008-2009 period where the Structuring of money order purchases is alleged to have occurred. My knowledge of the overpayment of taxes on the alleged funds and what Ken Pezeshk had done was critical and exonerating for Cindy Omidis. I was intentionally intimidated on the day of Mrs. Omidis's arrest as it was obvious I was a critical witness for her and the government did not want me to testify.

31. On June 4, 2014, I was told by Evan Davis that any assistance to the Omidis and their legal issues would result in repercussions. He was obsessed with getting the Omidis. I did not

want to face, antagonize, or get in the way of Evan Davis who threatened me with charges and is the very same prosecutor for Cindy Omid. As a result of all the events on that day, the likes of which I have never experienced before, I have been frightened and intimidated. I was intimidated from testifying for Cindy Omid not only because I was interrogated with the door broken down and guns pointed at me, but also because I was threatened with criminal charges when Mr. Davis said it was really about the Omidis. However, I believe there was a severe miscarriage of justice with Cindy Omid, and my conscience tells me I must now come forward with my information. I also believe that it was a severe mischarge of justice because the taxes were paid on this money when it really was not taxable income. An innocent person has been convicted because I did not provide critical and material information and expertise.

I declare under penalty of perjury under the laws of the United States of America the foregoing is true and correct.

Executed this 15 day of April, 2015, at Los Angeles, California.



Farrell Newton

Exhibit “A”

MAJOR FRAUD SECTION
COMPLAINT FORM

Your Full Name: <i>Cindi Onidi</i>	Residence Address: <i>10600 Wilshire Blvd Apt 525 Los Angeles CA 90026</i>	Phone Number: <i>310-714-1888</i>
Occupation: <i>Office Administrator</i>	Business Address: <i>4001 Wilshire Blvd #106 Beverly Hills, CA 90210</i>	Business Phone: <i>310-273-8885</i>
I declare I have a complaint against:		
Full Name of Suspect: <i>Unknown, but a list of possible suspects is attached</i>	Suspect's Address: <i>N/A</i>	Suspect's Phone: <i>N/A</i>
Business Name: <i>Pacific Surgical & Laser Institute</i>	Business Address: <i>4001 Wilshire Blvd #106 Beverly Hills, CA 90211</i>	Business/Cell Phone: <i>310-714-1888 310-927-3282</i>

The following documentation supports my allegation and is incorporated and made a part of this complaint:

- Contract or Agreement (Description of what you thought you were investing in)
- Cancelled check(s) (Front & Back)
- Employee Contract
- Employee Job Duties
- Invoices, Accounts Payable, Account Receivable - *unauthorized charges reversed back to credit cards*
- Correspondences between you and the suspect(s) (Letters, E-mails, Faxes)
- Copies of all documents which relate to your complaint which are not listed above.

Date(s) of Transaction:	Place where Transaction Occurred (Address, City, State): <i>All six company locations: see attached sheet</i>	
Amount(s) Invested or Stolen: <i>Between \$700,000 & \$800,000, maybe more</i>	Date of Last Transaction:	

Have you or any other victim filed a civil action (lawsuit) in any court in this matter?
 No
 Yes: If yes please provide copy of court documents and the date of filing (Include case number).

Have you filed this complaint with another law enforcement or consumer protection agency?
 No
 Yes If yes, provide the name, address and phone number of agency, and the person handling the case.
Beverly Hills police Department, but they would not accept the case.

Have you contacted the suspect(s) or business regarding your complaint and demanded restitution of yours funds?
 No
 Yes If yes, name of person you contacted and the date(s) contact(s) made:

Have you had a previous business or personal relationship with the suspect(s), firm or controlling person?
 No
 Yes If yes, indicate the nature of the relationship, the duration and whom it was with.
Possibly. The only people who had the access and ability to commit this fraud were our front office employees. Their names and contact information are provide on attached paper.

Please attach your one page summary to this complaint form. If additional room is needed to answer any of the above question feel free to attach additional sheets.

NOTE: Section 148.5(a) of the California Penal Code states:
"Every person who reports to any peace officer listed in section 830.1 or 830.2, district attorney, or deputy district attorney that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor."

I declare under penalty of perjury under the laws of the State of California that the foregoing statements and photocopies of attached documents are true and correct.

Date: 11, 4, 06

Signature of Complainant

Old Merchant Company that we worked with until April 2006:

Company: Paymentech

Contact Name: Dalton

Phone: (301) 754-0800

(301) 213-4008

New Merchant Company that we have worked with since May 2006:

Company: Wells Fargo

Contact Name: Sara

Phone: (323) 240-9990

Company: Care Credit Financing:

Contact Name: Cary

Phone: (818) 917-1869

KD (714) 673-7133

ATTACHMENT TO COMPLAINT

Our company was embezzled out of approximately \$700,000 to \$800,000. While this embezzlement occurred at all six of our office locations (see attached list of office locations), the West Hills office had more instances of embezzlement than the other locations. We believe the embezzlement started around the middle of 2004 until around July of 2006 when we blocked the terminal machine.

We were informed and believe that on or about June 24, 2006, our accounting department noted that there were multiple credits, which were unauthorized to be reversed back to customer's and unknown credit cards.

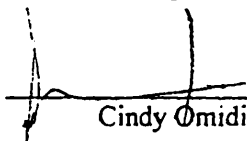
We suspect a person or persons working in our front offices has conspired with a willing customer to reverse the charges for services rendered and share the funds, which were reversed between the customer's credit cards or some unidentified credit cards which has hand-punched credit card numbers.

Another scenario that I believe happened is that the suspects would give a quote for the usual or customary cost of the desired service, i.e. \$5,000.00. The suspects would then conspire with the customer to reduce the price, i.e. to \$1500.00 cash. If the customer paid the \$1500.00 cash, the suspect(s) would then debit the customers credit card \$1500.00 followed by a credit back of \$5,000.00 and pocket the cash. Patients would receive their surgery procedures and then not only got all their money back, but were refunded an additional few thousand dollars in addition.

We never authorized our employees to make any reversals or refunds to patients through the credit card terminal machines. Our policy is always to refund patients by check. We had no knowledge of any of these refunds, and no employee ever brought any of these refund to our attention. Also, we had no knowledge of the patients requesting refunds or whether the patients had paid us in the first place. We also never received any receipts of these refund transactions. An then money was removed via the terminal machine before it reached its destined bank account.

Attached, I have provided a list of all of our locations, as well as a list of almost all of our employees that worked in sales and reception (with phone numbers and social security numbers) that I believe had worked for my company (at all six locations) from the time we believe the embezzlement was taking place to present. Also, I have attached all credit card statements which show the reversal charge transactions that were made as explained above. Finally, I have included the names and contact information of the credit card companies and representatives that we worked with previously and new companies that we currently are working with. Hopefully, these documents will help you with your investigation. If you need any other documentation, or have any further questions, please do not hesitate to contact me at (310) 714-1888.

Thank you very much for your time.


Cindy Omidi

Date: 11, 6, 06



PHONE (818) 374-⁵⁴²⁶9630
 FAX (818) 374-9630
 TDD (877) 275-5273
 www.lapdonline.org
 www.joinlapd.com

LOS ANGELES POLICE DEPARTMENT
 COMMERCIAL CRIMES DIVISION
 VALLEY FORGERY SECTION

BY: DET. BAEILLO

6240 SYLMAR AVE., RM 212
 VAN NUYS, CA 91401

JOIN THE LAPD (866)444-LAPD RECRUITMENT HOTLINE

BEVERLY HILLS POLICE DEPARTMENT
 464 N. REXFORD DR. BEVERLY HILLS, CA 90210

- TRAFFIC BUREAU:
 (310) 285-2196
 MONDAY THROUGH FRIDAY
 7:00 AM TO 6:00 PM
 - PROPERTY DETAIL:
 (310) 285-2120
 MONDAY THROUGH FRIDAY
 8:00 AM TO 4:00 PM
 - CRIME PREVENTION DETAIL: OFF. LOULTER
 (310) 285-2133 MORENO
 MONDAY THROUGH FRIDAY
 8:00 AM TO 5:00 PM
- Case Number: 06-4881



BEVERLY HILLS POLICE DEPARTMENT
464 N. REXFORD DR. BEVERLY HILLS, CA 90210



DETECTIVE BUREAU:
(310) 285-2158
MONDAY THROUGH FRIDAY
8:00 AM TO 5:00 PM

RECORDS BUREAU:
(310) 285-2187
OPEN DAILY

www.beverlyhills.org



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF INVESTIGATION
MAJOR FRAUD DIVISION

STEVE COOLEY • District Attorney
CURT LIVESAY • Chief Deputy District Attorney

G. STEVE SIMONIAN • Chief
GARY SCHRAM • Assistant Chief

Guidelines for Completing the Fraud Complaint Form

Before filling out the attached complaint form, please take the time to read these guidelines. They will help you to understand our function, and we will be better able to understand and act on your complaint.

What We Can Do:

The Los Angeles District Attorney's Office Major Fraud Unit investigates sophisticated, multi-jurisdictional, multi-defendant fraud cases where the total dollar loss is over \$300,000.00. Typical cases involve complex investment schemes, embezzlement of company funds, tax fraud and forgery. This office is not legally permitted to represent individuals in civil matters, take action in order to obtain money owed a consumer, help cancel any debt due on a contract that was signed, resolve or mediate individual consumer complaints, or obtain any other personal relief. Those functions are performed by a number of other government agencies established for that purpose.

When we receive a consumer complaint, we review all the information and the supporting documentation that was included. If the complaint does not meet the above listed criteria to open a case, then we do our best to refer you to an agency appropriate to handle the type of matter involved. Many consumer disputes are not appropriate for government action, but are altogether proper for private legal action. It is generally a good idea to consult with private counsel to explore private legal remedies that might be available. In small matters, local small claims courts should also be considered.

How You Can Help Us:

A. Write or type a *one page* summary of your complaint and please include the following information:

1. Tell us **what** happened.
2. Tell us **who** you think the person(s) or company that is responsible for the loss.
3. Tell us **where** (address, city and state) the incident took place.
4. Tell us **when** the fraud occurred. Please list exact dates, if known.
5. Tell us what your actual financial loss is. Do not include lost interest, unrealized profits or missed opportunities.
6. Tell us when you first became aware that you may have been defrauded by the individual(s) or company you were dealing with.

201 North Figueroa Street
Sixteenth Floor
Los Angeles, CA 90012
(213) 580-3389

ER 043

-
- B. Documentary evidence is especially important, therefore, please only include photocopies of the material you wish us to review and retain the originals for your records.
- C. Type or print clearly in ink.
- D. If you have any questions concerning this form, you may call the Major Fraud Duty Investigator at (213) 580-3200 during regular business hours, Monday through Friday 8:00 am to 5:00 pm.
- E. Upon completion of all the sections of the complaint form, please mail the form along with copies of your supporting documentation to:

**Office of the District Attorney
Bureau of Investigation
Major Fraud Unit
201 N. Figueroa Street, 16th Floor
Los Angeles, California 90012**

Attn: Supervising Investigator

All complaints must have the attached complaint form completely filled out and the form must be signed and dated by the complaining party (not by their attorney) before a case can be opened.

We sincerely hope this information will be of assistance to you.

OLD & NEW LOCATIONS PACIFIC WEST DERMATOLOGY

Valencia

Old	New	
23861 McBean Pkwy Ste C6 Valencia CA 91355	25775 McBean Pkwy 108 Valencia CA 91355	661 753-9673 661 259-6200

Bakersfield

2920 F St B1 Bakersfield CA 93301	9610 Stockdale Hwy Unit A Bakersfield CA 93311	661 323-2174 661 322-2461
--------------------------------------	---	------------------------------

Lancaster

44404 16th St West Lancaster CA 93534	1529 E Palmdale Blvd Ste 207 Palmdale CA 93550	661 267-1900 661 267-0700
--	---	------------------------------

West Hills

7230 Medical Center Dr #600 West Hills CA 91307	7320 Woodlake Ave Ste 310/320 West Hills CA 91307	818 883-0483/ 818 340-0483 818 340-0703/ 818 883-2900
--	--	--

Apple Valley

18182 Hwy 18 Ste 106 Apple Valley CA 92307	760 242-7724 760 242-7725
---	------------------------------

Beverly Hills

9001 Wilshire Blvd Ste 106 Beverly Hills CA 90210	310 273-8927 310 273-8662
--	------------------------------

TERMINATED & PRESENT EMPLOYEES IN CHARGE OF COLLECTION

Name	SS#	Location		Hire Date	Telephone #
Allison Aguilera	557-31-7084	Apple Valley	Consultant	6/27/2005	661 978-9226
Esmeralda Delgado	573-97-8340	Apple Valley	MA	4/3/2006	760 247-0692
Angel Osomio	552-87-5039	Apple Valley	Consultant	9/8/2003	760 486-5626
Jackie Vasquez	573-97-4942	Apple Valley	Front Desk	4/19/2005	760 680-3407
Sylvia Vasquez	573-97-6384	Apple Valley	Front Desk	4/3/2006	760 680-3407
Tina Crowe	547-49-9696	BH/WH/Valencia	VP Of Operations	10/20/2005	818 516-3752
Maryann McDonald	623-20-9147	WH/Valencia	Consultant	7/11/2006	916 548-5178
De Lisa Leal	559-39-6761	West Hills	MA	10/19/2004	818 307-8309
Kirsten Lutrell	604-07-4985	Palmdale	Consultant	11/19/2003	661 435-9301
Sandra McWilliams	559-67-7665	Palmdale	Site Administrator	9/1/2002	661 675-6562
Javon Marshall	555-79-6283	West Hills	MA	4/15/2006	818 430-5771
Liseth Solorio	619-38-2843	West Hills	MA	3/24/2005	818 212-1916
Tesha Mullen	558-69-9917	Valencia	Consultant	4/1/2006	310 710-6262
Regina Proyes	623-44-5032	BH/WH/Bakersfield	Consultant	11/10/2005	415 722-3044
Richard Stagg	430-15-4398	Apple Valley	PA	4/3/2006	760 900-0645
Natasha Wright	578-04-6262	Valencia	Site Administrator	11/6/2003	661 299-4606
Lydia Abraham	557-79-6064		Consultant	5/9/2006	310 869-9367
Renee Bemis	611-24-5136		Consultant	10/31/2005	949 375-4130
Shari Bracter	544-19-9402		Consultant	5/24/2006	760 792-8369
Valerie Carpender	477-08-6862		Consultant	6/29/2006	651 464-4221
Shayna Branquinno	549-85-5284	Bakersfield	Front Office	11/4/2005	661 589-6921
Celine Esquivel	617-22-1921		Site Administrator	1/17/2006	626 705-1442
Janet Gardner	567-31-6195		Front Office	10/26/2005	818 461-2338
Lichelle Moser	545-57-9428	West Hills	Front Office	10/28/2005	661 294-9854
Syivia Marquez	576-53-1959	Palmdale		11/16/2005	661 600-2803
Monica Flores	558-69-1803		MA	1/9/2006	323 514-0676
Joanna Oaklief	572-43-6248	Palmdale	Site Administrator	12/21/2005	661 943-3214
Cherine Rodriguez	549-25-5284	Bakersfield	MA	12/8/2006	661 342-4790
Cassandra Smario	620-40-3715	Apple Valley	Consultant	12/27/2005	760 242-5592
Iika Weston	572-79-2923	West Hills	Consultant	5/5/2006	619 447-3609
Crystal Whitehead	343-72-9681	Lancaster	Front Office	10/21/2005	661 400-9984
Cynthia Wilson	558-98-2644		Receptionist	5/2/2006	323 874-1739
Dorian Yasharei	149-86-8592		Receptionist	2/8/2006	310 270-5236
Alicia Cole	560-55-6108	West Hills	Site Administrator	8/1/2006	323 750-7669
Shaunah Forrest	553-63-4045		MA	9/15/2006	760 240-8817
Annette Reyes	553-11-6717	Apple Valley	MA	9/15/2006	760 646-4361
Doreen Cincotta	545-71-8130	Apple Valley	MA	9/15/2006	760 885-3114
Candice Hunnicutt	661-22-6289	West Hills	Consultant	10/1/2006	661-252-9960
Nicole Bennett	354-76-5933	WH/Valencia	Consultant	9/15/2006	310 601-0786
Amanda Sousa	619-09-3589	AV/Bakersfield	Receptionist	6/27/2005	661 992-7593
Cecilia Lerma	573-99-3322	Beverly Hills	Consultant	3/6/2006	310 413-8524
Sabrina Ramirez	566-91-4238	Valencia	Front Desk	8/9/2005	661 600-2642
Michelle Salazar	571-65-8169	West Hills	Front Desk	8/11/2006	661 965-3199
Michelle McClean	567-83-0221	Palmdale	Front Desk	1/3/2005	661 965-3199
Mitzi Schimunek	561-77-0735	Palmdale/WH	Front Desk	1/3/2006	661 965-2232
Nicole Brown	041-72-3024		office	1/30/2006	818 807-7051
Miriam Bolanos	619-86-0890	Bakersfield	MA	5/24/2006	818 809-9556
Ebelia Alvarez	564-69-2528	Bakersfield	MA	10/29/2006	661 557-0031
Nancy Alvarado	567-91-2843	Bakersfield	MA	11/22/2005	661 900-2308
Elena Sosa	551-41-7517	Apple Valley	Office Mgr	10/21/2005	760-684-5471

OLD & NEW LOCATIONS PACIFIC WEST DERMATOLOGY

Valencia

Old	New	
23861 McBean Pkwy Ste C6 Valencia CA 91355	25775 McBean Pkwy 108 Valencia CA 91355	661 753-9673 661 259-6200

Bakersfield

2920 F St B1 Bakersfield CA 93301	9610 Stockdale Hwy Unit A Bakersfield CA 93311	661 323-2174 661 322-2461
--------------------------------------	---	------------------------------

Lancaster

44404 16th St West Lancaster CA 93534	1529 E Palmdale Blvd Ste 207 Palmdale CA 93550	661 267-1900 661 267-0700
--	---	------------------------------

West Hills

7230 Medical Center Dr #600 West Hills CA 91307	7320 Woodlake Ave Ste 310/320 West Hills CA 91307	818 883-0483/ 818 340-0483 818 340-0703/ 818 883-2900
--	--	--

Apple Valley

18182 Hwy 18 Ste 106 Apple Valley CA 92307	760 242-7724 760 242-7725
---	------------------------------

Beverly Hills

9001 Wilshire Blvd Ste 106 Beverly Hills CA 90210	310 273-8927 310 273-8662
--	------------------------------

Exhibit “B”

PACIFIC WEST DERMATOLOGY, INC.
 310-927-3282
 466 N. ROXBURY SUITE 1012
 BEVERLY HILLS, CA 90210

18-24 1220 2018 109818
 2303
 DATE 4/7/03

PAY TO THE ORDER OF KAMYAR PEZESHK \$200,000⁰⁰

TWO HUNDRED THOUSAND & 00/100 DOLLARS

Wells Fargo Bank, N.A.
 California
 www.wellsfargo.com

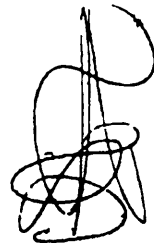
MEMO _____

⑆ 1 2 2000 24 7⑆ 20 18 1099 18⑆ 2303 ⑆ 00 20000000⑆

05520007
 Processed
 Flaery-Hatnot-Boyer 5
 04072003

04/07/03 CA 04082003
 LA 040703 0795 PKT. 001
 1220 109818 05278
 ⑆ 1 2 2000 24 7⑆ 20 18 1099 18⑆ 2303 ⑆ 00 20000000⑆

8002030527



1634		BALANCE BROUGHT FORWARD	
DATE	5.13.02	DEPOSIT/ CREDIT	6,700 00
PAY TO	KATTIYAR FEZESHK	"	
FOR		TOTAL	
		THIS CHECK	
		OTHER TRANSACTIONS	
		"	
TAX DEDUCTIBLE		BALANCE	

1635		BALANCE BROUGHT FORWARD	
DATE	5.13.02	DEPOSIT/ CREDIT	6,700 00
PAY TO	KATTIYAR FEZESHK	"	
FOR		TOTAL	
		THIS CHECK	
		OTHER TRANSACTIONS	
		"	
TAX DEDUCTIBLE		BALANCE	

1636		BALANCE BROUGHT FORWARD	✓
DATE	5.15.02	DEPOSIT/ CREDIT	191.15
PAY TO	MEJ	"	
FOR		TOTAL	
		THIS CHECK	
		OTHER TRANSACTIONS	
		"	
TAX DEDUCTIBLE		BALANCE	

P8061 B1 35

1793			BALANCE BROUGHT FORWARD		
DATE 8.3.02			DEPOSIT/ CREDIT	16	50
PAY TO SCHULDT			"		
PRINTING			TOTAL		
FOR			THIS CHECK		
			OTHER TRANSACTIONS		
			"		
TAX DEDUCTIBLE			BALANCE		

1794			BALANCE BROUGHT FORWARD		
DATE 8.5.02			DEPOSIT/ CREDIT	100	-
PAY TO LUBAYTICH			"		
YOUTH ORGANIZATION			TOTAL		
FOR			THIS CHECK		
			OTHER TRANSACTIONS		
			"		
TAX DEDUCTIBLE			BALANCE		

1795			BALANCE BROUGHT FORWARD		
DATE 8.6.02			DEPOSIT/ CREDIT	9000	00
PAY TO KAMYAR			"		
PEZESHK			TOTAL		
FOR			THIS CHECK		
			OTHER TRANSACTIONS		
			"		
TAX DEDUCTIBLE			BALANCE		

P9061 B1 35

1805

DATE 8.10.02

PAY TO KAM/IK
REZESHK

FOR

TAX DEDUCTIBLE

BALANCE
BROUGHT
FORWARD

DEPOSIT/
CREDIT

TOTAL

THIS CHECK

OTHER
TRANSACTIONS

BALANCE

—	
5020 00	
"	

1806

DATE 8.12.02

PAY TO CAS CC

FOR

TAX DEDUCTIBLE

BALANCE
BROUGHT
FORWARD

DEPOSIT/
CREDIT

TOTAL

THIS CHECK

OTHER
TRANSACTIONS

BALANCE

9 74	
"	

1807

DATE 8.12.02

PAY TO CITY OF S.F.
CITATION # 3101193

FOR

TAX DEDUCTIBLE

BALANCE
BROUGHT
FORWARD

DEPOSIT/
CREDIT

TOTAL

THIS CHECK

OTHER
TRANSACTIONS

BALANCE

38 00	
"	

EXHIBIT C



United States Department of Justice

United States Attorney's Office Central District of California

Kristen A. Williams
Phone: (213) 894-0526
E-mail: Kristen.Williams@usdoj.gov

1100 United States Courthouse
312 North Spring Street
Los Angeles, California 90012

April 5, 2016

VIA EMAIL

Michael J. Proctor
Caldwell Leslie & Proctor, PC
725 Figueroa Street, 31st Floor
Los Angeles, CA 90017-5524
proctor@caldwell-leslie.com

Attorney for Charles Klasky

Re: Federal Criminal Investigation

Dear Mr. Proctor:

This letter is to inform you that your client, Charles Klasky, is the target of a federal criminal investigation. The investigation involves allegations of health care fraud, conspiracy to commit health care fraud, and false statements relating to a health care benefit program, in violation of Title 18, United States Code, Sections 1347, 1349, and 1035, respectively.

In particular, the investigation has uncovered, among other things, evidence that, while employed by the group of entities collectively referred to as "Get Thin," your client was involved a scheme to defraud insurance companies by falsifying the results of sleep studies and using those falsified results as a basis for seeking insurance coverage of Lap-Band surgery. At least one patient whose sleep study results were falsified and used to make fraudulent representations appears to have died as a result of the Lap-Band surgery.

Please be advised that the evidence suggests that this scheme may have involved others associated with the Get Thin sleep study program and Get Thin's overall operation. If you or your client wish to discuss this matter, including the conduct of other individuals involved in the scheme, before the return of an indictment and an arrest warrant, please contact me at (213) 894-0526 or AUSA Evan Davis at (213) 894-4850.

//
//
//
//
//

Michael Proctor
RE: Charles Klasky
April 5, 2016
Page 2

Please let me know if you have any questions, or would like to further discuss any of the matters raised above.

Very truly yours,

/s/ Kristen A. Williams

KRISTEN A. WILLIAMS
Assistant United States Attorney
Major Frauds Section

Cc: AUSA Evan Davis

EXHIBIT D


DECLARATION OF JEFFREY DETUBIO

I, Jeffrey Detubio, declare and say:

1. FBI Investigator Mark Coleman first called on Wednesday, June 29, 2016. He called my wife's telephone. He said he worked for the FBI.
2. I called Mr. Coleman back that night on June 29, 2016. We spoke for about 5-10 minutes. I identified myself and said that I was returning his call.
3. He said the FBI wants to build a fraud case against the Omidis and wanted my help to do that.
4. He said no matter what I say or what I have done, I am not going to get in trouble. He emphasized it doesn't matter what I have done, I am not going to get in trouble. He just wanted to build a case against the Omidis. He said I know already what you have done with the Omidis before.
5. He said that the Omidis have big issues with the FBI.
6. He said he wanted to meet with me. I have not been able to meet with him.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

Executed this 9th day of July, 2016, at Los Angeles, California.



Jeffrey Detubio

EXHIBIT 2

I, Alywin Calado hereby declare:

1. I was contacted by FBI Agent Michael Bishop on July 18, 2017. I spoke with Agent Bishop and he said the government was investigating my previous employer that provided the Lap Band procedure. He asked for my personal information including my address and I gave it to him. I live in New Jersey and work in New York.
2. The next day, on July 19, 2017, Agent Bishop called me again and said that he was going to serve me a grand jury subpoena. Agent Bishop said that I was required to come to California and “testify against my former employer” in front of the grand jury. Unaware of my legal rights and intimidated by the call I agreed to accept service of the subpoena by email.
3. As our conversation continued, I was somewhat surprised and taken aback by what the FBI agent told me. I was not sure I heard him correctly so I asked Agent Bishop to repeat what he previously stated. The agent again stated, word for word that I had to testify against my former employer in front of a grand jury investigating the company. At that point, it was clear to me that the only acceptable testimony I was permitted to present to the grand jury would be against my former employer.
4. I told Agent Bishop that I did not have money to travel to California to do what the government required me to do. Agent Bishop said that I should not worry about that because the government would get me a flight and pay for a hotel.
5. Later that same day Agent Bishop emailed me a grand jury subpoena.
6. I felt very intimidated by the contact with the FBI agent. I am extremely concerned that if I do not testify against my former employer as the government has required of me, there will be legal problems for me. I was advised that I am not a target of the investigation but if I fail to cooperate and do not do as they say that I fear that I will become one. I am aware of other former employees who have been contacted by the FBI and dealt with in a similar manner.

7. The government, through the FBI, has informed me that I am required to cooperate and testify against my former employer. At this point, I feel that I cannot disobey the government. I am not a rich person and do not have the resources to deal with government problems that can result for not doing what the government is requiring me to do. I am also very concerned about losing my job if I do not cooperate with the government and also that the government may go after my wife and family, who have also worked with my former employer, and do the same thing to them.

I declare under penalty of perjury under the laws of the United States the foregoing is true and correct.

Executed this 5th day of September, 2017 in New York, New York.


Alywin Calado

EXHIBIT 3

Declaration of Ashkan Rajabi

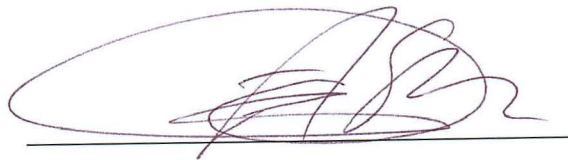
I, Ashkan Rajabi, declare and attest as follows, under penalty of perjury:

1. I was subpoenaed to testify at the Grand Jury on July 26, 2017.
2. During my grand jury testimony, two prosecutors, Kristen Williams and her co-counsel (an African American female) were both questioning me.
3. The prosecutors asked if anyone had any questions for me. In response, an African American gentleman sitting next to the prosecutor raised his hand and angrily made accusatory statements to me in front of the grand jury and attacked me by hostilely stating I was not being straight-forward, not telling the truth and answering too vaguely.
4. I wanted to address these accusations and his attack on me. However, when I asked the prosecutors if I could please reply to this gentleman, the prosecutor Kristen Williams refused to allow me to address him. Ms. Williams stated I did not have the right to answer because the African American gentleman did not ask a question.
5. The African American gentleman making the accusatory comments and attacking me was sitting next to the prosecutor on my left, and they were all on the stage level. The grand jurors were sitting on my right below the stage level.

6. The improper outburst by the African American gentleman was extremely intimidating to me and hurt my reputation, credibility and honesty in front of the grand jurors. Even though prosecutor Williams did not let me respond to the African American gentleman's improper comments, she did not make any comments to him or anyone else regarding his improper attack on me.
7. I testified in front of the grand jury truthfully to the best of my knowledge. I did not expect to get attacked in such a fashion, for the prosecutors to allow it to happen without repercussion, and for the prosecutors to deny me the opportunity to defend myself against a false accusation in front of the grand jury so that the grand jury would know the truth.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

Executed this 7th day of September 2017, at Los Angeles, California.

A handwritten signature in black ink, appearing to be 'Ashkan Rajabi', written over a horizontal line.

Ashkan Rajabi