



July 15, 2016

Board of Disciplinary Appeals

**BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY
THE SUPREME COURT OF TEXAS**

IN THE MATTER OF PATRICK LANIER STATE BAR CARD NO. 11933500	§ § §	CAUSE NO. 57700
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FIRST AMENDED PETITION FOR COMPULSORY DISCIPLINE

TO THE BOARD OF DISCIPLINARY APPEALS:

Petitioner, the Commission for Lawyer Discipline (hereinafter called "Petitioner"), brings this action against Respondent, Patrick Lanier, (hereinafter called "Respondent"), showing as follows:

1. This action is commenced by Petitioner pursuant to Part VIII of the Texas Rules of Disciplinary Procedure. Petitioner is providing Respondent a copy of this Board's procedures for handling a compulsory discipline matter by attaching a copy of such procedures to this petition.
2. Respondent, Patrick Lanier, may be served with a true and correct copy of this Petition for Compulsory Discipline, its attachments, as well as a notice of hearing, at Patrick Lanier, #68126-280, FCI Bastrop, 1341 Highway 95 North, Bastrop, Texas 78602.
3. On or about September 7, 2011, Respondent was charged by Second Superseding Indictment (Exhibit 1) with one count of Conspiracy to Commit Wire Fraud, fourteen counts of Wire Fraud, one count of Harboring and Concealing Person from Arrest, one count Assisting Federal Offender, in Cause No. H-10-258-SS, styled *United States of America, v. Clarence Hudgens, James David Wright, Christopher Harless, Patrick Lanier and Sikiru Olubunmi Bonojo*, in the United States District Court for the Southern District of Texas, Houston Division.
4. On or about March 25, 2015, a Judgment in a Criminal Case (Exhibit 2) was entered in Cause No. 4:10CR00258-004, styled *United States of America, v. Patrick Lanier*, in the United

States District Court for the Southern District of Texas, Houston Division wherein Respondent was found guilty of Count 1S - Conspiracy to Commit Wire Fraud in violation of 18 U.S.C. § 1343 and 1349, Counts 2S through 13S and Count 15S - Wire Fraud in violation of 18 U.S.C. § 1343, Count 16S - Harboring and Concealing a Person from Arrest in violation of 18 U.S.C. § 1071, and Count 17S - Assisting a Federal Offender in violation of 18 U.S.C. § 3 and was committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of two hundred four (204) months on each of Counts 1S through 13S and 15S and twenty-two (22) months as to Counts 16S and 17S, to run concurrently for a total of two hundred four (204) months, and ordered to pay restitution in the amount of \$37,544,944.16. Upon release from imprisonment, Respondent shall be placed on supervised release for a period of three (3) years as to each of Counts 1S through 13S and 15S, and one (1) year as to Counts 16S and 17S, to run concurrently, for a total term of three (3) years. Attached hereto and made a part hereof for all intents and purposes as if the same were copied verbatim herein, are true and correct copies of the following documents in the Lanier criminal case: Second Superseding Indictment (Exhibit 1) and Judgment in a Criminal Case (Exhibit 2). Petitioner expects to introduce certified copies of Exhibits 1 and 2 at the time of hearing of this cause.

5. Respondent, Patrick Lanier, whose bar card number is 11933500, is the same person as the Patrick Lanier who is the subject of the Second Superseding Indictment and Judgment in a Criminal Case described above, true and correct copies of which are attached hereto as Exhibits 1 and 2.

6. Attached hereto as Exhibit 3 and made a part hereof for all intents and purposes as if the same were copied verbatim herein is a true and correct copy of an affidavit of Judith Gres DeBerry, Attorney of Record for Petitioner herein, attesting to the fact that Respondent is the same person as the person who is the subject of the Second Superseding Indictment and Judgment in a

Criminal Case entered in the Lanier criminal case. Petitioner expects to introduce the original of said affidavit at the time of hearing of this cause.

7. The offenses for which Respondent was convicted are intentional crimes as defined by Rule 1.06(T), Texas Rules of Disciplinary Procedure. They are as well serious crimes as defined by Rule 1.06(AA), Texas Rules of Disciplinary Procedure.

8. Having been convicted of intentional crimes and such conviction currently being appealed, Respondent should be suspended as an attorney licensed to practice law in Texas during the pendency of the appeal. Further, upon a showing by Petitioner that the order has become final after determination of the appeal, Respondent should be disbarred as provided by Rule 8.05, Texas Rules of Disciplinary Procedure.


PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that Respondent be given notice of these proceedings as provided by law and, upon hearing of this matter, that the Board enter its order suspending Respondent during his appeal, and for such other and further relief to which Petitioner may be entitled to receive including costs of court and attorney's fees.

Respectfully submitted,

Linda A. Acevedo
Chief Disciplinary Counsel

Judith Gres DeBerry
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Judith Gres DeBerry
State Bar Card No. 24040780
ATTORNEYS FOR PETITIONER


CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been sent for Robert H. Renneker, 1412 Main St., Ste. 210, Dallas, Texas 75202, by email renneker@verizon.net on this 15th day of July 2016.


Judith Gres DeBerry

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a trial on the merits of the Petition for Compulsory Discipline heretofore sent to be filed with the Board of Disciplinary Appeals on this day, will be held in the courtroom of the Supreme Court of Texas, Tom C. Clark Building, 14th and Colorado Streets, Austin, Texas, at **9:00 a.m. on the 29th day of July 2016.**


Judith Gres DeBerry

INTERNAL PROCEDURAL RULES

Board of Disciplinary Appeals

Effective February 19, 2015

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SECTION 1: GENERAL PROVISIONS

Rule 1.01 Definitions

- (a) “BODA” is the Board of Disciplinary Appeals.
- (b) “Chair” is the member elected by BODA to serve as chair or, in the Chair’s absence, the member elected by BODA to serve as vice-chair.
- (c) “Classification” is the determination by the CDC under TRDP 2.10 or by BODA under TRDP 7.08(C) whether a grievance constitutes a “complaint” or an “inquiry.”
- (d) “BODA Clerk” is the executive director of BODA or other person appointed by BODA to assume all duties normally performed by the clerk of a court.
- (e) “CDC” is the Chief Disciplinary Counsel for the State Bar of Texas and his or her assistants.
- (f) “Commission” is the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.
- (g) “Executive Director” is the executive director of BODA.
- (h) “Panel” is any three-member grouping of BODA under TRDP 7.05.
- (i) “Party” is a Complainant, a Respondent, or the Commission.
- (j) “TDRPC” is the Texas Disciplinary Rules of Professional Conduct.
- (k) “TRAP” is the Texas Rules of Appellate Procedure.
- (l) “TRCP” is the Texas Rules of Civil Procedure.
- (m) “TRDP” is the Texas Rules of Disciplinary Procedure.
- (n) “TRE” is the Texas Rules of Evidence.

Rule 1.02 General Powers

Under TRDP 7.08, BODA has and may exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and

determining disciplinary proceedings. But TRDP 15.01 applies to the enforcement of a judgment of BODA.

Rule 1.03 Additional Rules in Disciplinary Matters

Except as varied by these rules and to the extent applicable, the TRCP, TRAP, and TRE apply to all disciplinary matters before BODA, except for appeals from classification decisions, which are governed by TRDP 2.10 and by Section 3 of these rules.

Rule 1.04 Appointment of Panels

- (a) BODA may consider any matter or motion by panel, except as specified in (b). The Chair may delegate to the Executive Director the duty to appoint a panel for any BODA action. Decisions are made by a majority vote of the panel; however, any panel member may refer a matter for consideration by BODA sitting en banc. Nothing in these rules gives a party the right to be heard by BODA sitting en banc.
- (b) Any disciplinary matter naming a BODA member as Respondent must be considered by BODA sitting en banc. A disciplinary matter naming a BODA staff member as Respondent need not be heard en banc.

Rule 1.05 Filing of Pleadings, Motions, and Other Papers

- (a) **Electronic Filing.** All documents must be filed electronically. Unrepresented persons or those without the means to file electronically may electronically file documents, but it is not required.
 - (1) **Email Address.** The email address of an attorney or an unrepresented party who electronically files a document must be included on the document.
 - (2) **Timely Filing.** Documents are filed electronically by emailing the document to the BODA Clerk at the email address designated by BODA

for that purpose. A document filed by email will be considered filed the day that the email is sent. The date sent is the date shown for the message in the inbox of the email account designated for receiving filings. If a document is sent after 5:00 p.m. or on a weekend or holiday officially observed by the State of Texas, it is considered filed the next business day.

- (3) It is the responsibility of the party filing a document by email to obtain the correct email address for BODA and to confirm that the document was received by BODA in legible form. Any document that is illegible or that cannot be opened as part of an email attachment will not be considered filed. If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from BODA.
- (4) **Exceptions.**
 - (i) An appeal to BODA of a decision by the CDC to classify a grievance as an inquiry is not required to be filed electronically.
 - (ii) The following documents must not be filed electronically:
 - a) documents that are filed under seal or subject to a pending motion to seal; and
 - b) documents to which access is otherwise restricted by court order.
 - (iii) For good cause, BODA may permit a party to file other documents in paper form in a particular case.
- (5) **Format.** An electronically filed document must:
 - (i) be in text-searchable portable

document format (PDF);

- (ii) be directly converted to PDF rather than scanned, if possible; and
 - (iii) not be locked.
- (b) A paper will not be deemed filed if it is sent to an individual BODA member or to another address other than the address designated by BODA under Rule 1.05(a)(2).
 - (c) **Signing.** Each brief, motion, or other paper filed must be signed by at least one attorney for the party or by the party pro se and must give the State Bar of Texas card number, mailing address, telephone number, email address, and fax number, if any, of each attorney whose name is signed or of the party (if applicable). A document is considered signed if the document includes:
 - (1) an “/s/” and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or
 - (2) an electronic image or scanned image of the signature.
 - (d) **Paper Copies.** Unless required by BODA, a party need not file a paper copy of an electronically filed document.
 - (e) **Service.** Copies of all documents filed by any party other than the record filed by the evidentiary panel clerk or the court reporter must, at or before the time of filing, be served on all other parties as required and authorized by the TRAP.

Rule 1.06 Service of Petition

In any disciplinary proceeding before BODA initiated by service of a petition on the Respondent, the petition may be served by personal service; by certified mail with return receipt requested; or, if permitted by BODA, in any other manner that is authorized by the TRCP and reasonably calculated under all the circumstances to apprise the Respondent of the proceeding and to give him or

her reasonable time to appear and answer. To establish service by certified mail, the return receipt must contain the Respondent's signature.

Rule 1.07 Hearing Setting and Notice

- (a) **Original Petitions.** In any kind of case initiated by the CDC's filing a petition or motion with BODA, the CDC may contact the BODA Clerk for the next regularly available hearing date before filing the original petition. If a hearing is set before the petition is filed, the petition must state the date, time, and place of the hearing. Except in the case of a petition to revoke probation under TRDP 2.23, the hearing date must be at least 30 days from the date that the petition is served on the Respondent.
- (b) **Expedited Settings.** If a party desires a hearing on a matter on a date earlier than the next regularly available BODA hearing date, the party may request an expedited setting in a written motion setting out the reasons for the request. Unless the parties agree otherwise, and except in the case of a petition to revoke probation under TRDP 2.23, the expedited hearing setting must be at least 30 days from the date of service of the petition, motion, or other pleading. BODA has the sole discretion to grant or deny a request for an expedited hearing date.
- (c) **Setting Notices.** BODA must notify the parties of any hearing date that is not noticed in an original petition or motion.
- (d) **Announcement Docket.** Attorneys and parties appearing before BODA must confirm their presence and present any questions regarding procedure to the BODA Clerk in the courtroom immediately prior to the time docket call is scheduled to begin. Each party with a matter on the docket must appear at the docket call to give an announcement of readiness, to give a time estimate for the hearing, and to present any preliminary motions or matters. Immediately

following the docket call, the Chair will set and announce the order of cases to be heard.

Rule 1.08 Time to Answer

The Respondent may file an answer at any time, except where expressly provided otherwise by these rules or the TRDP, or when an answer date has been set by prior order of BODA. BODA may, but is not required to, consider an answer filed the day of the hearing.

Rule 1.09 Pretrial Procedure

- (a) **Motions.**
 - (1) **Generally.** To request an order or other relief, a party must file a motion supported by sufficient cause with proof of service on all other parties. The motion must state with particularity the grounds on which it is based and set forth the relief sought. All supporting briefs, affidavits, or other documents must be served and filed with the motion. A party may file a response to a motion at any time before BODA rules on the motion or by any deadline set by BODA. Unless otherwise required by these rules or the TRDP, the form of a motion must comply with the TRCP or the TRAP.
 - (2) **For Extension of Time.** All motions for extension of time in any matter before BODA must be in writing, comply with (a)(1), and specify the following:
 - (i) if applicable, the date of notice of decision of the evidentiary panel, together with the number and style of the case;
 - (ii) if an appeal has been perfected, the date when the appeal was perfected;
 - (iii) the original deadline for filing the item in question;

- (iv) the length of time requested for the extension;
 - (v) the number of extensions of time that have been granted previously regarding the item in question; and
 - (vi) the facts relied on to reasonably explain the need for an extension.
- (b) **Pretrial Scheduling Conference.** Any party may request a pretrial scheduling conference, or BODA on its own motion may require a pretrial scheduling conference.
- (c) **Trial Briefs.** In any disciplinary proceeding before BODA, except with leave, all trial briefs and memoranda must be filed with the BODA Clerk no later than ten days before the day of the hearing.
- (d) **Hearing Exhibits, Witness Lists, and Exhibits Tendered for Argument.** A party may file a witness list, exhibit, or any other document to be used at a hearing or oral argument before the hearing or argument. A party must bring to the hearing an original and 12 copies of any document that was not filed at least one business day before the hearing. The original and copies must be:
 - (1) marked;
 - (2) indexed with the title or description of the item offered as an exhibit; and
 - (3) if voluminous, bound to lie flat when open and tabbed in accordance with the index.

All documents must be marked and provided to the opposing party before the hearing or argument begins.

Rule 1.10 Decisions

- (a) **Notice of Decisions.** The BODA Clerk must give notice of all decisions and opinions to the parties or their attorneys of record.

- (b) **Publication of Decisions.** BODA must report judgments or orders of public discipline:
 - (1) as required by the TRDP; and
 - (2) on its website for a period of at least ten years following the date of the disciplinary judgment or order.
- (c) **Abstracts of Classification Appeals.** BODA may, in its discretion, prepare an abstract of a classification appeal for a public reporting service.

Rule 1.11 Board of Disciplinary Appeals Opinions

- (a) BODA may render judgment in any disciplinary matter with or without written opinion. In accordance with TRDP 6.06, all written opinions of BODA are open to the public and must be made available to the public reporting services, print or electronic, for publishing. A majority of the members who participate in considering the disciplinary matter must determine if an opinion will be written. The names of the participating members must be noted on all written opinions of BODA.
- (b) Only a BODA member who participated in the decision of a disciplinary matter may file or join in a written opinion concurring in or dissenting from the judgment of BODA. For purposes of this rule, in hearings in which evidence is taken, no member may participate in the decision unless that member was present at the hearing. In all other proceedings, no member may participate unless that member has reviewed the record. Any member of BODA may file a written opinion in connection with the denial of a hearing or rehearing en banc.
- (c) A BODA determination in an appeal from a grievance classification decision under TRDP 2.10 is not a judgment for purposes of this rule and may be issued without a written opinion.

Rule 1.12 BODA Work Product and Drafts

A document or record of any nature—regardless of its form, characteristics, or means of transmission—that is created or produced in connection with or related to BODA’s adjudicative decision-making process is not subject to disclosure or discovery. This includes documents prepared by any BODA member, BODA staff, or any other person acting on behalf of or at the direction of BODA.

Rule 1.13 Record Retention

Records of appeals from classification decisions must be retained by the BODA Clerk for a period of at least three years from the date of disposition. Records of other disciplinary matters must be retained for a period of at least five years from the date of final judgment, or for at least one year after the date a suspension or disbarment ends, whichever is later. For purposes of this rule, a record is any document, paper, letter, map, book, tape, photograph, film, recording, or other material filed with BODA, regardless of its form, characteristics, or means of transmission.

Rule 1.14 Costs of Reproduction of Records

The BODA Clerk may charge a reasonable amount for the reproduction of nonconfidential records filed with BODA. The fee must be paid in advance to the BODA Clerk.

Rule 1.15 Publication of These Rules

These rules will be published as part of the TDRPC and TRDP.

SECTION 2: ETHICAL CONSIDERATIONS

Rule 2.01 Representing or Counseling Parties in Disciplinary Matters and Legal Malpractice Cases

- (a) A current member of BODA must not represent a party or testify voluntarily in a disciplinary action or proceeding. Any BODA member who is subpoenaed or otherwise compelled to appear at a disciplinary action or proceeding, including at a deposition, must promptly notify the BODA Chair.

- (b) A current BODA member must not serve as an expert witness on the TDRPC.
- (c) A BODA member may represent a party in a legal malpractice case, provided that he or she is later recused in accordance with these rules from any proceeding before BODA arising out of the same facts.

Rule 2.02 Confidentiality

- (a) BODA deliberations are confidential, must not be disclosed by BODA members or staff, and are not subject to disclosure or discovery.
- (b) Classification appeals, appeals from evidentiary judgments of private reprimand, appeals from an evidentiary judgment dismissing a case, interlocutory appeals or any interim proceedings from an ongoing evidentiary case, and disability cases are confidential under the TRDP. BODA must maintain all records associated with these cases as confidential, subject to disclosure only as provided in the TRDP and these rules.
- (c) If a member of BODA is subpoenaed or otherwise compelled by law to testify in any proceeding, the member must not disclose a matter that was discussed in conference in connection with a disciplinary case unless the member is required to do so by a court of competent jurisdiction.

Rule 2.03 Disqualification and Recusal of BODA Members

- (a) BODA members are subject to disqualification and recusal as provided in TRCP 18b.
- (b) BODA members may, in addition to recusals under (a), voluntarily recuse themselves from any discussion and voting for any reason. The reasons that a BODA member is recused from a case are not subject to discovery.
- (c) These rules do not disqualify a lawyer who is a member of, or associated with,

the law firm of a BODA member from serving on a grievance committee or representing a party in a disciplinary proceeding or legal malpractice case. But a BODA member must recuse him- or herself from any matter in which a lawyer who is a member of, or associated with, the BODA member's firm is a party or represents a party.

SECTION 3: CLASSIFICATION APPEALS

Rule 3.01 Notice of Right to Appeal

- (a) If a grievance filed by the Complainant under TRDP 2.10 is classified as an inquiry, the CDC must notify the Complainant of his or her right to appeal as set out in TRDP 2.10 or another applicable rule.
- (b) To facilitate the potential filing of an appeal of a grievance classified as an inquiry, the CDC must send the Complainant an appeal notice form, approved by BODA, with the classification disposition. The form must include the docket number of the matter; the deadline for appealing; and information for mailing, faxing, or emailing the appeal notice form to BODA. The appeal notice form must be available in English and Spanish.

Rule 3.02 Record on Appeal

BODA must only consider documents that were filed with the CDC prior to the classification decision. When a notice of appeal from a classification decision has been filed, the CDC must forward to BODA a copy of the grievance and all supporting documentation. If the appeal challenges the classification of an amended grievance, the CDC must also send BODA a copy of the initial grievance, unless it has been destroyed.

SECTION 4: APPEALS FROM EVIDENTIARY PANEL HEARINGS

Rule 4.01 Perfecting Appeal

- (a) **Appellate Timetable.** The date that the evidentiary judgment is signed starts the

appellate timetable under this section. To make TRDP 2.21 consistent with this requirement, the date that the judgment is signed is the "date of notice" under Rule 2.21.

- (b) **Notification of the Evidentiary Judgment.** The clerk of the evidentiary panel must notify the parties of the judgment as set out in TRDP 2.21.

- (1) The evidentiary panel clerk must notify the Commission and the Respondent in writing of the judgment. The notice must contain a clear statement that any appeal of the judgment must be filed with BODA within 30 days of the date that the judgment was signed. The notice must include a copy of the judgment rendered.

- (2) The evidentiary panel clerk must notify the Complainant that a judgment has been rendered and provide a copy of the judgment, unless the evidentiary panel dismissed the case or imposed a private reprimand. In the case of a dismissal or private reprimand, the evidentiary panel clerk must notify the Complainant of the decision and that the contents of the judgment are confidential. Under TRDP 2.16, no additional information regarding the contents of a judgment of dismissal or private reprimand may be disclosed to the Complainant.

- (c) **Filing Notice of Appeal.** An appeal is perfected when a written notice of appeal is filed with BODA. If a notice of appeal and any other accompanying documents are mistakenly filed with the evidentiary panel clerk, the notice is deemed to have been filed the same day with BODA, and the evidentiary panel clerk must immediately send the BODA Clerk a copy of the notice and any accompanying documents.

- (d) **Time to File.** In accordance with TRDP 2.24, the notice of appeal must be filed within 30 days after the date the judgment is signed. In the event a motion for new trial or motion to modify the judgment is timely filed with the evidentiary panel, the notice of appeal must be filed with BODA within 90 days from the date the judgment is signed.
- (e) **Extension of Time.** A motion for an extension of time to file the notice of appeal must be filed no later than 15 days after the last day allowed for filing the notice of appeal. The motion must comply with Rule 1.09.

Rule 4.02 Record on Appeal

- (a) **Contents.** The record on appeal consists of the evidentiary panel clerk's record and, where necessary to the appeal, a reporter's record of the evidentiary panel hearing.
- (b) **Stipulation as to Record.** The parties may designate parts of the clerk's record and the reporter's record to be included in the record on appeal by written stipulation filed with the clerk of the evidentiary panel.
- (c) **Responsibility for Filing Record.**
 - (1) Clerk's Record.
 - (i) After receiving notice that an appeal has been filed, the clerk of the evidentiary panel is responsible for preparing, certifying, and timely filing the clerk's record.
 - (ii) Unless the parties stipulate otherwise, the clerk's record on appeal must contain the items listed in TRAP 34.5(a) and any other paper on file with the evidentiary panel, including the election letter, all pleadings on which the hearing was held, the docket sheet, the evidentiary panel's charge, any findings of

fact and conclusions of law, all other pleadings, the judgment or other orders appealed from, the notice of decision sent to each party, any postsubmission pleadings and briefs, and the notice of appeal.

- (iii) If the clerk of the evidentiary panel is unable for any reason to prepare and transmit the clerk's record by the due date, he or she must promptly notify BODA and the parties, explain why the clerk's record cannot be timely filed, and give the date by which he or she expects the clerk's record to be filed.

(2) Reporter's Record.

- (i) The court reporter for the evidentiary panel is responsible for timely filing the reporter's record if:
 - a) a notice of appeal has been filed;
 - b) a party has requested that all or part of the reporter's record be prepared; and
 - c) the party requesting all or part of the reporter's record has paid the reporter's fee or has made satisfactory arrangements with the reporter.
- (ii) If the court reporter is unable for any reason to prepare and transmit the reporter's record by the due date, he or she must promptly notify BODA and the parties, explain the reasons why the reporter's record cannot be timely filed, and give the date by which he or she expects the reporter's record to be filed.

(d) Preparation of Clerk's Record.

- (1) To prepare the clerk's record, the

evidentiary panel clerk must:

- (i) gather the documents designated by the parties' written stipulation or, if no stipulation was filed, the documents required under (c)(1)(ii);
 - (ii) start each document on a new page;
 - (iii) include the date of filing on each document;
 - (iv) arrange the documents in chronological order, either by the date of filing or the date of occurrence;
 - (v) number the pages of the clerk's record in the manner required by (d)(2);
 - (vi) prepare and include, after the front cover of the clerk's record, a detailed table of contents that complies with (d)(3); and
 - (vii) certify the clerk's record.
- (2) The clerk must start the page numbering on the front cover of the first volume of the clerk's record and continue to number all pages consecutively—including the front and back covers, tables of contents, certification page, and separator pages, if any—until the final page of the clerk's record, without regard for the number of volumes in the clerk's record, and place each page number at the bottom of each page.
- (3) The table of contents must:
- (i) identify each document in the entire record (including sealed documents); the date each document was filed; and, except for sealed documents, the page on which each

document begins;

- (ii) be double-spaced;
 - (iii) conform to the order in which documents appear in the clerk's record, rather than in alphabetical order;
 - (iv) contain bookmarks linking each description in the table of contents (except for descriptions of sealed documents) to the page on which the document begins; and
 - (v) if the record consists of multiple volumes, indicate the page on which each volume begins.
- (e) **Electronic Filing of the Clerk's Record.**
The evidentiary panel clerk must file the record electronically. When filing a clerk's record in electronic form, the evidentiary panel clerk must:
- (1) file each computer file in text-searchable Portable Document Format (PDF);
 - (2) create electronic bookmarks to mark the first page of each document in the clerk's record;
 - (3) limit the size of each computer file to 100 MB or less, if possible; and
 - (4) directly convert, rather than scan, the record to PDF, if possible.
- (f) **Preparation of the Reporter's Record.**
- (1) The appellant, at or before the time prescribed for perfecting the appeal, must make a written request for the reporter's record to the court reporter for the evidentiary panel. The request must designate the portion of the evidence and other proceedings to be included. A copy of the request must be filed with the evidentiary panel and BODA and must be served on the appellee. The

reporter's record must be certified by the court reporter for the evidentiary panel.

- (2) The court reporter or recorder must prepare and file the reporter's record in accordance with TRAP 34.6 and 35 and the Uniform Format Manual for Texas Reporters' Records.
- (3) The court reporter or recorder must file the reporter's record in an electronic format by emailing the document to the email address designated by BODA for that purpose.
- (4) The court reporter or recorder must include either a scanned image of any required signature or "/s/" and name typed in the space where the signature would otherwise appear.
- (5) A court reporter or recorder must not lock any document that is part of the record.
- (6) In exhibit volumes, the court reporter or recorder must create bookmarks to mark the first page of each exhibit document.
- (g) **Other Requests.** At any time before the clerk's record is prepared, or within ten days after service of a copy of appellant's request for the reporter's record, any party may file a written designation requesting that additional exhibits and portions of testimony be included in the record. The request must be filed with the evidentiary panel and BODA and must be served on the other party.
- (h) **Inaccuracies or Defects.** If the clerk's record is found to be defective or inaccurate, the BODA Clerk must inform the clerk of the evidentiary panel of the defect or inaccuracy and instruct the clerk to make the correction. Any inaccuracies in the reporter's record may be corrected by agreement of the parties without the court reporter's recertification. Any dispute regarding the reporter's record

that the parties are unable to resolve by agreement must be resolved by the evidentiary panel.

- (i) **Appeal from Private Reprimand.** Under TRDP 2.16, in an appeal from a judgment of private reprimand, BODA must mark the record as confidential, remove the attorney's name from the case style, and take any other steps necessary to preserve the confidentiality of the private reprimand.

Rule 4.03 Time to File Record

- (a) **Timetable.** The clerk's record and reporter's record must be filed within 60 days after the date the judgment is signed. If a motion for new trial or motion to modify the judgment is filed with the evidentiary panel, the clerk's record and the reporter's record must be filed within 120 days from the date the original judgment is signed, unless a modified judgment is signed, in which case the clerk's record and the reporter's record must be filed within 60 days of the signing of the modified judgment. Failure to file either the clerk's record or the reporter's record on time does not affect BODA's jurisdiction, but may result in BODA's exercising its discretion to dismiss the appeal, affirm the judgment appealed from, disregard materials filed late, or apply presumptions against the appellant.
- (b) **If No Record Filed.**
 - (1) If the clerk's record or reporter's record has not been timely filed, the BODA Clerk must send notice to the party responsible for filing it, stating that the record is late and requesting that the record be filed within 30 days. The BODA Clerk must send a copy of this notice to all the parties and the clerk of the evidentiary panel.
 - (2) If no reporter's record is filed due to appellant's fault, and if the clerk's

record has been filed, BODA may, after first giving the appellant notice and a reasonable opportunity to cure, consider and decide those issues or points that do not require a reporter's record for a decision. BODA may do this if no reporter's record has been filed because:

- (i) the appellant failed to request a reporter's record; or
 - (ii) the appellant failed to pay or make arrangements to pay the reporter's fee to prepare the reporter's record, and the appellant is not entitled to proceed without payment of costs.
- (c) **Extension of Time to File the Reporter's Record.** When an extension of time is requested for filing the reporter's record, the facts relied on to reasonably explain the need for an extension must be supported by an affidavit of the court reporter. The affidavit must include the court reporter's estimate of the earliest date when the reporter's record will be available for filing.
- (d) **Supplemental Record.** If anything material to either party is omitted from the clerk's record or reporter's record, BODA may, on written motion of a party or on its own motion, direct a supplemental record to be certified and transmitted by the clerk for the evidentiary panel or the court reporter for the evidentiary panel.

Rule 4.04 Copies of the Record

The record may not be withdrawn from the custody of the BODA Clerk. Any party may obtain a copy of the record or any designated part thereof by making a written request to the BODA Clerk and paying any charges for reproduction in advance.

Rule 4.05 Requisites of Briefs

- (a) **Appellant's Filing Date.** Appellant's brief must be filed within 30 days after

the clerk's record or the reporter's record is filed, whichever is later.

- (b) **Appellee's Filing Date.** Appellee's brief must be filed within 30 days after the appellant's brief is filed.
- (c) **Contents.** Briefs must contain:
- (1) a complete list of the names and addresses of all parties to the final decision and their counsel;
 - (2) a table of contents indicating the subject matter of each issue or point, or group of issues or points, with page references where the discussion of each point relied on may be found;
 - (3) an index of authorities arranged alphabetically and indicating the pages where the authorities are cited;
 - (4) a statement of the case containing a brief general statement of the nature of the cause or offense and the result;
 - (5) a statement, without argument, of the basis of BODA's jurisdiction;
 - (6) a statement of the issues presented for review or points of error on which the appeal is predicated;
 - (7) a statement of facts that is without argument, is supported by record references, and details the facts relating to the issues or points relied on in the appeal;
 - (8) the argument and authorities;
 - (9) conclusion and prayer for relief;
 - (10) a certificate of service; and
 - (11) an appendix of record excerpts pertinent to the issues presented for review.
- (d) **Length of Briefs; Contents Included and Excluded.** In calculating the length of a document, every word and every part

of the document, including headings, footnotes, and quotations, must be counted except the following: caption, identity of the parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, statement of issues presented, statement of the jurisdiction, signature, proof of service, certificate of compliance, and appendix. Briefs must not exceed 15,000 words if computer-generated, and 50 pages if not, except on leave of BODA. A reply brief must not exceed 7,500 words if computer-generated, and 25 pages if not, except on leave of BODA. A computer-generated document must include a certificate by counsel or the unrepresented party stating the number of words in the document. The person who signs the certification may rely on the word count of the computer program used to prepare the document.

- (e) **Amendment or Supplementation.** BODA has discretion to grant leave to amend or supplement briefs.
- (f) **Failure of the Appellant to File a Brief.** If the appellant fails to timely file a brief, BODA may:
 - (1) dismiss the appeal for want of prosecution, unless the appellant reasonably explains the failure, and the appellee is not significantly injured by the appellant's failure to timely file a brief;
 - (2) decline to dismiss the appeal and make further orders within its discretion as it considers proper; or
 - (3) if an appellee's brief is filed, regard that brief as correctly presenting the case and affirm the evidentiary panel's judgment on that brief without examining the record.

Rule 4.06 Oral Argument

- (a) **Request.** A party desiring oral argument must note the request on the front cover of the party's brief. A party's failure to

timely request oral argument waives the party's right to argue. A party who has requested argument may later withdraw the request. But even if a party has waived oral argument, BODA may direct the party to appear and argue. If oral argument is granted, the clerk will notify the parties of the time and place for submission.

- (b) **Right to Oral Argument.** A party who has filed a brief and who has timely requested oral argument may argue the case to BODA unless BODA, after examining the briefs, decides that oral argument is unnecessary for any of the following reasons:
 - (1) the appeal is frivolous;
 - (2) the dispositive issue or issues have been authoritatively decided;
 - (3) the facts and legal arguments are adequately presented in the briefs and record; or
 - (4) the decisional process would not be significantly aided by oral argument.
- (c) **Time Allowed.** Each party will have 20 minutes to argue. BODA may, on the request of a party or on its own, extend or shorten the time allowed for oral argument. The appellant may reserve a portion of his or her allotted time for rebuttal.

Rule 4.07 Decision and Judgment

- (a) **Decision.** BODA may do any of the following:
 - (1) affirm in whole or in part the decision of the evidentiary panel;
 - (2) modify the panel's findings and affirm the findings as modified;
 - (3) reverse in whole or in part the panel's findings and render the decision that the panel should have rendered; or
 - (4) reverse the panel's findings and

remand the cause for further proceedings to be conducted by:

- (i) the panel that entered the findings; or
 - (ii) a statewide grievance committee panel appointed by BODA and composed of members selected from the state bar districts other than the district from which the appeal was taken.
- (b) **Mandate.** In every appeal, the BODA Clerk must issue a mandate in accordance with BODA's judgment and send it to the evidentiary panel and to all the parties.

Rule 4.08 Appointment of Statewide Grievance Committee

If BODA remands a cause for further proceedings before a statewide grievance committee, the BODA Chair will appoint the statewide grievance committee in accordance with TRDP 2.27. The committee must consist of six members: four attorney members and two public members randomly selected from the current pool of grievance committee members. Two alternates, consisting of one attorney and one public member, must also be selected. BODA will appoint the initial chair who will serve until the members of the statewide grievance committee elect a chair of the committee at the first meeting. The BODA Clerk will notify the Respondent and the CDC that a committee has been appointed.

Rule 4.09 Involuntary Dismissal

Under the following circumstances and on any party's motion or on its own initiative after giving at least ten days' notice to all parties, BODA may dismiss the appeal or affirm the appealed judgment or order. Dismissal or affirmance may occur if the appeal is subject to dismissal:

- (a) for want of jurisdiction;
- (b) for want of prosecution; or
- (c) because the appellant has failed to comply with a requirement of these rules, a court order, or a notice from the clerk requiring

a response or other action within a specified time.

SECTION 5: PETITIONS TO REVOKE PROBATION

Rule 5.01 Initiation and Service

- (a) Before filing a motion to revoke the probation of an attorney who has been sanctioned, the CDC must contact the BODA Clerk to confirm whether the next regularly available hearing date will comply with the 30-day requirement of TRDP. The Chair may designate a three-member panel to hear the motion, if necessary, to meet the 30-day requirement of TRDP 2.23.
- (b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23, the TRCP, and these rules. The CDC must notify BODA of the date that service is obtained on the Respondent.

Rule 5.02 Hearing

Within 30 days of service of the motion on the Respondent, BODA must docket and set the matter for a hearing and notify the parties of the time and place of the hearing. On a showing of good cause by a party or on its own motion, BODA may continue the case to a future hearing date as circumstances require.

SECTION 6: COMPULSORY DISCIPLINE

Rule 6.01 Initiation of Proceeding

Under TRDP 8.03, the CDC must file a petition for compulsory discipline with BODA and serve the Respondent in accordance with the TRDP and Rule 1.06 of these rules.

Rule 6.02 Interlocutory Suspension

- (a) **Interlocutory Suspension.** In any compulsory proceeding under TRDP Part VIII in which BODA determines that the Respondent has been convicted of an Intentional Crime and that the criminal conviction is on direct appeal, BODA may suspend the Respondent's license to

practice law by interlocutory order. In any compulsory case in which BODA has imposed an interlocutory order of suspension, BODA retains jurisdiction to render final judgment after the direct appeal of the criminal conviction is final. For purposes of rendering final judgment in a compulsory discipline case, the direct appeal of the criminal conviction is final when the appellate court issues its mandate.

- (b) **Criminal Conviction Affirmed.** If the criminal conviction made the basis of a compulsory interlocutory suspension is affirmed and becomes final, the CDC must file a motion for final judgment that complies with TRDP 8.05.

- (1) If the criminal sentence is fully probated or is an order of deferred adjudication, the motion for final judgment must contain notice of a hearing date. The motion will be set on BODA's next available hearing date.
- (2) If the criminal sentence is not fully probated:
 - (i) BODA may proceed to decide the motion without a hearing if the attorney does not file a verified denial within ten days of service of the motion; or
 - (ii) BODA may set the motion for a hearing on the next available hearing date if the attorney timely files a verified denial.
- (c) **Criminal Conviction Reversed.** If an appellate court issues a mandate reversing the criminal conviction while a Respondent is subject to an interlocutory suspension, the Respondent may file a motion to terminate the interlocutory suspension. The motion to terminate the interlocutory suspension must have certified copies of the decision and mandate of the reversing court

attached. If the CDC does not file an opposition to the termination within ten days of being served with the motion, BODA may proceed to decide the motion without a hearing or set the matter for a hearing on its own motion. If the CDC timely opposes the motion, BODA must set the motion for a hearing on its next available hearing date. An order terminating an interlocutory order of suspension does not automatically reinstate a Respondent's license.

SECTION 7: RECIPROCAL DISCIPLINE

Rule 7.01 Initiation of Proceeding

The Commission for Lawyer Discipline may initiate an action for reciprocal discipline by filing a petition with BODA under TRDP Part IX and these rules. The petition must request that the Respondent be disciplined in Texas and have attached to it any information concerning the disciplinary matter from the other jurisdiction, including a certified copy of the order or judgment rendered against the Respondent.

Rule 7.02 Order to Show Cause

When a petition is filed, the Chair immediately issues a show cause order and a hearing notice and forwards them to the CDC, who must serve the order and notice on the Respondent. The CDC must notify BODA of the date that service is obtained.

Rule 7.03 Attorney's Response

If the Respondent does not file an answer within 30 days of being served with the order and notice but thereafter appears at the hearing, BODA may, at the discretion of the Chair, receive testimony from the Respondent relating to the merits of the petition.

SECTION 8: DISTRICT DISABILITY COMMITTEE HEARINGS

Rule 8.01 Appointment of District Disability Committee

- (a) If the evidentiary panel of the grievance committee finds under TRDP 2.17(P)(2),

or the CDC reasonably believes under TRDP 2.14(C), that a Respondent is suffering from a disability, the rules in this section will apply to the de novo proceeding before the District Disability Committee held under TRDP Part XII.

- (b) Upon receiving an evidentiary panel's finding or the CDC's referral that an attorney is believed to be suffering from a disability, the BODA Chair must appoint a District Disability Committee in compliance with TRDP 12.02 and designate a chair. BODA will reimburse District Disability Committee members for reasonable expenses directly related to service on the District Disability Committee. The BODA Clerk must notify the CDC and the Respondent that a committee has been appointed and notify the Respondent where to locate the procedural rules governing disability proceedings.
- (c) A Respondent who has been notified that a disability referral will be or has been made to BODA may, at any time, waive in writing the appointment of the District Disability Committee or the hearing before the District Disability Committee and enter into an agreed judgment of indefinite disability suspension, provided that the Respondent is competent to waive the hearing. If the Respondent is not represented, the waiver must include a statement affirming that the Respondent has been advised of the right to appointed counsel and waives that right as well.
- (d) All pleadings, motions, briefs, or other matters to be filed with the District Disability Committee must be filed with the BODA Clerk.
- (e) Should any member of the District Disability Committee become unable to serve, the BODA Chair may appoint a substitute member.

Rule 8.02 Petition and Answer

- (a) **Petition.** Upon being notified that the District Disability Committee has been appointed by BODA, the CDC must, within 20 days, file with the BODA Clerk and serve on the Respondent a copy of a petition for indefinite disability suspension. Service may be made in person or by certified mail, return receipt requested. If service is by certified mail, the return receipt with the Respondent's signature must be filed with the BODA Clerk.
- (b) **Answer.** The Respondent must, within 30 days after service of the petition for indefinite disability suspension, file an answer with the BODA Clerk and serve a copy of the answer on the CDC.
- (c) **Hearing Setting.** The BODA Clerk must set the final hearing as instructed by the chair of the District Disability Committee and send notice of the hearing to the parties.

Rule 8.03 Discovery

- (a) **Limited Discovery.** The District Disability Committee may permit limited discovery. The party seeking discovery must file with the BODA Clerk a written request that makes a clear showing of good cause and substantial need and a proposed order. If the District Disability Committee authorizes discovery in a case, it must issue a written order. The order may impose limitations or deadlines on the discovery.
- (b) **Physical or Mental Examinations.** On written motion by the Commission or on its own motion, the District Disability Committee may order the Respondent to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. Nothing in this rule limits the Respondent's right to an examination by a professional of his or her choice in addition to any exam

ordered by the District Disability Committee.

- (1) **Motion.** The Respondent must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.
- (2) **Report.** The examining professional must file with the BODA Clerk a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the CDC and the Respondent.
- (c) **Objections.** A party must make any objection to a request for discovery within 15 days of receiving the motion by filing a written objection with the BODA Clerk. BODA may decide any objection or contest to a discovery motion.

Rule 8.04 Ability to Compel Attendance

The Respondent and the CDC may confront and cross-examine witnesses at the hearing. Compulsory process to compel the attendance of witnesses by subpoena, enforceable by an order of a district court of proper jurisdiction, is available to the Respondent and the CDC as provided in TRCP 176.

Rule 8.05 Respondent's Right to Counsel

- (a) The notice to the Respondent that a District Disability Committee has been appointed and the petition for indefinite disability suspension must state that the Respondent may request appointment of counsel by BODA to represent him or her at the disability hearing. BODA will reimburse appointed counsel for reasonable expenses directly related to representation of the Respondent.
- (b) To receive appointed counsel under TRDP 12.02, the Respondent must file a written request with the BODA Clerk

within 30 days of the date that Respondent is served with the petition for indefinite disability suspension. A late request must demonstrate good cause for the Respondent's failure to file a timely request.

Rule 8.06 Hearing

The party seeking to establish the disability must prove by a preponderance of the evidence that the Respondent is suffering from a disability as defined in the TRDP. The chair of the District Disability Committee must admit all relevant evidence that is necessary for a fair and complete hearing. The TRE are advisory but not binding on the chair.

Rule 8.07 Notice of Decision

The District Disability Committee must certify its finding regarding disability to BODA, which will issue the final judgment in the matter.

Rule 8.08 Confidentiality

All proceedings before the District Disability Committee and BODA, if necessary, are closed to the public. All matters before the District Disability Committee are confidential and are not subject to disclosure or discovery, except as allowed by the TRDP or as may be required in the event of an appeal to the Supreme Court of Texas.

SECTION 9: DISABILITY REINSTATEMENTS

Rule 9.01 Petition for Reinstatement

- (a) An attorney under an indefinite disability suspension may, at any time after he or she has been suspended, file a verified petition with BODA to have the suspension terminated and to be reinstated to the practice of law. The petitioner must serve a copy of the petition on the CDC in the manner required by TRDP 12.06. The TRCP apply to a reinstatement proceeding unless they conflict with these rules.
- (b) The petition must include the information required by TRDP 12.06. If the judgment of disability suspension contained terms

or conditions relating to misconduct by the petitioner prior to the suspension, the petition must affirmatively demonstrate that those terms have been complied with or explain why they have not been satisfied. The petitioner has a duty to amend and keep current all information in the petition until the final hearing on the merits. Failure to do so may result in dismissal without notice.

- (c) Disability reinstatement proceedings before BODA are not confidential; however, BODA may make all or any part of the record of the proceeding confidential.

Rule 9.02 Discovery

The discovery period is 60 days from the date that the petition for reinstatement is filed. The BODA Clerk will set the petition for a hearing on the first date available after the close of the discovery period and must notify the parties of the time and place of the hearing. BODA may continue the hearing for good cause shown.

Rule 9.03 Physical or Mental Examinations

- (a) On written motion by the Commission or on its own, BODA may order the petitioner seeking reinstatement to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. The petitioner must be served with a copy of the motion and given at least seven days to respond. BODA may hold a hearing before ruling on the motion but is not required to do so.
- (b) The petitioner must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.
- (c) The examining professional must file a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the parties.

- (d) If the petitioner fails to submit to an examination as ordered, BODA may dismiss the petition without notice.
- (e) Nothing in this rule limits the petitioner's right to an examination by a professional of his or her choice in addition to any exam ordered by BODA.

Rule 9.04 Judgment

If, after hearing all the evidence, BODA determines that the petitioner is not eligible for reinstatement, BODA may, in its discretion, either enter an order denying the petition or direct that the petition be held in abeyance for a reasonable period of time until the petitioner provides additional proof as directed by BODA. The judgment may include other orders necessary to protect the public and the petitioner's potential clients.

SECTION 10: APPEALS FROM BODA TO THE SUPREME COURT OF TEXAS

Rule 10.01 Appeals to the Supreme Court

- (a) A final decision by BODA, except a determination that a statement constitutes an inquiry or a complaint under TRDP 2.10, may be appealed to the Supreme Court of Texas. The clerk of the Supreme Court of Texas must docket an appeal from a decision by BODA in the same manner as a petition for review without fee.
- (b) The appealing party must file the notice of appeal directly with the clerk of the Supreme Court of Texas within 14 days of receiving notice of a final determination by BODA. The record must be filed within 60 days after BODA's determination. The appealing party's brief is due 30 days after the record is filed, and the responding party's brief is due 30 days thereafter. The BODA Clerk must send the parties a notice of BODA's final decision that includes the information in this paragraph.
- (c) An appeal to the Supreme Court is governed by TRDP 7.11 and the TRAP.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

United States Court
Southern District of Texas
FILED

SEP 07 2011

David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA

V.

CRIMINAL NO. H-10-258-SS

CLARENCE HUDGENS,

JAMES DAVID WRIGHT,

CHRISTOPHER HARLESS.

PATRICK LANIER and

SIKIRU OLUBUNMI BONOJO,

Defendants.

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**18 U.S.C. § 1349**

**18 U.S.C. § 1343**

**18 U.S.C. § 1071**

**18 U.S.C. § 3**

**18 U.S.C. § 1001(a)(2)**

**18 U.S.C. § 1956(a)(1)(B)(i)**

## **SECOND SUPERSEDING INDICTMENT**

## THE GRAND JURY CHARGES:

At all times material to this Second Superseding Indictment:

**COUNT ONE**

(Conspiracy to Commit Wire Fraud)

## A. INTRODUCTION

1. Harris Dempsey Ballow, who had previously been convicted of theft and fraud, was indicted in federal court in Houston, Texas, in 2003 for fraud and money laundering. The 2003 charges centered on misrepresentations made in connection with the purchase and sale of stock.

2. Harris Dempsey Ballow pleaded guilty to one count of money laundering in 2003. He was released from custody upon a promise to appear for sentencing. In

1

## Exhibit

TRUE COPY I CERTIFY  
ATTEST: JUN 01 2016  
DAVID J. BRADLEY, Clerk of Court  
By [Signature] Deputy Clerk

2004, instead of appearing for sentencing, Harris Dempsey Ballow fled the United States. Over the following years, Harris Dempsey Ballow lived under various fake names in Mexico and elsewhere.

3. During his time as a fugitive, Harris Dempsey Ballow continued to be involved in the public securities markets.

4. E-SOL International Corp. ("E-SOL") was a publicly traded Nevada corporation. E-SOL's shares were traded on the Over-the-Counter ("OTC") securities market under the symbol ESIT. E-SOL had a subsidiary called International Country Club Corporation ("ICCC").

5. Medra Corp. ("Medra") was a publicly traded Delaware corporation. Medra's shares were traded on the OTC securities market under the symbol MDRA.

6. Aztec Technology Partners Inc. ("Aztec") was a publicly traded Delaware corporation. Aztec's shares were traded on the OTC securities market under the symbol AZTC.

7. Deep Earth Resources Inc. ("Deep Earth") was a publicly traded Texas corporation. Deep Earth's shares were traded on the OTC securities market under the symbol DPER.

8. In or about 2005, Harris Dempsey Ballow, using the names John Gel and Melvyn John Gelsthorpe, acquired control over E-SOL. In the following years, Harris Dempsey Ballow and others distributed false and misleading information about

E-SOL and then sold millions of shares of E-SOL stock to unsuspecting investors, and also sold land and ownership interests in a non-existent ICCC resort near Cancun, Mexico, called Monarch Cancun.

9. In or about 2006, Harris Dempsey Ballow acquired control over Medra. (The company's name was later changed to Cabo Catoche Corp.) Harris Dempsey Ballow and others distributed false and misleading information about Medra and sold millions of shares of Medra stock to unsuspecting investors.

10. In late 2008, Harris Dempsey Ballow moved to Puerto Aventuras, Mexico, where he lived in an expensive house facing the Caribbean sea under the name John Gel, Tom Brown or "Bubba", depending on whom he was talking to.

11. In or about 2009, Harris Dempsey Ballow took control of Aztec and Deep Earth. Later, Aztec's name was changed to Ultimate Lifestyle Corporation (symbol UMLS) and Deep Earth's name was to be changed to Powerski Globalsurf Corporation.

12. In or about July, 2009, just days after convincing an investor to wire transfer \$5 million to E-SOL, Harris Dempsey Ballow disappeared from Puerto Aventuras.

13. In or about October, 2009, Harris Dempsey Ballow reappeared near Puerto Vallarta, Mexico, where he lived in a luxurious golf resort under the name Martin Twinley (sometimes written Twynley and other times Twengly) until he was

arrested by Mexican federal police on July 13, 2010, and placed in a prison cell in Mexico City to await extradition to the United States.

14. Robin Harless Ballow was Harris Dempsey Ballow's wife. Robin Harless Ballow lived with and assisted Harris Dempsey Ballow the entire time he was a fugitive. She too lived under alias names including Lorraine Barrowcliffe and Lucy Emma Eatough.

15. Ruben Garza Perez was a long-time associate of Harris Dempsey Ballow. After Ballow fled the United States, Ruben Garza Perez followed him around Central America and Mexico. Ruben Garza Perez managed Harris Dempsey Ballow's bank and stock brokerage accounts, following Ballow's instructions. Ruben Garza Perez, his girlfriend (later, his wife) and his brother also served as officers, directors and shareholders of corporations Harris Dempsey Ballow controlled in foreign countries including Dominica, Panama and Belize.

16. Defendant **CHRISTOPHER HARLESS** was Robin Harless Ballow's brother and, thus, Harris Dempsey Ballow's brother-in-law. In 2001, the U.S. Securities and Exchange Commission ("SEC") charged Harris Dempsey Ballow, defendant HARLESS and two other persons with fraud. In 2003, HARLESS consented to a final decree in the case and was permanently enjoined from violating securities laws. In 2008, HARLESS moved to Mexico to join Ballow. While in Mexico, HARLESS lived under the alias name Chris Harris. Without disclosing his

consent decree or that his name was fictitious, HARLESS directed efforts to sell ownership interests in E-SOL's imaginary Monarch Cancun resort development.

17. Defendant **PATRICK LANIER** was Harris Dempsey Ballow's lawyer. Defendant LANIER represented Harris Dempsey Ballow during part of the criminal case that led to Ballow becoming a fugitive. In addition, defendant LANIER represented HARLESS in the SEC's 2001 action. LANIER also represented Ballow in proceedings before the SEC in 2004. In 2005, after Ballow fled the United States, LANIER moved to withdraw as Ballow's SEC attorney, claiming he had been unable to contact Ballow. In reality, LANIER kept in close touch with Ballow while Ballow was a fugitive. LANIER visited Ballow in Mexico, kept Ballow informed of efforts to locate and capture him and created documents Ballow used to steal money from investors.

18. Defendant **JAMES DAVID WRIGHT**, who described himself as a preacher, was a friend of Harris Dempsey Ballow for many years. Defendant WRIGHT knew Ballow was living as a fugitive under fake names in Mexico. At Ballow's request, WRIGHT became the Chief Executive Officer of E-SOL in or around 2009. WRIGHT signed fraudulent E-SOL financial statements that were posted for investors on the internet and conducted seminars to convince people to pay money to E-SOL. When shown a photograph of Ballow by U.S. Marshals, WRIGHT pretended not to know him. In 2010, WRIGHT visited Ballow in Puerto Vallarta,

Mexico, where Ballow lived under yet another fake name, and WRIGHT created a new company (Riviera Resort Advisors Inc.) to help Ballow steal even more money.

19. Defendant **SIKIRU OLUBUNMI BONOJO**, also known as "Tony", met Harris Dempsey Ballow in prison in 2003. Defendant BONOJO procured fraudulent British passports for Harris Dempsey Ballow and Robin Harless Ballow in fake names to help them escape the United States and live as fugitives. After Ballow fled the United States, defendant BONOJO received hundreds of thousands of dollars from E-SOL and distributed much of it in cash to Ballow's relatives in Texas.

20. Kelly Lyn Boothe was convicted of fraud and money laundering in 1994. Sometime after his release from prison, Boothe met Harris Dempsey Ballow. By 2005, Boothe was aware Ballow was living as a fugitive in Mexico. In 2005, Boothe became the President of E-SOL. Without disclosing his own or Ballow's criminal convictions, Boothe spent much of the following five years helping Ballow take money from investors.

21. Jeffrey Janssen Anuth ("Janssen") began working for Harris Dempsey Ballow in 2007. Janssen became a Vice President of E-SOL and, later, President of Medra. In 2008, a Federal Bureau of Investigation Special Agent told Janssen that Ballow was wanted by the FBI. Without disclosing this fact, Janssen continued for two more years to help Ballow take money from investors.

22. Defendant **CLARENCE HUDGENS** began working for Harris Dempsey Ballow in 2007. Defendant HUDGENS became a Vice President, and then President, of E-SOL. Defendant HUDGENS learned in 2008 that Ballow was a fugitive and that the name Ballow used (John Gel) was fake. In late 2008, HUDGENS began identifying Ballow to certain investors as Tom Brown – another name HUDGENS knew was fake. In 2009, a Deputy U.S. Marshal and a FBI Special Agent showed HUDGENS a copy of an arrest warrant issued for Ballow. Without disclosing the warrant or that Ballow's names were fake, HUDGENS continued to market Ballow's company, i.e., E-SOL, to investors.

23. Albert Stephen Budai ("Budai") was a citizen of Canada. In or about June, 2007, Budai started calling himself Jack Wilson. In October, 2007, the British Columbia Securities Commission found that Budai had committed fraud and banned him from the securities market for life. Without disclosing the ban or that his name was fictitious, Budai spent much of the next two years in Mexico helping Harris Dempsey Ballow take money from investors.

**B. THE CONSPIRACY**

24. From in or about 2004, through July 13, 2010, in the Southern District of Texas and elsewhere, the defendants,

**CLARENCE HUDGENS,  
JAMES DAVID WRIGHT,  
CHRISTOPHER HARLESS,  
PATRICK LANIER and**

**SIKIRU OLUBUNMI BONOJO,**

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate and agree with each other and others, known and unknown to the Grand Jury, to commit an offense against the United States, that is: to devise and intend to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, knowing that they were false and fraudulent when made, and transmitting and causing to be transmitted certain wire communications in interstate and foreign commerce, for the purpose of executing the scheme, in violation of Title 18, United States Code, Section 1343.

**C. PURPOSE OF THE CONSPIRACY**

25. It was a purpose of the conspiracy that the defendants and their co-conspirators would enrich themselves through the activities of public corporations controlled by Harris Dempsey Ballow.

**D. MANNER AND MEANS OF THE CONSPIRACY**

26. The defendants and their co-conspirators sought to accomplish the purpose of the conspiracy by the following manner and means, among other things:

- a. selling shares of stock in public companies that were controlled by Harris Dempsey Ballow to unsuspecting investors;
- b. hiding Harris Dempsey Ballow's true identity, his use of multiple names,

his past convictions for fraud and money laundering and his status as a fugitive from justice in the United States;

c. disseminating false and misleading information in an effort to increase and maintain the value of the stock;

d. failing to fulfill promises to remove restrictions that prevented investors from selling the stock; and

e. selling land and ownership interests in a real estate development that never materialized.

**E. OVERT ACTS**

27. On or about the dates specified below, in furtherance of the conspiracy and to achieve the purpose thereof, the defendants and their co-conspirators, in the Southern District of Texas and elsewhere, committed and caused to be committed at least one of the following overt acts, among others:

1. Dec. 16, 2004 - Robin Harless Ballow lived with Harris Dempsey Ballow, providing him comfort and assistance and concealing his true identity from investors and law enforcement authorities.  
July 13, 2010
2. June 15, 2005 Ruben Garza Perez incorporated Crescent Heights Investment Corp. in Nevada.
3. July 27, 2005 Harris Dempsey Ballow helped to incorporate a company in the Commonwealth of Dominica called Abretch Elite Corp.
4. Oct. 10, 2005 Ruben Garza Perez sent an email to open an account for Abretch Elite Corp. at Thales Securities S.A. in Panama.

5. Nov. 2, 2005 Kelly Lyn Boothe forwarded an email describing free membership "in the private International Country Club".
6. Nov. 16, 2005 Ruben Garza Perez sent an email to Kelly Lyn Boothe about creating an internet webpage for E-SOL.
7. Dec. 1, 2005 Ruben Garza Perez emailed an application to open an account for Abretch Elite Corp. at Penson Financial Services in New Jersey.
8. Dec. 8, 2005 Harris Dempsey Ballow sent an email about a promotional campaign for E-SOL.
9. Dec. 19, 2005 Ruben Garza Perez emailed to Penson Financial Services a copy of fake British passports for Harris Dempsey Ballow (in the name of Melvyn John Gelsthorpe) and Robin Harless Ballow (in the name of Lorraine Barrowcliffe).
10. Jan. 30, 2006 Ruben Garza Perez sent an email to open an account for Robin Harless Ballow under the name Lorraine Barrowcliffe at Aaron Capital Inc. in California.
11. March 2, 2006 Ruben Garza Perez sent an email to open an account for Abretch Elite Corp. at Basic Investors Inc. in California.
12. May 4, 2006 Ruben Garza Perez sent an email to open an account for Abretch Elite Corp. at S.G. Martin Securities LLC in New York.
13. May 9, 2006 Harris Dempsey Ballow sent an email approving E-SOL's First Quarter 2006 financial statement.
14. June 13, 2006 Ruben Garza Perez said "... all is great just waiting to have a wonderful journey. thank you for the good news! ..." in an email to an investment manager who wire transferred \$305,495.70 from Switzerland to E-SOL.
15. June 27, 2006 Defendant SIKIRU OLUBUNMI BONOJO caused an email to be sent to Ruben Garza Perez regarding an

"IRREVOCABLE STOCK POWER" to transfer and assign stock.

16. June 29, 2006 Ruben Garza Perez emailed instructions for a stock transfer agent to ship an E-SOL stock certificate issued in Melvin J. Gelsthorpe's name to an address in Cancun, Mexico, and attached a document with a fake signature.
17. July 7, 2006 Ruben Garza Perez emailed instructions for E-SOL to wire transfer \$4,500 from Wells Fargo Bank, N.A., in Reno, Nevada, to an account belonging to defendant SIKIRU OLUBUNMI BONOJO's wife at Woodforest National Bank in Missouri City, in the Southern District of Texas.
18. July 13, 2006 Harris Dempsey Ballow sent an email offering to pay \$3,667,000 for real estate in Quintana Roo, Mexico, known as the Santa Maria ranch.
19. Aug. 28, 2006 Ruben Garza Perez sent an email to defendant PATRICK LANIER about taking control of E-SOL paperwork.
20. Sep. 1, 2006 Harris Dempsey Ballow gave instructions for shares of Medra stock to be issued to Abretch Elite Corp.
21. Sep. 4, 2006 Ruben Garza Perez sent an email to create J.G. Capital Corp. in Belize.
22. Sep. 12, 2006 Ruben Garza Perez sent an email to open an account for J.G. Capital Corp. (of Belize) at LEEB Brokerage Services in California.
23. Sep. 12, 2006 Albert Stephen Budai sent an email to Harris Dempsey Ballow, Ruben Garza Perez and another person that stated "... Please fill order in the next 30 minutes at \$5.75 as I will be suggesting on the upcoming radio show at 1pm for investors to place bids at \$5.75. ..."
24. Nov. 21, 2006 Defendant PATRICK LANIER emailed a draft marketing agreement to Ruben Garza Perez.

25. Jan. 12, 2007 Ruben Garza Perez sent an email to a lawyer in Houston, Texas, and attached a draft contract for a Mexican subsidiary of ICCC to purchase real estate in Quintana Roo, Mexico, known as the Santa Maria ranch.
26. March 13, 2007 Jeffrey Janssen Anuth sent an email to Harris Dempsey Ballow that stated: "Take a look at Scooters version". Attached to the email was a draft of a letter by the Governor of Quintana Roo, Mexico.
27. March 21, 2007 Defendant PATRICK LANIER emailed a draft "property reservation letter" to Harris Dempsey Ballow. The draft letter confirmed investors' intention to purchase lots in a real estate development called "Monarch Cancun" that was purportedly to be built by ICCC.
28. May 3, 2007 Defendant PATRICK LANIER emailed to Harris Dempsey Ballow a draft corporate resolution of Medra.
29. May 8, 2007 Ruben Garza Perez sent an email to create Abretch Elite Corp. in Belize.
30. July 5, 2007 Ruben Garza Perez sent an email to Harris Dempsey Ballow that listed the cash balances in bank and brokerage accounts controlled by Ballow and that explained the purposes of the accounts with statements such as: "Support both stocks money comes from abretch in Scand Bank in Panama".
31. July 10, 2007 Defendant PATRICK LANIER emailed a news article to Harris Dempsey Ballow that stated in part: "... Federal agents do not need a search warrant to find out the Web page addresses people visit or the e-mail addresses they correspond with ..."
32. July 30, 2007 Jeffrey Janssen Anuth sent an email to Harris Dempsey Ballow that stated: "Attached you'll find the deal points and representations made by the parties in some of the deals that we have on the table." Seven attachments described deals to buy land in return for ESOL stock.

33. Sep. 21, 2007 Defendant PATRICK LANIER sent an email to Harris Dempsey Ballow citing a news article that stated in part: "The SEC has closed the book on three fraudsters involved in a complex and far-reaching stock manipulation scam masterminded by the Texas felon, Harris 'Butch' Ballow."
34. Oct. 8, 2007 Defendant PATRICK LANIER sent an email to Harris Dempsey Ballow stating "hope you are doing better there—", to which Ballow responded: "STILL SWINGING WITH BOTH FIST. IT GOING TO HAPPEN. THANKS, JOHN"
35. Nov. 9, 2007 Defendant PATRICK LANIER sent an email to Harris Dempsey Ballow that stated in part: "... still sucking gas up here, how about you-?", to which Ballow responded: "HEY BOSS, STILL LIVE AND KICKIN. I AM SO CLOSE I AM BURNING MY FINGERS. ... GOT ALL BALLS IN THE AIR. JOHN"
36. Nov. 11, 2007 Defendant PATRICK LANIER sent an email to Harris Dempsey Ballow citing a news article stating that Mexico had ordered the extradition of a former state governor to the United States to be tried on drug-smuggling charges.
37. Jan. 29, 2008 Defendant PATRICK LANIER emailed to Harris Dempsey Ballow a draft Medra resolution to be signed by "Lorraine Barrowcliffe", an alias name for Robin Harless Ballow.
38. April 18, 2008 Defendant PATRICK LANIER sent an email to Harris Dempsey Ballow with a link to a FBI website showing Harris Dempsey Ballow on a Wanted List.
39. May 2, 2008 Ruben Garza Perez instructed Atlantic International Bank in Belize to wire transfer \$500,000.
40. May 16, 2008 Robin Harless Ballow sent an email calling herself "Cissy" and referring to Harris Dempsey Ballow as "John".
41. May 21, 2008 Defendant CLARENCE HUDGENS met with real estate agents following a seminar in which he trained them how

to get people to invest in ICCC.

42. June 3, 2008 Ruben Garza Perez sent an email to an investor in Switzerland stating in part: "... at this stage of the game we are very close to make the bussines work very successfully ..."
43. June 6, 2008 Kelly Lyn Boothe sent an email to Harris Dempsey Ballow that stated in part: "... i know you're thinking about how best to utilize me and i am too. at a minimum, i'll go wherever and do whatever needs to be done ... i've always figured that i would go anywhere you couldn't go and do whatever you were unable to do in person...as your trusted proxy, so to speak; wherever and whatever."
44. June 9, 2008 Albert Stephen Budai sent an email to Harris Dempsey Ballow that stated "... I can move the market up to \$25 before Christmas but it is necessary to have a series of news releases over the next 6 months as a tool ..."
45. June 23, 2008 After being informed by a FBI agent in Cancun, Mexico, that the FBI was searching for John Gel, that Gel was in trouble with the law, and that Gel's real name was Ballow, Jeffrey Janssen Anuth told the agent that he would call the FBI if he got a hold of Ballow.
46. July 4, 2008 Kelly Lyn Boothe sent an email to Harris Dempsey Ballow that stated in part: "... scooter informed me of his promotion and alluded to the fact that he was the only 'clean' one. ..."
47. Aug. 16, 2008 Kelly Lyn Boothe sent an email to Harris Dempsey Ballow that stated in part: "... i don't quite know what that plan is right now, but please note the following; i pretty much listen and learn from you as much as i can. i defer to your experience and watch you do your thing. i understand that you have a lot to teach and i'm a willing pupil, hoping to soak up as much of you as possible. ... you've never really seen me in action because we've never got to that point. i'm the one you've been looking for. i'm the one you've

been waiting for. i'm the one smart enough and tough enough to go and do what you can't. i'm the one who can be trusted enough to take it to the next level. someday, i'll take the torch and continue on with what you have started"; to which Ballow responded: "GOOD, LET;S GET STARTED. WE ARE FIXEN TO SELL SOME 144 STOCK. THANKS."

48. Aug. 27, 2008 Harris Dempsey Ballow began making arrangements to purchase a majority of the stock of Aztec.
49. Oct. 16, 2008 Albert Stephen Budai sent an email to Harris Dempsey Ballow that stated "... I will just tell him that John Gel is one of the investors in the deal and Tom Brown deals with him. Okay?"
50. Oct. 16, 2008 Albert Stephen Budai sent an email to Harris Dempsey Ballow and Ruben Garza Perez that stated "... the way to move forward with this guy is for Ruben to call him up ... Then, TB gets introduced into the picture. ..."
51. Dec. 2, 2008 Ruben Garza Perez sent an email to Harris Dempsey Ballow telling him the password for an email account set up for Tom Brown, a Ballow alias.
52. Dec. 4, 2008 Defendant CHRISTOPHER HARLESS sent an email to Ruben Garza Perez requesting airline tickets for defendant HARLESS's wife, parents and two daughters to fly round trip from Houston, Texas, to Cancun, Mexico. The email stated in part: "I don't know if Marily knows about our names, if she does, be sure she does not let Karla know..."
53. Dec. 18, 2008 Harris Dempsey Ballow caused a stock transfer agent to ship an E-SOL stock certificate to an address in Houston, Texas.
54. Dec. 26, 2008 Defendant CHRISTOPHER HARLESS emailed a draft "webinar" script to Harris Dempsey Ballow. The script offered investors a "no risk" opportunity to make a 3-5 time return by purchasing shares in condominiums in

Puerto Aventuras, Mexico, or "a gated resort city named Monarch Cancun which is being built now. ..."

55. April 20, 2009 Defendant SIKIRU OLUBUNMI BONOJO flew from Houston, Texas, to Cancun, Mexico, where he met with Harris Dempsey Ballow, Robin Harless Ballow and Ruben Garza Perez, defendant CHRISTOPHER HARLESS, defendant JAMES DAVID WRIGHT and others.
56. May 20, 2009 Defendant CHRISTOPHER HARLESS flew from Houston, Texas, to Cancun, Mexico.
57. May 28, 2009 Defendant PATRICK LANIER sent an email to Harris Dempsey Ballow. The subject line stated: "no improvement this end". The email read: "thought things were going to turn this week, but big no go for me--- assume your relief is similarly situated----but hope the other info sent a week ago was some help--".
58. May 29, 2009 Defendant CHRISTOPHER HARLESS created a video for YouTube, titled "ICCC Condo Testimonial", in which he identified himself as Chris Harris.
59. June 29, 2009 Defendant PATRICK LANIER sent an email to Harris Dempsey Ballow that cited an article mentioning Ballow in the Houston Chronicle.
60. July 1, 2009 Defendant PATRICK LANIER sent an email to Harris Dempsey Ballow that described a status hearing held by United States District Judge David Hittner on April 13, 2009, in Crim. No. H-02-729-S, entitled *United States v. Harris Dempsey Ballow*, and identified two federal prosecutors and a private investigator who were present at the hearing.
61. July 1, 2009 Defendant CLARENCE HUDGENS emailed wire transfer instructions to an investor in response to an email the investor had sent to defendant HUDGENS and "Tom".
62. July 14, 2009 Kelly Lyn Boothe described investment opportunities in E-

SOL to a private investigator who was posing as a potential investor, and Boothe identified E-SOL's major shareholder as "John".

63. July 14, 2009 Defendant CLARENCE HUDGENS emailed to Harris Dempsey Ballow and defendant CHRISTOPHER HARLESS three photographs of the private investigator who met with Kelly Lyn Boothe.
64. July 14, 2009 Defendant CHRISTOPHER HARLESS emailed to defendant SIKIRU OLUBUNMI BONOJO a photograph of the private investigator who met with Kelly Lyn Boothe.
65. July 14, 2009 Defendant CHRISTOPHER HARLESS emailed the photograph of the private investigator to defendant PATRICK LANIER.
66. July 14, 2009 Defendant PATRICK LANIER sent an email to Harris Dempsey Ballow. The subject line stated: "from my view". The email read: "it was a bit dark but first impression is that it looks like him---can't be sure but close enough to avoid-----will check on other names in a short--"
67. July 14, 2009 Defendant PATRICK LANIER sent an email to Harris Dempsey Ballow. The email contained an excerpt from an internet blog describing the private investigator's efforts to locate Harris Dempsey Ballow and secure his arrest by the FBI.
68. July 16, 2009 Defendant CHRISTOPHER HARLESS emailed a "sales report" to defendant JAMES DAVID WRIGHT. The report listed persons who had scheduled appointments with ICCG on July 17, 2009, and July 20, 2009.
69. July 17, 2009 Defendant CLARENCE HUDGENS forwarded to Harris Dempsey Ballow and Ruben Garza Perez an email stating that an investor had wire transferred \$5 million to E-SOL.
70. July 19, 2009 Defendant CHRISTOPHER HARLESS emailed the photograph of the private investigator to Kelly Lyn Boothe.

71. July 19, 2009 Defendant CHRISTOPHER HARLESS sent an email to Harris Dempsey Ballow attaching a proposed advertisement by E-SOL for sales managers.
72. July 22, 2009 Defendant CHRISTOPHER HARLESS emailed the same proposed advertisement to Kelly Lyn Boothe.
73. Aug. 3, 2009 Defendant JAMES DAVID WRIGHT signed E-SOL's 2<sup>nd</sup> Quarter 2009 financial statements.
74. Aug. 4, 2009 Harris Dempsey Ballow sent an email instructing E-SOL's accountant to list defendant JAMES DAVID WRIGHT as E-SOL's Chief Executive Officer on a financial statement to be posted on the internet.
75. Aug. 6, 2009 Defendant CLARENCE HUDGENS told a FBI Agent and Deputy U.S. Marshal in Mexico that he knew Harris Dempsey Ballow as "John" and that the only way he could make contact with John was when John called from unknown numbers. When shown a copy of Ballow's arrest warrant and asked to cooperate, defendant HUDGENS said he would think about it.
76. Aug. 12, 2009 Defendant PATRICK LANIER sent an email to Harris Dempsey Ballow. The subject line stated: "wild shot in dark". A photograph attached to the email showed the acting U.S. Attorney for the Southern District of Texas and officials from six law enforcement agencies during a press conference relating to Mexico.
77. Aug. 13, 2009 Harris Dempsey Ballow emailed the photograph of the U.S. Attorney and law enforcement officials to Kelly Lyn Boothe.
78. Aug. 14, 2009 Defendant CLARENCE HUDGENS flew from the Portland, Oregon, via Los Angeles, to Cancun, Mexico.
79. Aug. 19, 2009 Harris Dempsey Ballow began making arrangements to purchase a majority of the stock of Deep Earth.

80. Aug. 19, 2009 Defendant PATRICK LANIER sent an email to Harris Dempsey Ballow containing a link to a FBI Law Enforcement Bulletin article on extraditions from Mexico.
81. Aug. 27, 2009 Defendant JAMES DAVID WRIGHT spoke to a group of real estate agents in Mexico.
82. Aug. 27, 2009 Defendant CLARENCE HUDGENS accompanied a group of real estate agents on a visit to E-SOL's "ranch" near Cancun, Mexico.
83. Sep. 4, 2009 Defendant JAMES DAVID WRIGHT claimed not to know Harris Dempsey Ballow when shown a photograph of him by two Deputy U.S. Marshals.
84. Sep. 30, 2009 Ruben Garza Perez sent an email with a proposed contract for Harris Dempsey Ballow to rent a house on a golf course in Nuevo Vallarta under the name Martin Twinley.
85. Oct. 19, 2009 Jeffrey Janssen Anuth sent an email to an investor that referred to Harris Dempsey Ballow as "Tom".
86. Oct. 20, 2009 Defendant CLARENCE HUDGENS sent an email to an investor that failed to reveal defendant HUDGENS knew that "Tom" was really Harris Dempsey Ballow.
87. Nov. 9, 2009 Defendant JAMES DAVID WRIGHT signed E-SOL's 3<sup>rd</sup> Quarter 2009 financial statements.
88. Dec. 26, 2009 Harris Dempsey Ballow sent an email with a certificate of amendment signed by Lucy Emma Eatough, an alias of Robin Harless Ballow, changing Aztec Technology Partners, Inc.'s name to Ultimate Lifestyle Corp.
89. Jan. 30, 2010 Defendant CLARENCE HUDGENS sent an email to an investor that failed to reveal defendant HUDGENS knew "Bubba" was really Harris Dempsey Ballow.
90. Feb. 2, 2010 Kelly Lyn Boothe and defendant PATRICK LANIER accompanied Harris Dempsey Ballow (pretending to be

Martin Twinley) on a boat ride off the coast of Puerto Vallarta, Mexico.

91. Feb. 3, 2010 Jeffrey Janssen Anuth sent an email to an investor in which Jeffrey Janssen Anuth referred to Harris Dempsey Ballow as "Tom".
92. Feb. 5, 2010 Kelly Lyn Boothe emailed a certificate to Harris Dempsey Ballow that was notarized even though it was unsigned.
93. Feb. 23, 2010 Jeffrey Janssen Anuth spoke to a group of investors in Medra.
94. Feb. 25, 2010 Defendant CHRISTOPHER HARLESS sent an email to Ruben Garza Perez identifying himself as "Chris Harris, Dir. of Operations, Puerto Aventuras"
95. March 12, 2010 Defendant SIKIRU OLUBUNMI BONOJO withdrew \$2,500 in cash from Trustmark Bank in the Southern District of Texas.
96. March 13, 2010 Ruben Garza Perez said in an email to Harris Dempsey Ballow and another person: "... The wealth of the wicked is in store for us! ..."
97. March 22, 2010 Jeffrey Janssen Anuth forwarded to Harris Dempsey Ballow and Ruben Garza Perez an email from an investor and asked "What should we do with this".
98. March 26, 2010 Jeffrey Janssen Anuth told an investor in an email that "Tom is going to be in touch with you".
99. April 18, 2010 Jeffrey Janssen Anuth sent an email to an investor that stated: "... Tom says he tried the 512 number but will call you this weekend without fail."
100. April 27, 2010 Defendant CHRISTOPHER HARLESS told an investor over the telephone that "Now would actually be a great time" to purchase E-SOL stock.

101. April 29, 2010 Jeffrey Janssen Anuth sent an email to Ruben Garza Perez asking to be reimbursed for, among other items, a radar chip that he purchased for Harris Dempsey Ballow.
102. May 1, 2010 Defendant JAMES DAVID WRIGHT emailed family photographs to Robin Harless Ballow.
103. May 5, 2010 Jeffrey Janssen Anuth sent an email to Ruben Garza Perez about a contract to purchase real estate.
104. May 5, 2010 Harris Dempsey Ballow, as Martin Twinley, sent an email about arrangements to purchase a hotel in Puerto Vallarta in return for Aztec/Ultimate Lifestyle stock.
105. May 6, 2010 Defendant SIKIRU OLUBUNMI BONOJO called Harris Dempsey Ballow's telephone number and left a message.
106. May 10, 2010 Defendant JAMES DAVID WRIGHT signed E-SOL's 1<sup>st</sup> Quarter 2010 financial statements.
107. May 16, 2010 Harris Dempsey Ballow emailed a copy of a grand jury subpoena and a document listing the names of a Deputy U.S. Marshal, a FBI Agent, a federal prosecutor and a private investigator who were searching for Harris Dempsey Ballow.
108. May 19, 2010 Kelly Lyn Boothe sent an email to an investor that referred to Harris Dempsey Ballow as "my associate, marty".
109. June 8, 2010 Ruben Garza Perez sent an email to Harris Dempsey Ballow listing expenses that needed to be paid.
110. June 21, 2010 Defendant JAMES DAVID WRIGHT visited Harris Dempsey Ballow at his home where he was living as Martin Twinley in Nuevo Vallarta, Mexico.
111. July 1, 2010 Defendant JAMES DAVID WRIGHT told an investor that he did not know where Harris Dempsey Ballow was living.
112. July 5, 2010 Defendant JAMES DAVID WRIGHT visited Harris

Dempsey Ballow at his home where he was living as Martin Twinley in Nuevo Vallarta, Mexico.

113. July 13, 2010 Harris Dempsey Ballow, as he was being arrested in Mexico, yelled out to Robin Harless Ballow "Call Tony".

In violation of Title 18, United States Code, Section 1349.

**COUNTS TWO - FIFTEEN**  
(Wire Fraud)

**A. INTRODUCTION**

1. Paragraphs 1 through 23 and 27 of Count One of this Second Superseding Indictment are re-alleged and incorporated by reference as though fully set forth herein.

**B. THE SCHEME TO DEFRAUD**

2. From in or about 2004 through July 13, 2010, in the Southern District of Texas and elsewhere, the defendants,

**CLARENCE HUDGENS,  
JAMES DAVID WRIGHT,  
CHRISTOPHER HARLESS,  
PATRICK LANIER and  
SIKIRU OLUBUNMI BONOJO,**

aided and abetted by others known and unknown to the Grand Jury, did knowingly devise and intend to devise a scheme and artifice to defraud and for obtaining money and property by means of material false and fraudulent pretenses, representations and promises.

**C. THE MANNER AND MEANS OF THE SCHEME**

3. Paragraph 26 of Count One of this Second Superseding Indictment is re-alleged and incorporated by reference herein as a description of the scheme and artifice.

**D. THE EXECUTION OF THE SCHEME**

4. On or about the dates specified below, the defendants, for the purpose of executing the aforesaid scheme and artifice to defraud, and attempting to do so, did knowingly transmit and cause to be transmitted, by means of wire communications in interstate and foreign commerce, certain writings, signs, signals, pictures and sounds, as more particularly described below:

| <u>Count</u> | <u>Date</u> | <u>Description</u>                                                                                                |
|--------------|-------------|-------------------------------------------------------------------------------------------------------------------|
| 2            | 7/25/08     | \$29,990 wire transferred from The Toronto Dominion Bank, Canada, to Wells Fargo Bank N.A., Reno, Nevada          |
| 3            | 8/12/08     | \$35,985 wire transferred from Canadian Imperial Bank of Commerce, Canada, to Wells Fargo Bank N.A., Reno, Nevada |
| 4            | 10/31/08    | \$499,990 wire transferred from The Toronto Dominion Bank, Canada, to Wells Fargo Bank N.A., Reno, Nevada-        |
| 5            | 11/28/08    | \$499,990 wire transferred from The Toronto Dominion Bank, Canada, to Wells Fargo Bank N.A., Reno, Nevada         |
| 6            | 12/29/08    | \$299,990 wire transferred from The Toronto Dominion Bank, Canada, to Wells Fargo Bank N.A., Reno, Nevada         |
| 7            | 1/29/09     | \$799,990 wire transferred from The Toronto Dominion Bank, Canada, to Wells Fargo Bank N.A., Reno, Nevada         |

|    |          |                                                                                                                                                           |
|----|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8  | 3/9/09   | \$65,985 wire transferred from Royal Bank of Canada, Canada, to Wells Fargo Bank N.A., Reno, Nevada                                                       |
| 9  | 4/1/09   | \$30,000 wire transferred from HSBC, Canada, to Wells Fargo Bank N.A., Reno, Nevada                                                                       |
| 10 | 4/28/09  | \$219,990 wire transferred from The Toronto Dominion Bank, Canada, to Wells Fargo Bank N.A., Reno, Nevada                                                 |
| 11 | 7/1/09   | Wire transfer instructions emailed to an investor (P.H.)                                                                                                  |
| 12 | 7/17/09  | \$5,000,000 wire transferred from Fidelity Investments in The Woodlands, Texas, in the Southern District of Texas, to Wells Fargo Bank N.A., Reno, Nevada |
| 13 | 10/19/09 | Email sent to an investor (C.C.) that referred to Harris Dempsey Ballow as "Tom"                                                                          |
| 14 | 11/9/09  | The signature page for E-SOL's 3 <sup>rd</sup> Quarter 2009 financial statements emailed to E-SOL's accountant                                            |
| 15 | 3/2/10   | Email from Harris Dempsey Ballow as "Martin Twinley" to Patrick Lanier with a certificate signed by Lucy Emma Eatough                                     |

In violation of Title 18, United States Code, Sections 1343 and 2.

### **COUNT SIXTEEN**

(Harboring and Concealing Person from Arrest)

#### **A. INTRODUCTION**

1. Paragraphs 1 through 23 and 27 of Count One of this Second Superseding Indictment are re-alleged and incorporated by reference as though fully set forth herein.

**B. THE HARBORING**

2. From in or about 2004, through July 13, 2010, in the Southern District of Texas and elsewhere, the defendants,

**CLARENCE HUDGENS,  
JAMES DAVID WRIGHT,  
CHRISTOPHER HARLESS,  
PATRICK LANIER and  
SIKIRU OLUBUNMI BONOJO,**

did harbor and conceal a person, Harris Dempsey Ballow, for whose arrest a warrant had been issued under the provisions of a law of the United States, so as to prevent Harris Dempsey Ballow's discovery and arrest, after notice and knowledge of the fact that a warrant had been issued for his apprehension.

In violation of Title 18, United States Code, Section 1071.

**COUNT SEVENTEEN**  
(Assisting Federal Offender)

**A. INTRODUCTION**

1. Paragraphs 1 through 23 and 27 of Count One of this Second Superseding Indictment are re-alleged and incorporated by reference as though fully set forth herein.

**B. THE ASSISTANCE**

2. From in or about 2004, through July 13, 2010, in the Southern District of Texas and elsewhere, the defendants,

**CLARENCE HUDGENS,  
JAMES DAVID WRIGHT,**

**CHRISTOPHER HARLESS,  
PATRICK LANIER and  
SIKIRU OLUBUNMI BONOJO,**

knowing that an offense against the United States had been committed, to wit: unlawful flight to avoid prosecution, did receive, relieve, comfort and assist the offender, Harris Dempsey Ballow, in order to hinder and prevent Harris Dempsey Ballow's apprehension.

In violation of Title 18, United States Code, Section 3.

**COUNT EIGHTEEN**  
(False Statement)

1. Paragraphs 1 through 23 and 27 of Count One of this Second Superseding Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. On or about August 6, 2009, in the Southern District of Texas and elsewhere, in a matter within the jurisdiction of the executive branch of the Government of the United States, that is, the United States Marshals Service and the Federal Bureau of Investigation, defendant **CLARENCE HUDGENS** knowingly and willfully made and caused to be made material false, fictitious, and fraudulent statements and representations, that is, when he was shown a photograph of the fugitive Harris Dempsey Ballow by a Deputy United States Marshal and a Federal Bureau of Investigation Special Agent, HUDGENS falsely stated that:

(1) he knew the person in the photograph as "John Gill" (or "John Hill");

(2) John was a consultant (or contractor) to ICCC; and

(3) the only way he could make contact with John was when John called from unknown numbers,

when in truth and in fact, HUDGENS knew:

(1) the person in the photograph was not named John Gill (or John Hill);

(2) the person in the photograph was not a consultant or contractor to ICCC but rather, he controlled E-SOL and ICCC; and

(3) HUDGENS had multiple telephone numbers and email addresses for the person in the photograph including: (281) 954-5983; (998) 151-8591; johngel123@hotmail.com; john@esolinternational.com and tom@esolinternational.com.

All in violation of Title 18, United States Code, Section 1001(a)(2).

**COUNT NINETEEN**

(False Statement)

1. Paragraphs 1 through 23 and 27 of Count One of this Second Superseding Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. On or about September 4, 2009, in the Southern District of Texas and elsewhere, in a matter within the jurisdiction of the executive branch of the Government of the United States, that is, the United States Marshals Service, defendant **JAMES DAVID WRIGHT** knowingly and willfully made and caused to be made material false, fictitious, and fraudulent statements and representations, that is, when he was shown a photograph of the fugitive Harris Dempsey Ballow by a Deputy United States Marshal and asked if he knew the person in the photograph,

WRIGHT indicated that he did not know the person, when in truth and in fact, WRIGHT had known Harris Dempsey Ballow for many years.

All in violation of Title 18, United States Code, Section 1001(a)(2).

**COUNTS TWENTY - THIRTY-FIVE**  
(Money Laundering)

1. Paragraphs 1 through 23 and 27 of Count One of this Second Superseding Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. On or about the dates specified below, in the Southern District of Texas, defendant SIKIRU OLUBUNMI BONOJO did knowingly conduct and attempt to conduct a financial transaction affecting interstate and foreign commerce, to wit, withdrew cash from an account in the name of Guiding Angels EMS Inc. at Trustmark National Bank, which involved the proceeds of a specified unlawful activity, that is Wire Fraud, knowing that the transaction was designed in whole and in part to conceal and disguise, the nature, location, source, ownership, and control of the proceeds of said specified unlawful activity and that while conducting and attempting to conduct such financial transaction knew that the property involved in the financial transaction, that is funds in the funds in the amounts set forth below, represented the proceeds of some form of unlawful activity:

| <u>Count</u> | <u>Date</u> | <u>Approx. Dollar Amount</u> |
|--------------|-------------|------------------------------|
| 20           | 11/12/09    | \$2,000                      |
| 21           | 11/16/09    | \$2,350                      |


|    |          |         |
|----|----------|---------|
| 22 | 11/24/09 | \$3,500 |
| 23 | 12/1/09  | \$5,200 |
| 24 | 12/16/09 | \$6,350 |
| 25 | 12/28/09 | \$2,000 |
| 26 | 12/31/09 | \$5,250 |
| 27 | 2/2/10   | \$4,200 |
| 28 | 2/17/10  | \$1,500 |
| 29 | 3/2/10   | \$4,500 |
| 30 | 3/12/10  | \$2,500 |
| 31 | 3/18/10  | \$1,400 |
| 32 | 4/7/10   | \$5,050 |
| 33 | 4/13/10  | \$2,200 |
| 34 | 4/19/10  | \$6,000 |
| 35 | 4/29/10  | \$2,500 |

In violation of Title 18, United States Code, Sections 1956(a)(1)(B)(i) and 2.

**A TRUE BILL:**

Original Signature on File  
FOREPERSON OF THE GRAND JURY

José Angel Moreno  
United States Attorney

By:   
JOHN R. LEWIS  
Assistant United States Attorney

**UNITED STATES DISTRICT COURT**  
**Southern District of Texas**  
Holding Session in Houston

**ENTERED**

March 28, 2016

David J. Bradley, Clerk

UNITED STATES OF AMERICA  
V.  
PATRICK LANIER

**JUDGMENT IN A CRIMINAL CASE**

CASE NUMBER: 4:10CR00258-004

USM NUMBER: 68126-280

Mervyn Milton Mosbacher, Jr.

Defendant's Attorney

☐ See Additional Aliases**THE DEFENDANT:**

- ☐ pleaded guilty to count(s) \_\_\_\_\_
- ☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.
- ☒ was found guilty on count(s) 1S-13S and 15S-17S on January 27, 2014.  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

| <u>Title &amp; Section</u> | <u>Nature of Offense</u>        | <u>Offense Ended</u> | <u>Count</u> |
|----------------------------|---------------------------------|----------------------|--------------|
| 18 U.S. C. § 1343 and 1349 | Conspiracy to commit wire fraud | 07/13/2010           | 1S           |
| 18 U.S.C. § 1343           | Wire fraud                      | 07/25/2008           | 2S           |
| 18 U.S.C. § 1343           | Wire fraud                      | 08/12/2008           | 3S           |
| 18 U.S.C. § 1343           | Wire fraud                      | 10/31/2008           | 4S           |

☒ See Additional Counts of Conviction.

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☒ The defendant has been found not guilty on count(s) 14S☐ Count(s) \_\_\_\_\_ ☐ is ☐ are dismissed on the motion of the .

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

March 7, 2016

Date of Imposition of Judgment



Signature of Judge

LEE H. ROSENTHAL

UNITED STATES DISTRICT JUDGE

Name and Title of Judge

March 25, 2016

Date

TRUE COPY I CERTIFY

ATTEST: JAN 01 2016

DAVID J. BRADLEY, Clerk of Court

By David J. Bradley  
Deputy Clerk

MRO | MRO

Exhibit

2

DEFENDANT: PATRICK LANIER  
CASE NUMBER: 4:10CR00258-004

### ADDITIONAL COUNTS OF CONVICTION

| <u>Title &amp; Section</u> | <u>Nature of Offense</u>                      | <u>Offense Ended</u> | <u>Count</u> |
|----------------------------|-----------------------------------------------|----------------------|--------------|
| 18 U.S.C. § 1343           | Wire fraud                                    | 11/28/2008           | 5S           |
| 18 U.S.C. § 1343           | Wire fraud                                    | 12/29/2008           | 6S           |
| 18 U.S.C. § 1343           | Wire fraud                                    | 01/29/2009           | 7S           |
| 18 U.S.C. § 1343           | Wire fraud                                    | 03/09/2009           | 8S           |
| 18 U.S.C. § 1343           | Wire fraud                                    | 04/01/2009           | 9S           |
| 18 U.S.C. § 1343           | Wire fraud                                    | 04/28/2009           | 10S          |
| 18 U.S.C. § 1343           | Wire fraud                                    | 07/01/2009           | 11S          |
| 18 U.S.C. § 1343           | Wire fraud                                    | 07/17/2009           | 12S          |
| 18 U.S.C. § 1343           | Wire fraud                                    | 10/19/2009           | 13S          |
| 18 U.S.C. § 1343           | Wire fraud                                    | 03/02/2010           | 15S          |
| 18 U.S.C. § 1071           | Harboring and concealing a person from arrest | 07/13/2010           | 16S          |
| 18 U.S.C. § 3              | Assisting a federal offender                  | 07/13/2010           | 17S          |

DEFENDANT: PATRICK LANIER  
CASE NUMBER: 4:10CR00258-004

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 204 months.

This term consists of TWO HUNDRED FOUR (204) MONTHS as to each of Counts 1S-13S and 15S, and TWENTY-TWO (22) MONTHS as to Counts 16S and 17S, to run concurrently for a total of TWO HUNDRED FOUR (204) MONTHS.

☐ See Additional Imprisonment Terms.

☒ The court makes the following recommendations to the Bureau of Prisons:  
That the defendant be designated to a facility as close to Bastrop, Texas, as possible.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_

\_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: PATRICK LANIER  
CASE NUMBER: 4:10CR00258-004

## SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: 3 years.

This term consists of THREE (3) YEARS as to each of Counts 1S-13S, and 15S, and ONE (1) YEAR as to Counts 16S and 17S, to run concurrently, for a total of THREE (3) YEARS.

☐ See Additional Supervised Release Terms.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court. *(for offenses committed on or after September 13, 1994)*

☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)

☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)

☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state registration in which he or she resides, works, is a student, or was convicted of a qualifying offense. (Check, if applicable)

☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

## STANDARD CONDITIONS OF SUPERVISION

☒ See Special Conditions of Supervision.

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: PATRICK LANIER  
CASE NUMBER: 4:10CR00258-004

### SPECIAL CONDITIONS OF SUPERVISION

The defendant is prohibited from employment or acting in a fiduciary role during the term of supervision.

The defendant shall provide the probation officer access to any requested financial information. If a fine or restitution amount has been imposed, the defendant is prohibited from incurring new credit charges or opening additional lines of credit without approval of the probation officer.

The defendant is prohibited from possessing a credit access device, such as a credit card, unless first authorized by the probation officer.

DEFENDANT: PATRICK LANIER  
CASE NUMBER: 4:10CR00258-004

## CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

|               | <u>Assessment</u> | <u>Fine</u> | <u>Restitution</u> |
|---------------|-------------------|-------------|--------------------|
| <b>TOTALS</b> | \$1,600.00        |             | \$37,544,944.16    |

A \$100 special assessment is ordered as to each of Counts 1S-13S, 15S, 16S, and 17S, for a total of \$1,600.

☐ See Additional Terms for Criminal Monetary Penalties.

☐ The determination of restitution is deferred until \_\_\_\_\_. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.

☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal payees must be paid before the United States is paid.

| <u>Name of Payee</u> | <u>Total Loss*</u> | <u>Restitution Ordered</u> | <u>Priority or Percentage</u> |
|----------------------|--------------------|----------------------------|-------------------------------|
| See attachment       |                    | \$37,544,944.16            |                               |

☐ See Additional Restitution Payees.

|               |               |                        |
|---------------|---------------|------------------------|
| <b>TOTALS</b> | <u>\$0.00</u> | <u>\$37,544,944.16</u> |
|---------------|---------------|------------------------|

☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☒ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

☐ Based on the Government's motion, the Court finds that reasonable efforts to collect the special assessment are not likely to be effective. Therefore, the assessment is hereby remitted.

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: PATRICK LANIER  
CASE NUMBER: 4:10CR00258-004

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☒ Lump sum payment of \$1,600.00 due immediately, balance due  
☐ not later than \_\_\_\_\_, or  
☒ in accordance with ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ installments of \_\_\_\_\_ over a period of \_\_\_\_\_, to commence \_\_\_\_\_ days after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ installments of \_\_\_\_\_ over a period of \_\_\_\_\_, to commence \_\_\_\_\_ days after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ days after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:

Payable to: Clerk, U.S. District Court, Attn: Finance, P.O. Box 61010, Houston, TX 77208

Balance due in installments of 50% of any wages earned while in prison in accordance with the Bureau of Prisons' Inmate Financial Responsibility Program. Any balance remaining after release from imprisonment shall be due in equal monthly installments of \$2,000 to commence 30 days after release from imprisonment to a term of supervision.

\* In reference to the amount below, the Court-ordered restitution shall be joint and several with any co-defendant who has been or will be ordered to pay restitution under this docket number.

The defendant's restitution obligation shall not be affected by any payments that may be made by other defendants in this case, except that no further payment shall be required after the sum of the amounts paid by all defendants has fully covered all the compensable losses.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☒ Joint and Several

#### Case Number

Defendant and Co-Defendant Names  
(including defendant number)

Total Amount

Joint and Several  
Amount

Corresponding Payee,  
if appropriate

Patrick Lanier 4:10CR00258-004

\$37,544,944.16

\$37,544,944.16

Christopher Harless 4:10CR00258-003

\$32,544,944.16

\$32,544,944.16

☐ See Additional Defendants and Co-Defendants Held Joint and Several.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

AFFIDAVIT

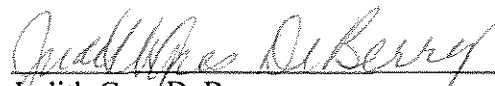
THE STATE OF TEXAS     §  
                                     §  
COUNTY OF TRAVIS     §

BEFORE ME, the undersigned authority, on this day personally appeared Judith Gres DeBerry, Petitioner's attorney of record, who, being by me duly sworn, deposed as follows:

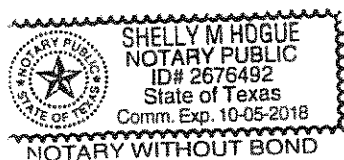
"My name is Judith Gres DeBerry. I am over the age of 18 years, of sound mind, capable of making this affidavit, and state the following:

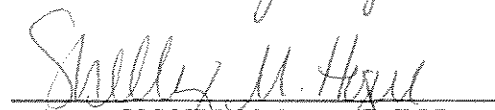
Based upon information and belief, Patrick Lanier, whose Texas Bar Card Number is 11933500, is licensed as an attorney and counselor at law in the State of Texas. Based upon information and belief Patrick Lanier, named as Respondent in the Petition for Compulsory Discipline filed with the Board of Disciplinary Appeals is one and the same person as the Patrick Lanier who is the subject of the Judgment in a Criminal Case entered in Cause No. 4:10CR00258-004, styled *United States of America, v. Patrick Lanier*, in the United States District Court for the Southern District of Texas, Houston Division wherein Respondent was found guilty of Count 1S - Conspiracy to Commit Wire Fraud, Counts 2S through 13S and Count 15S - Wire Fraud, Count 16S - Harboring and Concealing a Person from Arrest, and Count 17S - Assisting a Federal Offender, and was committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of two hundred four (204) months on each of Counts 1S through 13S and 15S and twenty-two (22) months as to Counts 16S and 17S, to run concurrently for a total of two hundred four (204) months."

FURTHER Affiant saith not.

  
Judith Gres DeBerry

SWORN AND SUBSCRIBED before me on the 15<sup>th</sup> day of July 2016.



  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS

**EXHIBIT**

**3**