

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO.: 04-CvS-11181

|                         |             |   |
|-------------------------|-------------|---|
| LOCKE                   | ., and      | ) |
| CYNTHIA                 | ,           | ) |
|                         |             | ) |
|                         | Plaintiffs, | ) |
|                         |             | ) |
| vs.                     |             | ) |
|                         |             | ) |
| JOSEPH A. DIBRUNO, JR., |             | ) |
| JOSEPH A. DIBRUNO, SR., |             | ) |
| NICHOLAS A. DIBRUNO,    |             | ) |
| LELA L. DIBRUNO,        |             | ) |
| CECIL MINGES, et al.,   |             | ) |
|                         |             | ) |
|                         | Defendants. | ) |

DECLARATION

**COPY**

FILED  
2005 JUN 20 AM 11:40  
MECKLENBURG COUNTY, C.S.C.

I, Bill. E Branscum, a licensed Private Investigator, proffer this Declaration, prepared by me in the State of Florida, County of Collier, under penalty of perjury, based upon my personal knowledge and observation, to which I will credibly testify, in which I declare as follows:

PRELIMINARY MATTERS

1. In June 2004, Attorney Gary J. Welch of the Law Firm of Johnston, Allison & Hord, P.A, 610 East Morehead Street, Charlotte, North Carolina, 28202, contacted me with regard to this case and retained me to investigate the facts and circumstances that gave rise to it.
2. Based upon investigative inquiries, interviews with numerous witnesses and victims, and my review of evidence gathered consequent to this investigation, there is probable cause to believe, and I do believe, that Joseph A. DiBruno, SR, and his immediate family, are a team of professional con artists who have made a remarkably good living by perpetrating one unlawful investment scheme after another, for many years.



## **BACKGROUND OF AFFIANT**

3. I am a Private Investigator employed by Oracle International, an investigative agency that I established following my career as a Special Agent, U.S. Department of the Treasury.
4. As a Private Investigator, my casework has related primarily to financial matters and securities issues. In addition to investigating a number of high profile frauds, I have been instrumental in the identification and recovery of concealed assets, contributed to numerous successful criminal prosecutions, and testified as an expert witness.
5. As a federal agent, I initiated and conducted investigations involving violations of federal law, prepared case prosecution summaries, and participated in successful criminal prosecutions and civil forfeiture actions in state and federal courts. While assigned to the FBI Organized Crime Strike Force in Miami, I investigated foreign and domestic “boiler rooms,” where telemarketing con artists perpetrated international schemes to defraud.
6. My experience relates primarily to violations of the United States Code, including, but without limitation, violations of Title 12 (Banking), Title 18 (general), Title 19 (smuggling), Title 21 (narcotics), Title 26 (taxation) and Title 31 (money laundering); I have also conducted investigations related to the unlawful exportation of critical technology (Exodus violations), the sexual exploitation of children, and contract murder.
7. In addition to the knowledge and experience I acquired consequent to my employment, I have an academic background upon which I rely. I attended Eastern Kentucky University and was awarded a B.S. Degree in Criminal Justice upon graduating “With Distinction.”
8. I subsequently attended the United States Department of the Treasury, Federal Law Enforcement Training Center in Glynco, Georgia; I was the Class Honor Graduate.

## THE DEFENDANTS

9. Defendant Joseph A. DiBruno SR [DiBruno SR] is further identified as being Joseph Anthony DiBruno, a seventy-one year old white male born February 21, 1934, Social Security Number 159-26-3342, current Florida Drivers License number D165481340610. DiBruno SR, the former husband of Lela DiBruno, is the father of Joe DiBruno, JR, and Nick DiBruno. He currently resides in Belmont, Gaston County, North Carolina, and conducts business in Gaston County and Mecklenburg County, North Carolina.
10. Defendant Lela DiBruno [Lela DiBruno] is further identified as being Lela L. DiBruno, a/k/a Lela L. Walls, a sixty-four year-old white female born November 19, 1938, Social Security Number 244-54-1081. Lela DiBruno, the former wife of DiBruno SR, is the mother of Joe DiBruno, JR, and Nick DiBruno. She currently resides in Belmont, Gaston County, North Carolina, and conducts business in Gaston County and Mecklenburg County, North Carolina.
11. Defendant Joseph A. DiBruno JR [DiBruno JR] is further identified as being Joseph Anthony DiBruno, a thirty-six year-old white male born November 8, 1968, Social Security Number 245-45-4947. DiBruno JR currently resides in Belmont, Gaston County, North Carolina, and conducts business in Gaston County and Mecklenburg County, North Carolina.
12. Defendant Nick DiBruno [Nick DiBruno] is further identified as being Nicholas A. DiBruno, a thirty-three year-old white male born February 14, 1972, Social Security Number 244-59-4716. Nick DiBruno currently resides in Belmont, Gaston County, North Carolina, and conducts business in Gaston County and Mecklenburg County, North Carolina.

13. Defendant Cecil Mingos [ Mingos] is further identified as being Cecil L. Mingos, an eighty-three year old white male born May 7, 1921, Social Security Number 246-03-1171. Mingos currently resides in Vero Beach, Florida and conducts business in Gaston County and Mecklenburg County, North Carolina. Mingos serves as a supporting member of the DiBruno cast, acting as the “Judas Goat,” who lures and leads potential investors to the DiBrunos to be scammed, playing the roll of enthusiastic investor.
14. Investigation reveals that the DiBrunos have been engaged in an ongoing series of securities scams spanning many years. Acting in concert and with Mingos, and others known and as yet unidentified, the DiBrunos have formed numerous “corporations” under North Carolina, Florida and Delaware law, of the type commonly referred to as “shell companies” in that they existed on paper, but were not going concerns and were never intended to be.
15. Instead, these various shell companies served the DiBrunos and their criminal associates as “window dressing,” the “bait” used to lure innocent investors into entrusting them with their investment capital, often in exchange for stock certificates printed for this purpose.
16. Diligent inquiry fails to identify any registration statements for any of the securities involved, and there is no record that the members of the DiBruno family who touted their investment value, and sold these stock certificates, were licensed brokers or otherwise associated with any licensed broker dealer.
17. As will be further explicated and supported herein, this is not merely a case of securities licensing and registration issues – this is a case of outright fraud deliberately perpetrated by and thru various instruments and artifices to defraud, that were established for that purpose by people with a history of enforcement activities related to similar schemes.

## SIGNIFICANT HISTORY

18. On May 12, 1989, the Securities and Exchange Commission filed a Complaint in the United States District Court, Western District of North Carolina, Charlotte Division, alleging that DiBruno SR, et al., were engaged in violating the securities laws of the United States, by and thru their corporate entity, National Gas & Power Co., Inc., [NGP] a Delaware corporation doing business in North Carolina.

**2. This action was commenced on May 12, 1989, with the filing of a Complaint by the Commission seeking to enjoin Defendants National Gas & Power Company, Inc. ("NGP"), Joseph A. DiBruno ("DiBruno") and Virginia L. Ingle ("Ingle") from violating and aiding and abetting violations of the federal securities laws.**

SEC v. National Gas & Power Co., et al., Case 89-207-M, Findings of Fact

19. The Complaint alleged and the Findings of Fact held, that in November 1983, a merger combined several corporate entities that were theretofore under the direction and control of DiBruno SR in a single corporate entity called the National Gas & Power Co., Inc., [NGP]. At the time of the merger, none of the companies had any assets, nor were they doing any business that generated income on a regular basis.

**14. None of the corporations at the time of the merger had any substantial assets, nor were they doing any business which generated income on a regular basis.<sup>10</sup>**

SEC v. National Gas & Power Co., et al., Case 89-207-M, Findings of Fact

20. The Complaint alleged and the Findings of Fact held, that throughout this relevant time period, between 1983 and 1987, DiBruno SR was the President, Chief Executive Officer, Chairman of the Board and controlling person of NGP.

**10. DiBruno was, from at least November 1983 until in or about January 1988, President, Chief Executive Officer, Chairman of the Board of Directors, and a controlling person of NGP, as**

SEC v. National Gas & Power Co., et al., Case 89-207-M, Findings of Fact

21. The Complaint alleged and the Findings of Fact held, that throughout the relevant time period, between 1983 and 1987, DiBruno SR personally participated in the offering and sale of approximately 5.5 million shares of NGP stock to approximately one hundred ninety (190) investors in sixteen (16) states, notwithstanding the fact that the NGP stock was not registered, NGP had no assets, and NGP was not doing any business.

**20. From and after the merger in November 1983 through at least December 1987, NGP offered and sold approximately 5.5 million shares of National's common stock, which were not registered with the Commission, to about 190 investors residing in 16 states.<sup>17</sup>**

**21. DiBruno personally participated in many of the sales, as**

SEC v. National Gas & Power Co., et al., Case 89-207-M, Findings of Fact

22. The NGP Board of Directors did not authorize the issuance of any shares of stock for any purpose subsequent to the merger of 1983.

**24. The Board of Directors of NGP did not authorize the issuance of any shares of NGP for any purpose subsequent to the merger in 1983.<sup>23</sup>**

SEC v. National Gas & Power Co., et al., Case 89-207-M, Findings of Fact

23. Nevertheless, DiBruno SR caused more than ten million (10,000,000) unauthorized and unregistered shares to be issued, including five hundred thousand (500,000) shares which were issued in the name of his secretary, Betty Ramsey.

**27. Included among the over 10 million shares DiBruno caused NGP to issue were 500,000 shares in the name of his secretary, Betty Ramsey.<sup>26</sup>**

SEC v. National Gas & Power Co., et al., Case 89-207-M, Findings of Fact

24. In a pattern, that the DiBruno family will be seen to adopt as their ongoing *modus operandi*, DiBruno SR created 500,000 shares in worthless paper, and used an innocent third party to effectuate the scam that allowed him to sell 400,000 of these bogus shares to twenty-five unwitting investors. Further, in the pattern that we shall see over and over again, although DiBruno SR represented that NGP was to be the beneficiary of the investment capital that was paid for the 400,000 shares that DiBruno SR personally sold, none of the funds that were thereby derived were ever conveyed to NGP.

28. Ramsey testified she did not order the stock nor could she pay for the securities.<sup>27</sup> After she received the certificates, she advised DiBruno that there was a mistake, that she had not requested any stock nor could she pay for the stock.<sup>28</sup> DiBruno had her take the certificates for the 500,000 shares to a bank and have her signature guaranteed by the bank to facilitate the transferability of the shares.<sup>29</sup> DiBruno then sold over 400,000 of the shares to over 25 people including Frank Cody who testified he received the certificates in Ramsey's name directly from DiBruno.<sup>30</sup> NGP received nothing for the 500,000 shares.<sup>31</sup>

SEC v. National Gas & Power Co., et al., Case 89-207-M, Findings of Fact

25. In response to the SEC inquiry, DiBruno SR declined to respond to questions, choosing to remain silent instead, taking refuge in his Fifth Amendment right to avoid self incrimination – just as he has in this case nearly twenty years later.

investors was original issue stock directly from NGP.<sup>32</sup> DiBruno refused to answer questions pertaining to these matters based on his rights under the Fifth Amendment to the United States Constitution.<sup>33</sup>

SEC v. National Gas & Power Co., et al., Case 89-207-M, Findings of Fact

26. It is also noteworthy that DiBruno was then, just as he has continued to be, entirely opportunistic – he would accept cash, checks, personal property, equipment, antiques, collectables and virtually anything else of value in exchange for this worthless paper.



to DiBruno.<sup>35</sup> Some investors paid in cash, which DiBruno liked, according to Ingle; also Ingle testified that she received checks

payable to her, which she converted to cash before turning the monies over to DiBruno for NGP. Yet, none of the monies were ever recorded on NGP's books as capital according to Diane Eckert, the Commission's accountant.<sup>36</sup>

32. In addition to cash, some investors, including Ingle and Frank Cody, transferred road equipment, antique dolls, antique cars, televisions and other personal property to DiBruno in payment for shares of NGP.<sup>37</sup> None of the assets were reflected on the books and records of NGP.<sup>38</sup> DiBruno declined to answer any questions concerning what he did with these assets based on the Fifth Amendment. <sup>39</sup>

SEC v. National Gas & Power Co., et al., Case 89-207-M, Findings of Fact

27. Then, as now and throughout all the scams in between, DiBruno SR greedily grabbed up anything of value within reach, and dropped it into the DiBruno black hole, never to be accounted for. DiBruno mocked the system, wrapping himself in the Fifth Amendment.

28. Also then, as now and throughout all the scams in between, DiBruno SR demonstrated boundless greed and unmitigated temerity – he magnanimously, personally, and in writing guarantee the investment of his business partner's mother. It meant nothing.

48. DiBruno furnished a written guarantee to repurchase NGP stock sold to Ingle's mother.<sup>58</sup>

SEC v. National Gas & Power Co., et al., Case 89-207-M, Findings of Fact

29. Although the connection between NGP and a chocolate drink is not clear, the SEC mentions that DiBruno SR made statements in an NGP newsletter in 1983 that falsely reflected that NGP was about to distribute KoKo Sip, a chocolate drink thru its subsidiary, Farm Aid.

**54. There was also a statement in the newsletter dated December 30, 1983 that Farm Maid, a subsidiary of NGP, had a chocolate drink, KoKo Sip, that was to be distributed by a company**

SEC v. National Gas & Power Co., et al., Case 89-207-M, Findings of Fact

30. On July 8, 1991, the Court rendered a Final Order of Permanent Injunction enjoining DiBruno SR from further violations of the Securities Act of 1934. DiBruno SR appealed but the verdict was affirmed September 3, 1992. Shortly thereafter; the SEC filed for an order of disgorgement which was ultimately awarded on August 25, 1994.
31. During the course of DiBruno's SEC problems, Cecil Minges was having similar problems of his own. Minges had been operating a securities scam in Vero Beach, Florida, raising investment capital for his corporation, US Dairy, claiming to have developed a low cholesterol milk product by replacing milk fat with oat bran.
32. On September 24, 1993, the Securities Exchange Commission filed a Complaint in the United States District Court, Southern District of Florida, styled *SEC v. U.S. Dairy Corp., et al.*, Civil Action No. 93-14181. The SEC alleged that Minges, et al., were engaged in violating the securities laws of the United States, by and thru their corporate entity, U.S. Dairy Corporation, Inc.

33. The SEC alleged that Minges and his co-defendants, Matthew H. Sage and Robert E. King, were engaged in securities fraud in that they sold U.S. Dairy stock certificates, which were unregistered securities, falsely claiming that they had developed a formula for low cholesterol milk.

During the period from in or about April 1990 until in or about March 1992, Minges, Sage and King willfully violated Section 17(a) of the Securities Act [15 U.S.C. 77q(a)], in the offer and sale of securities, namely shares of common stock of U.S. Dairy Corp., in that they by the use of the means and instruments of transportation and communication in interstate commerce, and by the use of the mails, directly and indirectly: (1) employed devices, schemes, and artifices to defraud; (2) obtained money and property by means of untrue statements of material facts and omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (3) engaged in transactions, practices, and a course of business which operated and would operate as a fraud and deceit upon purchasers of said securities. As part of the aforesaid conduct and activities, Minges, Sage and King among other things:

(1) failed to disclose that U.S. Dairy Corp. had abandoned its intent to market its original licensed formula in or about September 1990 because of the negative responses it had received concerning the fat content of that formula;

(2) falsely represented that states had approved labels for its product without disclosing that U.S. Dairy Corp., had decided not to market the product for which it had obtained approval because of adverse comments it had received about the product's fat content;

(3) falsely represented that states had approved labels for its product after entering into an agreement to market a new product for which label approval had not been obtained;

(4) falsely represented that its supplier had provided U.S. Dairy with a \$ 1 million line of credit;

(5) failed to disclose that U.S. Dairy Corp. had no written agreement with the licensor of its non-fat, cholesterol-free milk product.

34. There was no battle – or even an argument. Consent Orders were entered into that same day enjoining the defendants from further violations of the securities laws of the United States. Minges merely passed the baton to his criminal cohort, Joseph DiBruno SR.

35. On October 20, 1994, less than two months after the SEC was awarded the Order of Disgorgement against DiBruno, and less than a month after the Consent Order was entered against Minges, DiBruno SR incorporated Golden Jersey Products, Inc., [GJP] in Vero Beach, Florida to replace US Dairy, the entity that the SEC shut down.
36. I interviewed Gary Deshon, the former Bookkeeper/Office Manager of Golden Jersey Products on August 26, 2004. Deshon was not involved in the US Dairy scam; he was completely cooperative and provided an extended statement, along with a memo that was published to the scam victims after the DiBrunos absconded with the money.
37. According to Deshon, as corroborated by the corporate memo dated April 20, 2002, DiBruno assumed control of GJP in October 1994. This is consistent with the corporate filing indicating that DiBruno SR established GJP on October 20, 1994.

**1. In October, 1994, Joseph DiBruno took effective control of GJP and named himself president, chief executive officer, and chief operating officer. Our discussions with others involved suggest that he was able to do this because he had become majority shareholder of the Company on about the same timing.**

Golden Jersey Memo to Shareholders Dated April 20, 2002

38. According to Deshon's statements, he believes that DiBruno SR "bought" US Dairy and then changed the name to GJP. I suspect that this is what DiBruno and Minges wanted people to believe. Considering the SEC report to the effect that US Dairy had no assets, and the enforcement actions against US Dairy, it seems implausible that DiBruno would "buy" US Dairy.
39. Deshon reported that the oat bran replacement "formula" was developed and owned by Pennsylvania resident William Sanders, President of Executives, Inc.

40. According to Deshon, as corroborated by the corporate memo dated April 20, 2002, GJP contracted to purchase this proprietary formula for \$2.5 million dollars, but no payments were ever made. I suspect that this is what DiBruno and Minges wanted people to believe for reasons that will be further explained and supported herein.

**2. On January 31, 1995, an agreement was signed whereby GJP would purchase the "formula" for production of a fat-free and cholesterol-free milk from Executives, Inc. for \$2,500,000. The agreement outlined a payment schedule and provided remedies if not fulfilled (no payments were ever made). It was signed by: Dorothy Moore, Robert Daly, William Sanders (both individually and as president of Executives, Inc.), and Joseph DiBruno for Golden Jersey Products, Inc.**

Golden Jersey Memo to Shareholders Dated April 20, 2002

41. The sales pitch, as related by Deshon, and corroborated by the corporate memo dated April 20, 2002, was that GJP was poised to go public. The name of the formula was "Replace" and the name of the product was to be "Dairy Trim."

**4. It appears from our investigation that most or all investors in GJP were told by Joseph DiBruno that GJP would "go public" and be successful marketing a fat-free and cholesterol-free milk, first regionally and, ultimately, on a national basis. Key to this was his stated expectation that the product would have "FDA approval," but this was never realized. The formula name was to be "Replace" and the product name was to be "DairyTrim."**

Golden Jersey Memo to Shareholders Dated April 20, 2002

42. The truly remarkable thing is that the very same people went right on perpetrating the exact same scam from the same physical office space as the US Dairy scam that the SEC had shut down via consent order before the ink was dry on the signature page.

43. When asked about Matthew Sage, Deshon stated that he [Sage] had serious medical problems and he felt that DiBruno and Minges had "played" on this.

44. I identified, located, and interviewed Matthew H. Sage on August 26, 2004. Sage was understandably reserved, but reasonably cooperative in providing a statement.
45. Sage stated that he felt betrayed and used by Minges and DiBruno. He maintained that they convinced him that they genuinely had a viable product; he was led to believe that the SEC issues were the result of Minges' ineptitude, but DiBruno SR would get things straightened out as he was far more sophisticated and knowledgeable.
46. Sage stated that DiBruno established and supported his credibility by and thru press releases and television interviews. Sage stated that DiBruno had a television set up to play a looped video of his interview with the Secretary of the Department of Agriculture.
47. Sage reports that he ultimately determined that there never was a marketable product that anyone could sell. In an effort to resolve their suspicions, he [Sage] and his wife paid for independent lab tests and DiBruno SR "*went ballistic*" and tried to "*rework his formula*" as a result.
48. Throughout the conversation, Sage lamented the loss of the trust that friends and family had placed in him. He expressed the belief that Minges and DiBruno had recognized that people believed in him so they used that to their advantage, leaving him "holding the bag." Sage indicated that he had fears and concerns that he might be viewed as having been knowingly complicit in perpetuating the scam, but he said the most important thing to him was, "*I just don't want to see them ever do this again.*"
49. Sage provided the information I needed to be able to identify William Sanders, the source of the oat bran milk fat replacement formula.
50. On August 26, 2004, I identified, located and interviewed William Sanders in Lancaster, Pennsylvania. Sanders, who was then seventy-six, was mentally sharp and cooperative.

Editorial note: *It is difficult to recount an interview such as the one that follows in a way that it makes sense. It is poor practice to ask pointed questions prematurely of a witness who is outwardly cooperative; instead, it is better to save questions that might terminate their cooperation until the subject is finished telling the story as he has planned. Consequently, it may seem odd that obvious questions initially appear to be left unasked.*

51. Sanders stated that I was probably more familiar with other products he developed than the milk fat replacement formula. He stated that the Dutch orange cream frozen drinks sold by Ames Pretzel are one of his most successful formulas. He also stated that he was not permitted to identify the company, but the biggest ice tea retailer in the world uses a proprietary formula that he developed.
52. Sanders stated that he developed the oat bran formula to replace milk fat. He reports that he had a number of undertakings going on at the time, including a dairy operation in Atlanta, so he offered it to Joe DiBruno SR to sell. He reported that DiBruno SR offered to buy the formula outright for \$2.5 million dollars but they never got a dime.
53. Sanders explained that one of the difficulties that DiBruno encountered was the bureaucracy involved in obtaining approval to change the essential chemistry of milk. Without the approval of the FDA and the Department of Agriculture, it isn't possible.
54. Sanders stated that another problem is, milk without the milk fat "tastes like crap." The key to his formula was to use oat bran to replace the milk fat's taste, texture and consistency. This allowed them to "super skim" milk removing virtually all of the fat and blending it with their product to make an end product that tastes like 2% milk.
55. Sanders stated that yet another problem is the fact that it requires millions of dollars in advertising to sell the public on such a product.
56. Sanders stated that they have a new product that is selling pretty well, but they have some difficult "price point issues" to overcome.

57. I asked Sanders how he originally came to know Joseph A DiBruno. He was completely vague and ambiguous, replying that ***“Joe had a name in the dairy industry.”***
58. I asked him about the terms of his contract with Cecil Minges at US Dairy. Sanders responded that he had agreed to sell US Dairy his formula for \$2.5 million dollars on a payment schedule, but US Dairy ran into problems and never paid them a dime, so they ***“took the formula back.”***
59. I asked him if the process of super skimming and blending the oat formula and the milk was particularly complicated. Sanders indicated that it was not something that just anyone could do, but it was a process that could be mastered.
60. I asked him if I had understood correctly that Golden Jersey Products also relied upon his formula in trying to market a low cholesterol milk. He acknowledged that he had contracted with Golden Jersey to allow them to use his formula, signing the same contract with them that he had signed with US Dairy, to sell them the formula for \$2.5 million dollars.
61. In response to my question, he stated that DiBruno was never able to make the payments, so they once again ***“took the formula back.”***
62. I asked why I had not been able to identify any UCC liens that might serve to protect them in the event of default. He acknowledged that they had filed none, but could not explain why.
63. I asked why a diligent search of patents and trade marks failed to identify any interest in any patent or trademark listed to him, or his company. He indicated that he had elected to follow the lead of Coca Cola, choosing to keep the ingredients secreted away in a safe, rather than risk disclosing his secrets to the patent office.



64. I reminded him that the inventors of Coca Cola did not have to worry about spectral analysis which would allow any company thus inclined to penetrate his secrets. Sanders, *[who had previously claimed that he supplied the formula for a national chain's frozen drink mix, and the worlds largest retailer of iced tea]*, replied that this was precisely why he made it a policy to only deal with small companies.
65. I asked Sanders to identify the individual who actually developed the formula and provide some information about their credentials, and their commitment to his organization, observing that it would be a disaster if the inventor of the super top secret formula went to work for Borden. Sanders was unable, or unwilling, to answer that.
66. If Sanders' statements were to be taken as true, they would indicate that Sanders developed a product that DiBruno SR provided to Cecil Minges and US Dairy, serving as the middleman in that transaction. When US Dairy defaulted, after never paying a dime, Sanders "took it back" without filing suit to recover the penalties as specified in his contract – please note that the previously referenced memo states that the contract did specify some sort of remedy in the event of default.

**2. On January 31, 1995, an agreement was signed whereby GJP would purchase the "formula" for production of a fat-free and cholesterol-free milk from Executives, Inc. for \$2,500,000. The agreement outlined a payment schedule and provided remedies if not fulfilled (no payments were ever made). It was signed by: Dorothy Moore, Robert Daly, William Sanders (both individually and as president of Executives, Inc.), and Joseph DiBruno for Golden Jersey Products, Inc.**

Golden Jersey Memo to Shareholders Dated April 20, 2002

67. The aspect of this scam that is most ridiculous is the aspect that is, perhaps, least intuitively obvious. Consumer beverages can be a profitable business; the bottle of water

or coke that we buy for a dollar (\$1) actually costs about three cents (.03) to produce due to the cost of bottling. The cost of a “super size” coke at McDonalds is negligible.

68. Milk, on the other hand, is truly a “sacred cow,” subject to subsidies and price controls.

The price controls serve to keep it affordable to the consumer, and the subsidies are calculated to keep the producers from going broke.

69. Even if the FDA and the Department of Agriculture would approve this super skim and re-blend process, milk has a “standard of identity” – you can homogenize it, pasteurize it, fortify it with vitamins A or D, and even spin off some of the fat if you wish, but you cannot create your own blend and call it “milk.”

70. Even assuming that the FDA and Department of Agriculture would allow you create your own milk blend and market it as a “milk product” or some such thing, who is going to authorize the additional subsidy necessary to offset the costs associated with the process?

71. According to the GJP memo referenced above, Sanders was reported to be selling a version of his low cholesterol oat bran milk formula in a grocery store in Lancaster

**9. William Sanders, who offered to market the milk for GJP at the time of the January 25, 2001 shareholders meeting, is currently producing and marketing the “milk” in a single, large supermarket in the vicinity of Lancaster, Pennsylvania. However, he advises that it is a different formula because he learned that the original “formula” purchased by GJP in 1995 (but never paid for) and subsequently “improved” by Joseph DiBruno “didn’t work” as Joseph DiBruno and GJP claimed.**

Golden Jersey Memo to Shareholders Dated April 20, 2002

72. I asked Sanders to identify the store where his milk product was selling, but Sanders replied that he had been “shut down” and forced to remove it from the shelves. He declined to reveal the identity of the store.

73. In the previously referenced memo, the GJP advisory group reported to shareholders that once DiBruno had sold his personal stock certificates, he directed that more stock certificates be printed and transferred to his name – as was the case with NGP.

**7. We know how many GJP shares owned by Joseph DiBruno that he has sold to others based on the number of stockholder certificates that were transferred from his name to others. On this basis, sometime during 2000-2001, we believe he no longer was majority shareholder of the Company. We also believe that after this period, Joseph DiBruno caused to be printed additional shares of GJP stock and had them issued to himself. In our opinion, this was not done legally, but that determination will have to be made by proper authority.**

Golden Jersey Memo to Shareholders Dated April 20, 2002

74. According to Gary Deshon, DiBruno sold approximately four million dollars worth of stock certificates to people who believed that their money was being invested in GJP, but none of the funds derived of these securities transactions were ever credited to a GJP account – as was the case with NGP.

75. Specifically, Gary Deshon said, *“I kept track of money he raised. None of it came back to GJP, I have the records of the shareholders.”* In response to my request, he faxed me the list of shareholders within minutes.

76. The list of GJP shareholders that Gary Deshon provided is a list of those persons who were victimized over the course of the DiBruno/Minges securities scam perpetrated in Vero Beach, FL. This list consists of twelve (12) pages, each page having three (3) columns of ten (10) rows. There are approximately three hundred fifty (350) victims of this scam identified on this list; they have all been advised that:

**10. Golden Jersey Products, Inc. today has no assets and carries several outstanding debts.**

Golden Jersey Memo to Shareholders Dated April 20, 2002

77. Notwithstanding all the nonsensical, inconsistent, and sometimes contradictory statements that William Sanders made regarding his super secret proprietary formula, we have specific evidence related to the viability of this program that was introduced previously, but may have been overlooked.
78. If we revisit the stipulations made by Minges and US Dairy, consequent to the SEC investigation, they are impossible to reconcile with the events that followed.

As part of the aforesaid conduct and activities, Minges, Sage and King among other things:

- (1) failed to disclose that ***U.S. Dairy Corp. had abandoned its intent to market its original licensed formula in or about September 1990*** because of the negative responses it had received concerning the fat content of that formula;
- (2) falsely represented that states had approved labels for its product without disclosing that U.S. Dairy Corp., had decided not to market the product for which it had obtained approval because of adverse comments it had received about the product's fat content;
- (3) falsely represented that states had approved labels for its product ***after entering into an agreement to market a new product for which label approval had not been obtained;***
- (4) falsely represented that its supplier had provided U.S. Dairy with a \$ 1 million line of credit;
- (5) ***failed to disclose that U.S. Dairy Corp. had no written agreement with the licensor of its non-fat, cholesterol-free milk product.***

79. Bear in mind that the above referenced stipulations may not be the truth – stipulations are often the closest that the SEC could get to the truth without using pliers and a rubber truncheon. With that in mind, is it not odd that the SEC was left with the impression that US Dairy made a determination to abandon Sanders formula in 1990?
80. Minges apparently represented to the SEC that US Dairy intended to use some entirely new product that they denied having a written agreement for, yet when DiBruno took over, they went right on touting the Sanders formula through the 1990's.

81. Through most of the 1990's the DiBrunos scammed investors with promises related to cholesterol free milk, but by the end of the decade, they began touting "Immuno-C," a miracle "*cure for what ails ya*" scam that was described as incorporating colostrum into a chewable, tangerine flavored product.
82. Colostrum is a substance produced by mammals in mother's milk immediately after birth as a way to pass immunization from mother to offspring and there is such a product as "Immuno-C," but it is not a chewable tangerine flavored product and DiBruno has nothing to do with it. "Immuno-C" is a product licensed to Biomune Systems, Inc.
83. On December 9, 1999, a group of investors filed a Complaint in US District Court, Southern District of Florida, styled *Cho, et al., v. Golden Jersey, et al.*, in which the plaintiffs alleged that they had been defrauded by Golden Jersey, DiBruno, Sage, Deshon, et al. According to Attorney Dean T. Cho, (212) 947-3330, the matter has since been refilled in New York where it is currently pending.
84. I interviewed several victims of the GJP scam who were victimized during the latter part of the 1990's who described DiBruno JR as playing a supporting role.
85. According to Messrs. Sage and Deshon, DiBruno JR, who was then in his twenties, became an active participant in his father's scams during the late 1990's. Both Sage and Deshon each commented that DiBruno JR seemed to lack the basic intelligence that his father demonstrated. With respect to the subsequent scams that DiBruno JR appears to have perpetrated, Deshon stated, "***I guarantee you that Joe JR may have fronted it, but Joe SR is responsible.***"
86. Gary Deshon specifically claimed to have reported DiBruno SR to the IRS.

87. According to Gary Deshon, Craig Mobley was reported to have been one of the DiBrunos largest investors. I identified and interviewed Craig Mobley, 6960 41<sup>st</sup> Street, Vero Beach, 32967; (772)569-0965. Mr. Mobley acknowledged that he had invested in excess of \$600,000 with DiBruno SR in Golden Jersey as well as an additional \$17,000 with DiBruno JR in a gold mine scam. Mr. Mobley states that he has accepted the fact that it was a scam and his money is lost. He suggested that I talk to Ken Puttick, the owner of Ken Puttick Buick Cadillac in Vero Beach.
88. I interviewed Ken Puttick, 917 Beachland Blvd., Vero Beach, FL 32963; (772) 234-8665. Mr. Puttick acknowledged that he had invested in excess of \$500,000 with DiBruno SR in Golden Jersey and reported that Minges had the audacity to attempt to persuade him to invest more money as recently as 2003 claiming that DiBruno SR had some sort of deal going that promised to make everyone whole.
89. I interviewed Ann & Moses Anter, 29349 Dewberry Lane, West Lake, Ohio, 44145; (440) 871-2566. They indicated that they had invested \$40,000 with the DiBrunos in US Dairy and Golden Jersey. They reported that they have accepted the fact that it was a scam and their money is lost.
90. I interviewed Donald L. Allex, 2095 SW Mapp RD, Palm City, FL 34990; (772) 286-2105. He acknowledged that he had invested \$45,000 with the DiBrunos in Golden Jersey and he has accepted the fact that it was a scam and the money is lost.
91. I interviewed Joseph Amelio, 1151 Admirals Walk, Vero Beach, FL 32963; (772) 231-9193. He acknowledged that he had invested \$10,000 with the DiBrunos in Golden Jersey and he has accepted the fact that it was a scam and the money is lost.

92. On October 19, 1998, the Internal Revenue Service filed Tax Lien number 659849629 against Joseph A. DiBruno, SR, 1010 34TH Avenue, Vero Beach, FL 32960 SSN 159-26-3342, claiming that he had a tax liability of \$969,027. This lien is recorded in Indian River County, FL, Book 1237 at Page 744.
93. The very next day, the DiBrunos evidently fell out of love and decided to end their thirty year marriage. On October 20, 1998, DiBruno SR filed the Petition, and Lela DiBruno followed with an Answer and Waiver; the uncontested divorce was final March 12, 1999. This is recorded as Okeechobee County case 98-844-FR.
94. Several of the people that I interviewed reported that it was common knowledge that this was a sham divorce calculated to protect their assets from the Internal Revenue Service.
95. On June 27, 2000, the Internal Revenue Service re-filed the Tax Lien against Joseph A. DiBruno, SR, 1010 34TH Avenue, Vero Beach, FL 32960 SSN 159-26-3342, claiming that he had a tax liability of \$969,027, this time recording it in North Carolina Superior District Court, Gaston, NC.
96. On November 9, 2000, DiBruno SR transferred title to the family home at 107 Westwood Drive, Belmont, NC 28012, to Lela DiBruno via Quit Claim. Although the DiBrunos were divorced, this was recorded as an “Intra-Family” transfer. Upon information and belief, this transfer was fraudulent conveyance calculated to protect the asset from the Internal Revenue Service.
97. On October 18, 2004, I interviewed Jody Lee Hager, a close personal associate of the DiBrunos who lived for some time in their home. When asked if the DiBrunos had ever asked him to do anything illegal, he replied that the first time he was asked to participate in illegal activity was when they asked him to help conceal assets from the IRS.

28. Jody: The first time was after a meeting, and I got close to the family because I thought they were going to provide a record deal I've wanted to do. I'm a musician . . . an artist. When I guess they trusted me enough. I was in their home at 107 Westwood when there was a phone call made or received that the IRS was going to actually have a surprise visit to their home. I was asked to help them retrieve items from gun cabinets, underneath beds, drawers, and also collectibles, paintings, and over 50 handguns and weapons that they were to move from the house and take to a pawn shop they owned, which is right beside Food Lion in Belmont, which is no longer there. It's a parts store of some kind. But there was a safe in there . . . a steel safe . . . about maybe a 14' x 14' room that all these things were put into and hid supposedly from the IRS so they couldn't be taken or seized.

Sworn Statement of Jody Lee Hager, October 18, 2004

98. Jody Lee Hager stated that he specifically over heard the DiBrunos planning to divorce in an effort to thwart the IRS and actually heard the sons boasting about how smart their father was to divorce their mother under the circumstances.

130. Jody: In the beginning, back in the late 90s when I was there, after the incident with the IRS there was a conversation about how to get around some legal situations or keep their things from getting frozen or taken and they agreed even the sons kind of boosted about how smart the dad was of them divorcing. Again, I do not know all the legal stipulations and didn't understand myself. On that end, I am just not very knowledgeable.

131. Bill: They talked about getting a divorce strictly as a maneuver to avoid legal issues?

132. Jody: Yes sir.

137. Bill: I understand that in my notes, as something to ask you. Okay, and you specifically overheard conversation with these people discussed getting divorce as a legal maneuver.

138. Jody: That was in 1997 – 1998. Yes sir.

Sworn Statement of Jody Lee Hager, October 18, 2004



99. Hager went on to reveal an insider's look into the perversely twisted family dynamic whereby Lela ["Sis" refers to Lela], DiBruno's wife in fact, if not wife at law, has actually dated a third party in furtherance of a \$60,000 scam with the knowledge, acceptance and complicity of the entire family.

134. Jody: I don't know that she did, I know that she was dating and this is after the divorce. This was back in the late 90s. For the last couple of years actually she has dated this guy named Larry, of course the father has several women that he dates and they are all young women and the family gets upset about that. This is a strange situation but yes Sis comes every morning to Joe, Jr.'s and Joe, Sr.'s house and helps take care of them. She made the statement to me that this Larry person, she is not in love with him but she talked with him and Joe, Jr. talked with him and borrowed \$60,000.00 from him and he hasn't gotten any of that back. She made the statement with everything going on if she quits dating him that he will turn against her son and join the brigade of people that is suing him and she wanted to protect her son.

Sworn Statement of Jody Lee Hager, October 18, 2004

100. Hager describes the family nature of the scam as a "like father, like son" enterprise, specifically saying that when DiBruno "gets money," he shares it with his father, mother and brother, specifically referring to it as their "cut" or their "share."

70. Jody: I have not heard that, I have seen it with my own eyes. They take care of each other. The statement I will make is that Joe, Jr., and Joe, Sr., I don't know the whole past. I think that, this is a thought and I have heard you know that everything that he got was through the same thing that his son is doing and I think that he looks up to his son and they are closer. When Joe, Jr. gets money, he does call his mother, brother and even his dad and I have seen money distributed whether it be evenly, I don't know. I have watched them handout money for no reason other than making a phone call riding with them to pick the money up and finding out later that it was from somebody investing in one type of business or another.

71. Bill: Did you every hear them describe it as your share or your cut any thing like that?

72. Jody: Absolutely, I have heard it both ways your share your cut.

Sworn Statement of Jody Lee Hager, October 18, 2004

101. In evaluating Hager's statements, it is important to note that Hager is an insider who acknowledges his own complicity in the scams. Hager is almost apologetic in saying that this is what the boys were taught by their father, and they know no other way to live. Hager says he is ashamed, expresses regret that he has been involved in misusing people, and declares that the ongoing scams are ***"totally wrong and need to be stopped."***

160. Jody: No sir. Other than I want to make a statement, like I said, I tried to be a friend and I actually got close to the kids in the family, I am talking about Nick's son. There are some good people in this family. Again, I think they don't know how to work and have done nothing more. I think that they were taught this by the father and I don't think they know any other way to live. They are smart enough and have had opportunities to do different things but they continue to do this as a team together in a family. I regret and I have asked them to not push me to the point of ever having to be against them, but it cost my family and part of my future and I am no saint. Everything I said is the true. Its ashamed and I feel like from my heart as a family man and even from the past of my own misusing people that it is totally wrong and it needs to be stopped.

Sworn Statement of Jody Lee Hager, October 18, 2004

102. Hager was not alone in the observations he offered. I also interviewed Jack "Bubba" Jones, who has been widely described as DiBruno JR's "right hand man." Like Jody Lee Hager, Jones acknowledges his own complicity in the scams perpetrated by the DiBrunos and states that he chose to cooperate because he feels sick that the DiBrunos used him to steal people's money.

313. Bill: Is there anything that you would just like to add on your own?  
314. Jack: Other than it makes me sick to be in this situation because of them. Not really.  
315. Bill: You feel like these people are con artists and you feel like these people have used you in stealing people's money.  
316. Jack: Very much so.

Sworn Statement of Jack "Bubba" Jones, October 15, 2004

103. The new Millennium brought changes in the way the DiBrunos did business, but it is not clear whether the changes were due to the pressure from the IRS on the father, or the younger DiBrunos reaching an age where they could begin to play a more significant role in the “family business.” Whatever the cause, DiBruno JR, and Nick DiBruno, became much more directly involved.

104. Since the year 2000, the DiBrunos have incorporated a series of shell corporations, most of which are associated with DiBruno, JR:

- Buck Wild Hunting Gear, INC  
Incorporated August 10, 2001, in North Carolina
  
- DiBruno Brothers Mining, INC  
Incorporated September 24, 2001, in North Carolina
  
- DiKari Enterprises, INC  
Incorporated July 23, 2001, in North Carolina
  
- DiKari Entertainment, INC  
Incorporated July 23, 2001, in North Carolina
  
- First Intertech, Corp.  
Incorporated May 3, 2004 in North Carolina
  
- International Food Tech, Inc  
Incorporated April 23, 2003, in North Carolina
  
- International Senatorial Committee for the United Nations, INC  
Incorporated November 1, 2001 in North Carolina
  
- Internet Business Design Group, a/k/a IBD Group  
Incorporated June 12, 2000, in North Carolina

- J & G Time Pieces, Inc.  
Incorporated August 8, 2003, in North Carolina
  
- J.N.E. Group, INC  
Incorporated July 23, 2001, in North Carolina
  
- KB Records, INC  
Incorporated December 18, 2002, in North Carolina
  
- KBM Publishing, INC  
Incorporated July 23, 2001, in North Carolina
  
- Kolor Blynd Publishing Corporation  
Incorporated July 23, 2001, in North Carolina
  
- Kolor Blynd Records, INC  
Incorporated July 23, 2001, in North Carolina

105. There is probable cause to believe, and I do believe, that none of these corporate entities was ever a going concern. Instead, they served as bait, providing an image and/or bank account that could be used to promote the various frauds and scams that followed.

106. There is probable cause to believe, and I do believe, that many of these corporate entities were successfully used by the DiBrunos, acting in concert with Minges and others known and as yet unidentified, to steal millions, and perhaps tens of millions, of dollars of investment capital contributed by naïve and unwitting investors.

107. There is probable cause to believe, and I do believe, that the DiBrunos, acting in concert with others known, and as yet unidentified, laundered the proceeds of these unlawful activities, and structured transactions to avoid currency reporting requirements.

108. South Carolina resident Ruby Wells was one of the first known victims of a scam perpetrated by the DiBrunos, where the involvement of DiBruno SR was not readily apparent. On November 19, 2002, Ruby Wells filed suit in the case styled, ***Wells v I. B. D. Group, Inc., et al.***, Court of Common Pleas of South Carolina, Fifteenth Judicial Circuit Georgetown County, Case No 2002 CP 22945.

109. According to the Complaint, Ruby Wells alleged that DiBruno JR, and his brother Nick, persuaded her to invest in I.B.D. Group, Inc., which is apparently the corporate entity DiBruno JR established in the year 2000, further identified as Internet Business Design Group. The Complaint alleged that:

*“Based on the DiBrunos’ representation, the Plaintiff gave monies to the Defendants for the security, and Defendants represented that Plaintiff would receive dividend income every quarter and that it was a great investment. Defendants committed common law fraud by making representations and/or omissions of material facts whereupon Plaintiff reasonably relied upon said misrepresentations and/or omissions. Defendants also omitted material facts in his representation of the security, including that they were not licensed securities dealers, that the security was not subject to registration, and that the security was not liquid or marketable.”*

110. On November 14, 2003, in the matter of, ***Wells v I. B. D. Group, Inc., et al.***, Court of Common Pleas of South Carolina, Fifteenth Judicial Circuit Georgetown County, Case No 2002 CP 22945, the Court awarded Ruby Wells a judgment against DiBruno JR in the amount of \$74,500.

111. On or about September 16, 2002, the DiBrunos, acting in concert with Mingos and others known, or as yet unidentified, approached North Carolina residents Locke and Cynthia [ ] regarding an investment opportunity in DiBruno Brothers Mining, Inc., [DBM]. DiBruno SR, DiBruno JR and Mingos, made numerous false and misleading statements, knowing that they were false and misleading when they were made. They represented, *inter alia*, that:

- The Knights of Malta, Order of St. John, doing business as Gold International, Inc., of Roswell, New Mexico, as represented by Sir C. David Hallman, Finance Minister of the Knights of Malta, controlled certain mineral rights on government land in New Mexico; and
- The gold deposits controlled by the Knights of Malta had been assayed by the Crawford Company, as certified by a report dated March 20, 2001; and
- The Knights of Malta wanted a seat at the United Nations that DiBruno SR had the contacts to be able to arrange; and
- A deal had been struck between the DiBrunos and the Knights of Malta whereby DBM would have the rights to mine the gold in exchange for certain sums of money, and DiBruno SR's assistance with respect to the United Nations; and
- Lloyds of London had issued an insurance policy guaranteeing the value of the mine to be no less than five hundred million dollars [\$500,000.000].

112. In furtherance of these representations, the DiBrunos produced documentation in the form of an Agreement, a \$500,000,000 Certificate of Insurance ostensibly issued by Lloyds of London, and an Assayers Report prepared by the Crawford Company.

113. The above referenced statements and documents were completely bogus contrivances calculated to deceive ; they were offered as an inducement to invest and, based upon these entirely bogus representations and documents, did invest.
114. Over the sixteen [16] months the followed, DiBruno SR, DiBruno JR, Nick DiBruno and Minges, each acting at sometimes independently, and acting at sometimes in concert with each other, made various false and misleading representations to in order to persuade to invest additional funds to total four hundred fifty thousand dollars [\$450,000].
115. Investigation reveals that were not the only victims of this scam and Minges was not the DiBrunos only “Judas Goat” associate.
116. On September 2, 2004, I interviewed Miguel Lopez Santos, the owner of a restaurant in Canon City, Colorado. Santos reported that Lee Lowther and Minges persuaded him to invest \$75,000 in DBM. Lowther solicited the investment capital and Minges played the role of an excited investor.
117. On September 3, 2004, I interviewed Harvey Opfer, an accountant from Canon City, Colorado. Santos reported that Lee Lowther and Minges persuaded him to invest an amount of money in DBM that he described as a ”great deal” but chose not to disclose. He also reported that Lee Lowther solicited the investment capital and Minges played the role of an excited investor.
118. Although it is not yet clear how this was possible, and collusion by bank personnel is suspected, it is clear that the DiBrunos deposited the funds derived of these unlawful activities into the account of a different shell corporation, The

International Senatorial Committee for the United Nations [International Senatorial Committee], and then recruited third parties to assist them in structuring withdrawals in order to avoid currency reporting requirements.

119. Specifically, the smurfed withdrawals were effectuated as follows:

- Cashed checks payable to DiBruno JR in excess of \$600,000
- Cashed checks payable to DiBruno SR in excess of \$18,000
- Cashed checks payable to Lela DiBruno, in excess of \$43,000
- Cashed checks payable Nick DiBruno, in excess of \$23,000
- Cashed checks payable to Cecil Minges, in excess of \$20,000
- Cashed checks payable to Jack Jones, in excess of \$40,000

120. Beginning in, or around, October of 2002, the DiBrunos, acting in concert with Minges, approached \_\_\_\_\_ regarding a recording related undertaking consisting of interrelated companies K.B Records, Kolor Blynd Records, Kolor Blynd Publishing [collectively referred to as KBR]. DiBruno JR and Minges made numerous and false representations regarding KBR calculated to induce \_\_\_\_\_ to invest, and \_\_\_\_\_ did invest based upon these fraudulent representations.

121. Specifically, the DiBrunos and Minges made the following representations, guarantees and statements to \_\_\_\_\_ regarding KBR as an inducement to persuade them to invest:

- a. DiBruno, Jr. and Minges represented to \_\_\_\_\_ that KBR had signed a talented singer named Jody Lee Hager to a new contract; and
- b. DiBruno, Jr. and Minges represented to \_\_\_\_\_ that Sony Records wanted to buy the rights to Jody Lee Hager's songs for \$20 million dollars; and



- c. DiBruno, Jr. and Minges represented to \_\_\_\_\_ that DiBruno, Jr. needed \$150,000.00 up-front publicity money for Sony Records to put Jody Lee Hager's Christmas Songs out to the public; and
- d. DiBruno, Sr. represented to \_\_\_\_\_ that Jody Lee Hager was a very talented musician with outstanding character who had lived with the DiBruno family for approximately one year; and
- e. DiBruno, Sr. represented to \_\_\_\_\_ Jody Lee Hager's music will be valuable in the industry; and
- f. DiBruno, Sr. represented to \_\_\_\_\_ that DiBruno, Jr. was a competent musician who had written songs produced by other performers and had sufficient contacts in the industry to make KBR successful

122. Based upon these various and sundry bogus representations, \_\_\_\_\_ were persuaded to invest several hundred thousand dollars into KBR. The more they invested, the more wildly encouraging the lies became.

- a. DiBruno, Jr. and Minges represented that DiBruno, Jr. was finalizing a deal with Sony Records for the purchase of Jody Lee Hager's songs for \$20,000,000.00 for which \_\_\_\_\_ were to receive \$3.6 million dollars each;
- b. DiBruno, Jr. and Minges represented to \_\_\_\_\_ that KBR's New York attorney was leading the negotiations with Sony Records, and he would be finalizing the contract shortly, and DiBruno, Jr. represented to \_\_\_\_\_ that KBR's New York attorney was \_\_\_\_\_; and
- c. DiBruno, Jr. and Minges later represented to \_\_\_\_\_ that the negotiations had changed and KBR was now negotiating with Warner Bros. for the purchase of Jody Lee Hager's songs for approximately \$18,000,000.00 from which \_\_\_\_\_ would each receive \$3.29 million dollars.

123. In reliance on the above-referenced representations, \_\_\_\_\_ invested in and/or loaned to KBR a total of approximately \$625,000.

124. The investment capital intended to capitalize the record related undertaking was deposited into various accounts, but at the end of the day, the ultimate result was identical to that of each prior DiBruno Scam. A review of the relevant bank records reveals that DiBruno and his associates pumped investment capital into the account and then drained it as quickly as possible using third parties to assist in structuring withdrawals (smurfing) in order to avoid currency reporting requirements as follows

125. From the Kolor Blynd Records account:

- Cashed checks payable to DiBruno JR in excess of \$180,000
- Cashed checks payable to DiBruno SR in excess of \$15,000
- Cashed checks payable to Lela DiBruno, in excess of \$8,000
- Cashed checks payable Nick DiBruno, in excess of \$27,000
- Cashed checks payable to Cecil Minges, in excess of \$20,000
- Cashed checks payable to Jack Jones, in excess of \$30,000
- Cashed checks payable to Billy Winters, in excess of \$5,000

126. From the K.B. Records account:

- Cashed checks payable to DiBruno JR in excess of \$170,000
- Cashed checks payable to DiBruno SR in excess of \$12,000
- Cashed checks payable to Lela DiBruno, in excess of \$30,000
- Cashed checks payable Nick DiBruno, in excess of \$35,000
- Cashed checks payable to Cecil Minges, in excess of \$3,000
- Cashed checks payable to Jack Jones, in excess of \$35,000
- Cashed checks payable to Billy Winters, in excess of \$20,000

127. During the course of his interview, Jody Lee Hager explained his role in the scams saying that the DiBrunos paraded him around to various potential investors making representations of one kind or another in an effort to induce them to invest.

never invested any money with the DeBrunos. As a matter of fact, I was used for them to put in front of people to get investments, and I did that without the knowledge of that . . . of what they were going to do with the money. I really thought they were going to promote me.

115. Bill: Has there been a period of time when the DiBrunos kind of paraded you around to people who might have money to get them to invest in your career.

116. Jody: Yes sir, there is.

117. Bill: And have they raised to your knowledge and belief a significant amount of money from these potential investors?

118. Jody: Absolutely.

Sworn Statement of Jody Lee Hager, October 18, 2004

128. Jody Lee Hager also made it clear that the DiBrunos never made any effort to pursue any of the promises and representations that were used to induce to invest, or make success a reality.

120. Jody: To the best of my knowledge the only time that was spent was in the studio actually recording songs that I have written and they told me they were planning on making an album. As far as that goes that is the only time they promoted me, the rest of the time I was being told that this was going to happen and that was going to happen and everybody was going to be okay and all I seen after I was put in front of the Hollands within a couple of weeks was everybody had new cars and within a couple of months I was no longer with them for what reason I did not know. I have never seen them promote me in anyway other than in front of people that I did not know at the time were giving money to put toward my career.

Sworn Statement of Jody Lee Hager, October 18, 2004

129. Hager describes the DiBruno Family as a family of con artists - thieves, fully aware that the money they were stealing would never be paid back, where the father and eldest brother devised the schemes to defraud that the rest of the family went along with.

139. Bill: Is there any doubt in your mind that this is a family of conartists.

140. Jody: No sir, its not. I would like to elaborate on that.

141. Bill: Okay.

142. Jody: Again, from what I have seen in the last seven years and also in the last 3 months of the depth of it. I believe that the mother and the young son Nick go along with things. Its either accept the money and stick together as a family or go to work, so they just accept money but the bulk of it in the beginning came from the daddy which Joe, Jr. learned well and since Joe, Jr. has misused so many people the dad has gotten back involved to save his rear end. I believe they go along with it. As far as setting down and planning and masterminding things know I don't think that the mother and Nick do, but I do think that they agree to it once Joe, Jr. and Joe, Sr. get together and come up with a plan. They do know that these people they are collecting money from and being handed money from is never coming back and I believe that they are aware of that, but they accepted it because they make the choice to do that. I don't just believe that I have seen it that most of the actual deal working and putting together is from the dad and the son Joe, Jr. and Joe, Sr.

Sworn Statement of Jody Lee Hager, October 18, 2004

130. Hager states they are a team who know no other way to live and he says he is ashamed, and expresses regret that he has been involved in misusing people, and declares that the ongoing scams are ***“totally wrong and need to be stopped.”***

work and have done nothing more. I think that they were taught this by the father and I don't think they know any other way to live. They are smart enough and have had opportunities to do different things but they continue to do this as a team together in a family. I regret and I have asked them to not push me to the point of ever having to be against them, but it cost my family and part of my future and I am no saint. Everything I said is the true. Its ashamed and I feel like from my heart as a family man and even from the past of my own misusing people that it is totally wrong and it needs to be stopped.

Sworn Statement of Jody Lee Hager, October 18, 2004

131. Hager also paints a compelling picture of the ostentatious waste of other people's money. Hager states that although DiBruno has never to his knowledge had a job, he has seen him nonchalantly toss \$20,000 to \$30,000 into the front seat of his Mercedes convertible and announce that he was going out for the evening.

47. Bill: Yes I am. I'm just deciding where to go with this next. Have you ever seen Joe, Jr. . . . Joe DeBruno, Jr. . . . have you ever seen him with any large amounts of cash?

48. Jody: Oh, absolutely. He doesn't . . . there have been times when he came out of the house at 107 Westwood . . . one time in particular . . . he had a 500 Mercedes convertible. He had a whole handful of \$100 bills, not in rolls, but actually with wraps around them. I would think it would be anywhere from \$20,000 to \$30,000 literally, and he would throw it in the seat saying, "I'm going out for the night," to impress people. Just in the last three months and also from the day I met them, I have never seen one of them get up and go to an actual job. But I've been in the car when they

Sworn Statement of Jody Lee Hager, October 18, 2004

132. Hager specifically asserted that he had seen large amounts of cash or cheques, and he has personal knowledge that the DiBrunos have worked out various ways to cash their cheques at the bank such that investigation would not uncover it.

. or Joe, Jr. . . . there's been numerous times to the tune of 20 or 30 times that myself I've seen large amounts of cash or a check. Even in the last three months, there's been checks that have been picked up . . . I was knowledgeable about it at the time because I was living with them . . . there was an investigation going on. They found ways and thought of ways to cash them at the bank so you yourself wouldn't know because I knew you were the investigator. Because of living in the house for the last three months, they talked about it, not freely, but they got to a point to where they didn't think I was a threat so they talked more openly than they would have normally.

Sworn Statement of Jody Lee Hager, October 18, 2004

133. Hager's statements were corroborated and expanded upon in the sworn statement provided by Jack "Bubba" Jones, a lifelong friend of DiBruno JR who has often been referred to by people I have interviewed as DiBruno JR's "right hand man."

134. Jones makes it clear that DiBruno has no legitimate source of income.

205. Bill: Now to the best of your knowledge and belief, do any of these people have a legitimate source of income other than the money they talk people into investing that they then raid from the company checkbook.
206. Jack: As far as my knowledge, no.

Sworn Statement of Jack "Bubba" Jones, October 15, 2004

135. In spite of the fact that DiBruno JR does not have any legitimate source of income, Jones reports that he does have remarkably expensive tastes, specifically saying that the DiBrunos require "nothing but the best." Jones describes their vehicles as being, "brand new Range Rovers, Hummers, Jaguars, and Cadillacs."

199. Bill: The DiBruno's have expensive taste, don't they?
200. Jack: Yes.
201. Bill: What kind of cars have you seen them drive?
202. Jack: Brand new Range Rovers, 4 or 5 Hummers, H2's, Jaguars
203. Bill: Nothing but the best.
204. Jack: Cadillacs, yes. All nice.

Sworn Statement of Jack "Bubba" Jones, October 15, 2004

136. Jones was familiar with many of the shell companies that the DiBrunos have established and used to defraud unwitting investors. He specifically identified the KB Records entities, DiBruno Brothers Mining and Golden Jersey..

49. Bill: Okay. And when you talk about his business, what business ventures do you know of that he has been involved in in recent history?

50. Jack: Kolor Blind Records which is KB Records. I think it was called DiBruno Brothers Mining was the correct name of it, was a mining operation and oh, man, I'm drawing a blank.

51. Bill: Does the name Golden Jersey help you out?

52. Jack: Golden Jersey Products which his father had operated also.

Sworn Statement of Jack "Bubba" Jones, October 15, 2004

137. Jones stated that the DiBrunos actively solicited third party investors to invest in these various entities and he went on to say that their interest was limited to generating investment capital; they made no effort to "make the companies go."

55. Bill: Do they solicit third parties to invest in these businesses? In other words, do they actively make an effort to talk people into investing money in these businesses.

56. Jack: Yes.

241. Bill: Okay. Now when you look at this entire, the family in light of their businesses. Did you ever see....do you have reason to know whether these people were actually in the day to day business of making these businesses work or were they in the day to day business of soliciting investment capital to come into these businesses so they could spend it.

242. Jack: As far as I saw myself here now, I would say that they used this for the investment capital. I didn't see much effort from them at any time to...other than the employees that worked for them put a hand in trying to make the company go like it should have.

Sworn Statement of Jack "Bubba" Jones, October 15, 2004

138. Jones was also familiar with the identities of various investors and the amounts they had invested. In addition to the investors mentioned thus far, Jones identified Kenny Aronoff as an investor who he reports to have invested at least \$500,000.

161. Bill: How about Kenny Aronoff?

162. Jack: From what I have been told it was at least a half million, \$500,000.

Sworn Statement of Jack "Bubba" Jones, October 15, 2004

139. According to the civil case styled Kenneth David Aronoff v, Joseph DiBruno SR, Joesph DiBruno, JR, United States District Court, Southern District of Indiana, Case Number 04-CV-1126, Aronoff actually invested \$450,000 in the DiBruno shell corporation previously identified as International Food Technologies, Inc [IFT]. The Complaint alleges that the funds were never deposited to the intended account and credited to the corporate entity but were, instead, commingled with other funds and dissipated immediately upon receipt.

140. The Aronoff Complaint specifically alleges that,

***“DiBruno Junior and DiBruno Senior devised a scheme and/or artifice to defraud Aronoff or to obtain money or property from Aronoff by means of false or fraudulent pretenses, representations, or promises. DiBruno Junior and DiBruno Senior each participated in this scheme and/or artifice to defraud with the specific intent of diverting the funds sent by Aronoff and defrauding Aronoff.”***



141. Jones also identified others who had been persuaded to entrust the DiBrunos with investment capital that has disappeared. Jones identified David Eller as having lost \$100,000 or more; an unidentified mother and son who invested approximately \$150,000 and David Black who was reported to have invested \$50,000.

153. Bill: Okay. Do you know another David, maybe David Eller from Charlotte?

154. Jack: Yes.

155. Bill: Did he invest money with the DiBruno's?

156. Jack: As far as I can recollect, yes he did and as far as the amount wise, again I'm not exactly sure, but I believe his was at least \$100,000 or more.

171. Bill: Okay. So just to try to clarify. Darren is telling you that some friend of his mother's or of his brother's and that person's mother got together and invested approximately \$150,000 with Joe DiBruno?

172. Jack: Yes, approximately.

151. Bill: Do you know how much money David Black invested with the DiBruno's?

152. Jack: Estimated guess, maybe, exactly, no. Estimated about \$50,000, maybe.

Sworn Statement of Jack "Bubba" Jones, October 15, 2004

142. Jones expressed the suspicion that the DiBrunos never had any money that was not stolen from an innocent investor.

281. Bill: So are you telling me that basically as you sit here today you're beginning to wonder whether the DiBruno's ever actually had any money that they hadn't scammed somebody else out of?

282. Jack: Correct.

Sworn Statement of Jack "Bubba" Jones, October 15, 2004

143. Jones made it clear that he fully understood the ramifications of these “investments.” Jones verified that in every case that he was aware of, the scam fell through and the investors lost their entire investment.

173. Bill: Okay. Now with regard to these people and anyone else you know of who has ever invested significant money with the DiBruno’s, what happened to these people’s investments?

174. Jack: The company fell through.

175. Bill: Basically all these people lost their money?

176. Jack: It went belly up and all the investors were out their money.

Sworn Statement of Jack “Bubba” Jones, October 15, 2004

144. Jones acknowledged that, based upon his own personal involvement, he knew what had happened to the investor’s funds. Jones stated that most of the invested funds were divided up amongst the members of the DiBruno Family.

177. Bill: Okay. And from your personal knowledge basically because you were involved in cashing company checks you know where that money went don’t you?

178. Jack: Yes. I know where the majority of it should have went. Yes.

179. Bill: And where did the majority of the invested capital in these business entities go?

180. Jack: Most of the time it went to Joe or his family members.

Sworn Statement of Jack “Bubba” Jones, October 15, 2004

145. Jones testified that DiBruno JR routinely asked him to cash cheques that represented the proceeds of this unlawful activity.

61. Bill: Now, did there come a time when Joe DiBruno asked you to cash checks for him? Business checks?
62. Jack: Yes, all the time.

Sworn Statement of Jack "Bubba" Jones, October 15, 2004

146. Jones stated that DiBruno made the business checks payable to him personally.

65. Bill: Okay. And when you cashed these checks who were the checks made out to?
66. Jack: He made them out to me.

Sworn Statement of Jack "Bubba" Jones, October 15, 2004

147. Jones stated that he cashed the cheques and delivered the funds to whomever DiBruno instructed him to deliver them 100% of the time.

84. Jack: No, I took the money and done with it what I was directed from him and to who to give it to or give it to him or take it to wherever I had to take it to get it to whoever.
85. Bill: 100% of the time.
86. Jack: Yes, sir.

87. Bill: So anytime we see a check made payable to you with an indication that you cashed it for cash no matter what it says on the face of the check the fact is you took that cash and gave it to Joe DiBruno or to whomever Joe DiBruno told you to give it to.
88. Jack: Correct.

148. In his sworn statement, Jody Lee Hager made it clear that he had personally witnessed the family members dividing up the proceeds of the DiBrunos' criminal activities, referring to their portion as their "cut" or their "share."

got was through the same thing that his son is doing and I think that he looks up to his son and they are closer. When Joe, Jr. gets money, he does call his mother, brother and even his dad and I have seen money distributed whether it be evenly, I don't know. I have watched them handout money for no reason other than making a phone call riding with them to pick the money up and finding out later that it was from somebody investing in one type of business or another.

71. Bill: Did you every hear them describe it as your share or your cut any thing like that?

72. Jody: Absolutely, I have heard it both ways your share your cut.

Sworn Statement of Jody Lee Hager, October 18, 2004

149. Jack "Bubba" Jones corroborates Hager's statement and describes his personal involvement in the process. According to Jones, after he cashed the cheques that DiBruno JR provided, he delivered the cash as per DiBruno JR's instructions. Sometimes he delivered the cash to DiBruno JR, sometimes he delivered the cash to DiBruno SR, sometimes he delivered the cash to Lela DiBruno and other times he delivered the cash to Nick DiBruno. Jones also described other times when he would deliver the cash to the DiBrunos' home and everyone would show up to claim their share.

117. Bill: Okay. Now when you cashed these checks and got these amounts of some amount of cash less in the thousands of dollars but less than \$10,000, I'm assuming from what you are saying that often times you took that cash and physically delivered it to Joe DiBruno, Jr.?

118. Jack: Yes.

119. Bill: Were there occasions where you delivered that cash to Joe DiBruno, Sr.?

120. Jack: Yes.

121. Bill: Were there times when you delivered that cash directly to Joe DiBruno's mother?

122. Jack: Yes, there was.

123. Bill: Were there times when you delivered that cash to Joe DiBruno's brother, Nick?

124. Jack: Yes sir.

125. Bill: Were there times that you delivered cash to Joe DiBruno, Jr. and then became aware of his mother, his brother and/or his father showing up to collect some or all of that cash.

126. Jack: Yes.

Sworn Statement of Jack "Bubba" Jones, October 15, 2004

150. Jones is unequivocal in describing this as a family scam.

133. Bill: From what you are saying, is it clear to you as we sit here today that these guys were all working and this was a family thing?

134. Jack: Yes.

135. Bill: Whatever was going on, the whole family was in on it.

136. Jack: Correct.

137. Bill: Who's the boss?

138. Jack: If I had to say, I would say Joe, Sr.

151. In evaluating the credibility of Jones statements, it should be noted that his testimony is decidedly inculpatory and he is fully aware of that fact. In response to direct questions, Jones states that he is convinced that the DiBrunos are con artists and he is concerned that he could be held responsible for the activities in which he has been engaged

267. Bill: Do you think these people are con artists?

268. Jack: Yes. Definitely now.

269. Bill: Okay. As we sit here today are you concerned that they may have put you in a position where you could be held responsible for activities that they have talked you into doing?

270. Jack: Yes, most definitely.

Sworn Statement of Jack "Bubba" Jones, October 15, 2004

152. Jones, who was undeniably aware that the funds represented the proceeds of the DiBrunos' unlawful activities, acknowledged that he cashed a lot of cheques on a regular basis and he stated that he was aware that others were involved in this as well,

73. Bill: Okay. And over this period of time you say you basically cashed checks all of the time. We are talking about a lot of checks. Correct?

74. Jack: Frequently, yes.

75. Bill: Okay. Are you aware of others that were similarly directed to cash checks?

76. Jack: Yes.

77. Bill: Okay. Who else would that be.

78. Jack: Billy Winters is one and I think his Mom cashed a few also.

Sworn Statement of Jack "Bubba" Jones, October 15, 2004

153. In response to the specific question, Jones denied that any cheque was drafted in an amount to exceed \$10,000 and went on to acknowledge that he was aware of the currency reporting requirement threshold and admitted that the DiBrunos had involved him in a “structuring” scheme calculated to avoid reporting to the IRS. Jones implicated the DiBruno Family in this scheme describing occasions where DiBruno JR withdrew cash and other family members met him at the bank to get their “cut” or “share.”

93. Bill: Now were any of these checks in excess of \$10,000.
94. Jack: No, sir.
95. Bill: Do you understand the significance of checks cashed in excess of \$10,000?
96. Jack: Yes, sir.
97. Bill: And what do you understand the significance of cash transactions in excess of \$10,000 to be?
98. Jack: It has to be paperwork filled out for the IRS.

127. Bill: Did you ever have occasion to accompany Joe DiBruno, Jr. to a bank where he himself withdrew cash?
128. Jack: Yes.
129. Bill: Did you ever on those occasions see anyone else appear at the bank to get cash from those transactions. In other words, did anyone show up, meet with Joe, Jr. and get cash from Joe, Jr. after he withdrew these cash from the business accounts?
130. Jack: Yes.
131. Bill: What would that person or persons be?
132. Jack: His brother, his father or his mother.

Sworn Statement of Jack “Bubba” Jones, October 15, 2004

154. Jones reported that there were times when the DiBrunos tasked him with cashing cheques while DiBruno JR also cashed cheques and/or tasked others, such as Billy Winters, with cashing cheques, contemporaneously. Jones acknowledged that this was intended to conceal the amount of cash involved in these transactions.

105. Bill: Okay. Do you know if there were times when Joe DiBruno would have you cash checks while he himself contemporaneously cashed other checks or had Billy Winters cash checks at that same time?

106. Jack: Yes, a few times I do recall that.

107. Bill: From what you know now, do you believe that he had you cash these checks and I mean obviously if he was going to the bank himself he could have cashed them, do you think he had you and Billy Winters involved in this so it would not appear that he was taking out the amounts of cash that he was?

108. Jack: Yes, I do.

Sworn Statement of Jack "Bubba" Jones, October 15, 2004

155. In response to the specific question, Jack "Bubba" Jones acknowledged that DiBruno used him, and Billy Winters, to avoid the reporting requirements associated with cash transactions.

109. Bill: In other words, and just to put it very clearly. Do you believe that he used you and Billy Winters to avoid cash reporting requirements?

110. Jack: Yes, I believe that.

Sworn Statement of Jack "Bubba" Jones, October 15, 2004



## Summation

156. The DiBrunos are predators. Age, naïveté, inexperience, religious convictions all serve to render innocent people vulnerable to those who feel entitled to take anything they can steal without shame or remorse. The average civilized human being is completely unprepared to deal with predatory sociopaths, to whom words are the instruments of deception, and lying is an art form.
157. The DiBrunos of the world are as successful as they are, largely because the average person is incapable of conceptualizing the fact that a person they have known and trusted, a member of their congregation, or a relative, would betray them, destroy them financially, and divest them of all that they have worked for in their life – often at a point in their life when they cannot recover from it.
158. Like children so accustomed to having things their way, and living a life devoid of all discipline, the DiBrunos currently complain in the form of a Counter Claim that their victims hired me in an effort to “destroy” them. I wish to respond to that.
159. I was retained to investigate a crime, and do what I can to support an attorney’s best efforts to see justice done.
160. While I can imagine that the concept of justice is a terrible, frightening thing for those who have based, and indeed built, their entire lives upon deception, injustice and perversion, it is not incumbent upon me to have any sympathy or concern about that.
161. The DiBruno Family is an ongoing criminal enterprise, where corruption is passed proudly from father to son. These people represent an ongoing threat to anyone around them who has anything they want, and it is my sincerest hope that this sad case shall serve to bring this deviate dynasty to an end. Lord knows it is long overdue.

## Table of Offenses

### Securities Issues: 1) The Application of Securities Laws

Investment contracts are securities as defined by Section 2(1) of the Securities Act of 1933 (15 U. S. C. § 77b(1)), assuming they satisfy the requirements of the “Howey Test” as set forth in the seminal case, *Securities and Exchange Commission v. W. J. Howey Co.*, 328 U. S. 293, 66 S. Ct. 1100, 90 L. Ed. 1244.

The Howey Test consists of three elements: first, that there is an investment of money; second, that the scheme in which an investment is made functions as a common enterprise; and third, profits are to be derived solely from the efforts of individuals other than the investors.

Note that subsequent case law dispensed with the word "solely." The Ninth Circuit, in *S. E. C. v. Glenn W. Turner Enterprises*, 474 F. 2d 476, found an investment contract to exist where investors played a minimal role in the production of profits. See also *Koscot*.

In this case, we need not concern ourselves with these issues, as the DiBrunos have issued stock certificates as an adjunct to their schemes and artifices to defraud. I have identified hundreds of investors who entrusted the DiBrunos with their money in exchange for these worthless stock certificates, thereby joining in a common enterprise, with the expectation that they would derive significant profits. The investors played no significant role in the production of profits – indeed, there was no production of profits.

The promotion and sale of these stock certificates represents the sale and transfer of securities *per se*, but no matter how the DiBruno “investment” scams were documented and recorded, they fall within the statute as defined by Section 2(1) of the Securities Act of 1933 (15 U. S. C. § 77b(a)(1)), which states, in pertinent part:

### **Section 77b. Definitions**

(1) The term "security" means any note, stock, treasury stock, security future, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract . . . or, in general, any interest or instrument commonly known as a "security"

## Table of Offenses

### Securities Issues: 2) The Fraudulent and Deceptive Nature of the Acts

The Securities Act of 1933 was enacted in the aftermath of the “Great Depression,” in order to, *“provide full and fair disclosure of the character of the securities sold in interstate commerce and through the mails, and to prevent fraud in the sale thereof...”*

The DiBruno Family, directly or indirectly, singly or in concert, by use of the means or instruments of transportation or communication in interstate commerce, or of the mails, in the offer or sale, and in connection with the purchase or sale, of securities:

- a. employed devices, schemes and artifices to defraud; and
- b. obtained money from investors by and through false statements and misrepresentations; and
- c. engaged in acts, practices, transactions, or courses of business which operated, or would operate, as a fraud or deceit upon the purchasers of the various stock certificates and investment contracts

The DiBrunos, and their criminal associates have engaged, and are engaged, directly or indirectly, in acts, practices, and courses of business which constitute violations of Section 17(a) of the Securities Act, (15 U.S.C. § 77q(a)), which states, in pertinent part:

#### **Section 77q. Fraudulent interstate transactions**

It shall be unlawful for any person, in the offer or sale of any securities . . . by the use of any means or instruments of transportation or communication in interstate commerce, or by use of the mails, directly or indirectly:

1. to employ any device, scheme, or artifice to defraud; or
2. to obtain money or property by means of any untrue statement of a material fact; or
3. any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

The DiBrunos, and their associates have engaged, and are engaged, directly or indirectly, in acts, practices, and courses of business, which constitute violations of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), which states, in pertinent part:

**Section 78j. Manipulative and deceptive devices**

**It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange**

**(b) To use or employ, in connection with the purchase or sale of any security . . . any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.**

The DiBrunos, and their associates have engaged, and continue to engage, in acts, practices, and courses of business, which violate Section 10(b) of the Securities Exchange Act of 1934, Rule 10b-5, 17 C.F.R. § 240.10b-5, to which states, in pertinent part:

**17 C.F.R. § 240.10b-5 Employment of manipulative and deceptive devices.**

**It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange,**

**(a) To employ any device, scheme, or artifice to defraud**

**(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or**

**(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.**

There is probable cause to believe, and I do believe, that the DiBruno Family, and their criminal associates, have violated Section 17(a) of the Securities Act of 1933, 15 U.S.C. § 77q(a), and Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5 and associated state laws.

## Table of Offenses

### Securities Issues: 3) The Promotion and Sale of Unregistered Securities

Even if there was no fraud involved, the promotion and sale of these securities would still be unlawful. Securities must be registered via a Registration Statement pursuant to the provisions of the Securities Act of 1933, Title 15 U.S.C. § 77e(c), which states, in pertinent part:

#### **Section 77e. Prohibitions relating to interstate commerce and the mails**

##### **(c) Necessity of filing registration statement.**

**It shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed as to such security, or while the registration statement is the subject of a refusal order or stop order . . .**

The DiBruno Family, and their criminal associates, have marketed, promoted, sold and transferred stock certificates and investment contracts, securities as defined by Section 2(1) of the Securities Act of 1933, Title 15 U. S. C. § 77b(1), related to KB Records, Kolor Blynd Records, International Senatorial Committee, DiBruno Brothers Mining, International Food Tech, IBD Group, US Dairy, Golden Jersey, and other similar entities.

Diligent inquiry has failed to disclose any record that a securities registration statement has been in effect related to any of these entities.

The sale or transfer of unregistered securities is violative of Sections 5(a) and 5(c) of the Securities Act of 1933, Title 15 U.S.C. § 77e, which states, in pertinent part:

#### **Section 77e. Prohibitions relating to interstate commerce and the mails**

**(a) Sale or delivery after sale of unregistered securities. Unless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly—**

**(1) to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise . . .**

Consequently, there is probable cause to believe, and I do believe that the DiBruno family, and their criminal associates, have engaged in the unlawful sale and transfer of unregistered securities in violation of Sections 5(a) and 5(c) of the Securities Act of 1933, and associated state laws.

## Table of Offenses

### Securities Issues: 4) The Promotion and Sale by Unlicensed Brokers

Those persons who engage in the promotion, sale or transfer of securities must be registered pursuant to the provisions of Section 15(a) of the Securities Exchange Act of 1934, Title 15 U.S.C. § 78o, which states, in pertinent part:

#### **Section 78o. Registration and regulation of brokers and dealers**

##### **(a) Registration of all persons . . .**

**(1) It shall be unlawful for any broker or dealer which is either a person other than a natural person or a natural person not associated with a broker or dealer . . .to make use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security . . . unless such broker or dealer is registered in accordance with subsection (b) of this section.**

The DiBruno Family, and their criminal associates, have marketed, promoted, sold and transferred stock certificates and investment contracts, securities as defined by Section 2(1) of the Securities Act of 1933 (15 U. S. C. § 77b(1)), to KB Records, Kolor Blynd Records, International Senatorial Committee, DiBruno Brothers Mining, International Food Tech, IBD Group, US Dairy, Golden Jersey, and other similar entities.

A diligent inquiry has failed to disclose any record that any member of the DiBruno Family, or their criminal associates, are licensed to broker securities transactions, or any documentation that they are registered as an associated person with any broker dealer.

Consequently, there is probable cause to believe, and I do believe that the DiBruno Family, and their criminal associates, have unlawfully, and fraudulently, promoted and sold stock certificates and investment contracts, securities as defined by the Securities Act of 1933:

1. in violation of Section 17(a) of the Securities Act of 1933, 15 U.S.C. § 77q(a), and Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5 and associated state laws; and
2. without having the necessary licenses in violation of Section 15(a) of the Securities Exchange Act of 1934, as codified in Title 15 U.S.C. § 78o(a)(1) and counterpart state laws; and
3. without registration in violation of Sections 5(a) and 5(c) of the Securities Act of 1933, and associated state laws.

## Table of Offenses

### Money Laundering

It is unlawful to knowingly conduct a financial transaction involving the proceeds of unlawful activities, with the intent to violate tax laws, avoid financial transaction reporting requirements and/or promote the carrying on of specified unlawful activities, in violation of the provisions of Title 18, U.S.C. § 1956 which states, in pertinent part:

#### **Section 1956. Laundering of monetary instruments**

**(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity;**

**A) (i) with the intent to promote the carrying on of specified unlawful activity; or  
(ii) with intent to engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986 [26 USCS § 7201 or 7206]; or**

**B) knowing that the transaction is designed in whole or in part--  
(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or  
(ii) to avoid a transaction reporting requirement under State or Federal law,**

**shall be sentenced to a fine of not more than \$ 500,000 or twice the value of the monetary instrument or funds involved in the transportation, transmission, or transfer, whichever is greater, or imprisonment for not more than twenty years, or both.**

Note that the definition of Specified Unlawful Activity in 18 USC 1956 includes the offenses described in 18 USC 1961 as well as other enumerated offenses including Securities Fraud.

Also, to the extent that transactions in real or tangible property are involved, this gives rise to a separate offense. See Title 18 USC §1957.

There is probable cause to believe, and I do believe, that the DiBruno Family, their criminal associates, and others known, and/or as yet unidentified, have knowingly conducted financial transactions involving the proceeds of unlawful activities, and/or, engaged in a pattern of activity calculated to avoid financial transaction reporting requirements, with the intent to violate the provisions of the Internal Revenue Code and/or promote the carrying on of specified unlawful activities, to wit: securities fraud, mail fraud and wire fraud, in violation of Title 18 USC §1956, and/or Title 18 USC §1957

## Table of Offenses

### Bank Fraud: 1) Fraudulent Schemes that Victimize Banks

We have established that the DiBruno Family has repeatedly engaged in a pattern of activity calculated to induce lenders to extend credit based upon falsified documents. Specifically, but without limitation, the DiBruno Family has acted together, and in concert with others, to obtain automobile loans/leases secured by third party dupes who acted as co-signers based upon bogus documents that falsely misrepresented their income.

Most recently, the DiBruno Family persuaded Rachel Hale, a/k/a Rachel Bean, a vulnerable, gullible, nurse to believe that she would be receiving an annual salary of \$120,000 as a Manager at KB Records. The DiBruno Family produced, or caused to be produced, documentation to this effect, and persuaded Rachel Bean to act as a co-signor guarantor with respect to the purchase of a 2004 Land Rover.

The DiBruno Family has engaged in an identical pattern of activity in several prior cases. In this case, the lender was Fifth Third Bank, a federally insured financial institution.

#### **Title 18 USC §1344 defines Bank Fraud as follows**

**Whoever knowingly executes, or attempts to execute, a scheme or artifice—**

**(1) to defraud a financial institution; or**

Please note that the loss, or lack of loss, is irrelevant; here are some useful quotes:

Federally supported financial institution need not incur "loss" in order to be victim of false pretenses under *18 USCS § 1344*, since such construction would not punish conduct that led or could lead to loss. *United States v Mason (1990, CA9 Cal) 902 F2d 1434*.

Bank need not suffer financial loss in order to support conviction for bank fraud under *18 USCS § 1344*, since statute on its face does not require loss by bank, and statute should be read broadly. *United States v Solomonson (1990, CA8 Minn) 908 F2d 358, 31 Fed Rules Evid Serv 86*.

Crime of bank fraud does not require showing that defrauded bank suffered financial loss. *United States v Ponec (1998, CA8 Neb) 163 F3d 486*.

There is probable cause to believe, and I do believe, that the DiBruno Family, their criminal associates, and others known, and/or as yet unidentified, have knowingly masterminded schemes calculated to induce financial institutions to extend credit, and expose themselves to potential losses, using fraudulent documents of their own devise and production in violation of Title 18 USC §1344, more commonly referred to as Bank Fraud



## Table of Offenses

### Bank Fraud: 2) Defrauding Third Parties of Funds Held by Banks

Furthermore, the DiBruno Family, Minges, Lowther and/or other criminal associates, have engaged in an ongoing series of schemes and artifices to defraud third parties of funds held by financial institutions. At this point, we have identified approximately **five hundred** victims.

Just as involving wire services in a scheme to defraud is “Wire Fraud,” and the unlawful use of the mails in furtherance of a scheme to defraud is “Mail Fraud,” it is unlawful to fraudulently divest scam victims of funds held in the custody and control of financial institutions.

#### **Title 18 USC §1344 defines Bank Fraud as follows**

**Whoever knowingly executes, or attempts to execute, a scheme or artifice—**

**(2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises**

In other words, each and every time that the DiBruno Family, and/or their criminal associates, fraudulently persuaded someone to surrender funds, assets, securities, money or property under the custody or control of a financial institution, they committed a unique and separate offense.

Here are some useful quotes:

In order to have specific intent required for bank fraud under *18 USCS § 1344(2)*, defendant need not have put bank at risk of loss in usual sense or intended to do so; rather, it is sufficient if defendant in course of committing fraud on another causes federally insured bank to transfer funds under its possession and control. *United States v Everett (2001, CA6 Ohio) 270 F3d 986, 2001 FED App 368P*, rehearing, en banc, denied (2002, CA6) 2002 US App LEXIS 323.

Bank need not be immediate victim of fraudulent scheme, and need not be actually victimized as long as defendant acted with requisite intent; therefore, actual or potential loss to bank is not element of crime of bank fraud but merely description of required criminal intent. *United States v Barrett (1999, CA2 NY) 178 F3d 643*.

Consequently, there is probable cause to believe, and I do believe, that the DiBruno Family, and/or their criminal associates have committed Bank Fraud, in violation Title 18 USC 1344, in that they have, on several occasions, induced financial institutions to expose themselves to risks via fraudulent misrepresentations, and they have repeatedly engaged in fraud and misrepresentation to persuade third parties to surrender millions of dollars in money, assets, and/or other property in the custody or control of financial institutions

## Table of Offenses

### Structuring: Avoiding Currency Reporting Requirements (“Smurfing”)

We have credible sworn testimony to the effect that the DiBruno Family, and their criminal associates, have deliberately, and aggressively, worked to transfer incoming investment capital to cash, while avoiding currency reporting requirements. The reporting requirement is codified in Title 26 USC §6050I entitled, “Returns relating to cash received in trade or business, etc.,” at subsection (a), which says, in pertinent part:

#### **26 USC §6050I Returns relating to cash received in trade or business, etc**

- (a) Cash receipts of more than \$ 10,000. Any person--**  
**(1) who is engaged in a trade or business, and**  
**(2) who, in the course of such trade or business, receives more than \$10,000 in cash in 1 transaction (or 2 or more related transactions),**

**shall make the return described in subsection (b) with respect to such transaction (or related transactions) at such time as the Secretary may by regulations prescribe.**

The offense of “Structuring” is defined in Title 26 USC §6060I at subsection (f), which says, in pertinent part:

- (f) Structuring transactions to evade reporting requirements prohibited.**  
**(1) In general. No person shall for the purpose of evading the return requirements of this section--**  
**(A) cause or attempt to cause a trade or business to fail to file a return required under this section,**  
**(B) cause or attempt to cause a trade or business to file a return required under this section that contains a material omission or misstatement of fact, or**  
**(C) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more trades or businesses.**

In addition to sworn testimony, we have the bank records in support thereof. These records reveal that DiBruno Family members have converted incoming investment capital to cash; the frequency of these transactions and the amounts involved are prima facie evidence of “Structuring.” Furthermore, the bank records corroborate the statements of those who claim to have been duped into being involved in these unlawful transactions.

Consequently, there is probable cause to believe, and I do believe, that the DiBruno Family, and/or their criminal associates have committed the offense of “Structuring,” in violation of Title 26 USC §6060I(f).

## Table of Offenses

### Wire Fraud: Fraud by Telephone, E-Mail and Internet

The DiBruno Family, and their criminal associates, are known to have utilized telephones and cell phones in furtherance of their above referenced schemes to defraud. At this point, we have identified approximately **five-hundred** (500) people who have been persuaded to invest in worthless stock certificates and investment contracts.

It is unlawful to use wire services, telephones, e-mail, and the Internet to transfer or transmit writings, signs, signals, pictures, or sounds for the purpose of executing a scheme to defraud, or in furtherance of any scheme to obtaining money or property by means of false or fraudulent pretenses, representations, or promises, pursuant to the provisions of Title 18 U.S.C. 1341, which states, in pertinent part:

#### **Section 1343. Fraud by wire, radio, or television**

**Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both.**

Thus far, we do not know whether, and/or to what extent, they have utilized e-mail, but it has been dispositively established that “e-mail” falls within the rubrics of mail fraud and wire fraud assuming that the e-mail communications were part of a scheme or artifice to defraud. See *VanDenBroeck v CommonPoint Mortg. Co.* (2000, CA6 Mich) 210 F3d 696, RICO Bus Disp Guide (CCH) P 9876, 2000 FED App 153P.

There is no doubt that the DiBruno Family, and/or their criminal associates, have used wire services and telephones to promote various schemes to defraud, communicate in furtherance thereof, and collect payments associated therewith.

Consequently, there is probable cause to believe, and I do believe, that the DiBruno Family, and their criminal associates, have: fraudulently marketed, promoted, sold and transferred stock certificates and investment contracts; communicating with their victims, third parties and each other; and collected the proceeds derived of fraudulent securities transactions associated with their promotion of KB Records, Kolor Blynd Records, International Senatorial Committee, DiBruno Brothers Mining, International Food Tech, IBD Group, US Dairy, Golden Jersey, and other similar entities, in violation of Title 18 USC §1343, commonly known as Wire Fraud.

## Table of Offenses

### Mail Fraud: Fraud by US Mail or Private Carrier

The DiBruno Family, and their criminal associates, are known to have utilized telephones and cell phones in furtherance of their above referenced schemes to defraud. At this point, we have identified approximately five-hundred (500) people who have been persuaded to invest in worthless stock certificates and investment contracts.

It is unlawful to use the United States Postal Service, or any private mail carrier, in furtherance of any scheme to defraud, or in furtherance of any scheme to obtain money or property by means of false or fraudulent pretenses, representations, or promises, pursuant to the provisions of Title 18 USC § 1341, more commonly referred to as Mail Fraud.

It is irrelevant whether the offending party sent the item, received the item, or caused others to send and/or receive the item; the offense of Mail Fraud is defined by Title 18 U.S.C. 1341, which states, in pertinent part:

#### **Section 1341. Frauds and swindles**

**Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any . . . security, or other article . . . places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom . . . shall be fined under this title or imprisoned not more than 20 years, or both.**

There is no doubt that the DiBruno Family, and/or their criminal associates, have used the US Postal Service, and/or private mail carriers to promote their various schemes to defraud, communicate in furtherance thereof, and/or collect payments associated therewith.

Consequently, there is probable cause to believe, and I do believe, that the DiBruno Family, and their criminal associates, have: fraudulently marketed, promoted, sold and transferred stock certificates and investment contracts; communicating with their victims, third parties and each other; and collected the proceeds derived of fraudulent securities transactions associated with their promotion of KB Records, Kolor Blynd Records, International Senatorial Committee, DiBruno Brothers Mining, International Food Tech, IBD Group, US Dairy, Golden Jersey, and other similar entities, in violation of Title 18 USC §1341, more commonly known as Mail Fraud.

## Table of Offenses

### Tax Fraud: Tax Evasion

By and through their ongoing pattern of criminal activity, the DiBruno Family, and their criminal associates have derived an extraordinary income that they have no doubt failed to declare for tax purposes.

The offense of Tax Evasion is defined in Title 26 USC §7201, which says, in pertinent part:

#### **Title 26 USC §7201 Attempt to evade or defeat tax.**

**Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$ 100,000 (\$ 500,000 in the case of a corporation), or imprisoned not more than 5 years, or both, together with the costs of prosecution.**

The elements of Tax Evasion are willfulness, a tax deficiency, and an affirmative act constituting an evasion of a tax, such as the filing of a fraudulent tax return. *United States v Coppola (1969, CA2 Conn) 425 F2d 660, 69-2 USTC P 9735, 24 AFTR 2d 69-5927.*

It is clearly established that the fruits of criminal enterprise are taxable directly, and as community property. In one case, the taxpayer's failure to report community property share of drug trafficking proceeds as income constituted tax evasion. *United States v Whittenburg (1993, CA9 Nev) 73 AFTR 2d 94-853, 94 TNT 19-25.*

The government need not establish the exact amount of the defendant's income or liability if it is clear that such income was greater than that returned. *Schuermann v United States (1949, CA8 Mo) 174 F2d 397, 49-1 USTC P 9281, 37 AFTR 1452, cert den 338 US 831, 94 L Ed 505, 70 S Ct 69, reh den 338 US 881, 94 L Ed 541, 70 S Ct 156, 38 AFTR 749.*

It should be noted that signing a false corporate return, and evasion of personal income taxes are two distinct crimes, so that one sum of unreported money can give rise to both evasion of personal income tax and subscribing materially false corporate income tax return. *United States v Larson (1980, CA8 Minn) 612 F2d 1301, 80-1 USTC P 9137, 45 AFTR 2d 80-538, cert den 446 US 936, 64 L Ed 2d 789, 100 S Ct 2154.*

Consequently, there is probable cause to believe, and I do believe, that the DiBruno Family, and their criminal associates, have dramatically under reported their income, and their associated tax liabilities with regard to their personal income tax filings, and/or the corporate income tax filings of KB Records, Kolor Blynd Records, International Senatorial Committee, DiBruno Brothers Mining, International Food Tech, IBD Group, US Dairy, Golden Jersey, and other similar entities, in violation of Title 26 USC §7201, commonly known as Tax Evasion.

## Table of Offenses

### Tax Fraud: Failure to Pay Over

The DiBruno Family has exposure to criminal tax charges beyond their own failures to report illicit income and pay taxes thereon. They are known to have withheld payroll taxes from various employees which they failed to pay over as evidenced by the sworn statements of various employees, as supported by their associated payroll statements.

The offense of failing to account for, collect and pay over income taxes is defined in Title 26 USC §7202 entitled, “Willful failure to collect or pay over tax,” that says, in pertinent part:

#### **Title 26 USC §7202. Willful failure to collect or pay over tax.**

**Any person required under this title to collect, account for, and pay over any tax imposed by this title who willfully fails to collect or truthfully account for and pay over such tax shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$ 10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.**

The DiBruno Family members have been officers and/or owners of business entities that failed to account for, collect, and pay over employee income taxes and social security contributions, they can be held criminally culpable. An officer and part owner of a business is a person required to collect, account for and pay over withholding taxes, and accordingly such officer's failure to account for and pay over withholding taxes due from business constitutes violation of § 7202. *United States v Thayer (1999, CA3 Pa) 201 F3d 214, 2000-1 USTC P 50136, 84 AFTR 2d 7497, cert den (2000) 530 US 1244, 147 L Ed 2d 963, 120 S Ct 2691.*

Note that case law establishes variance between allegations of indictment charging willful failure to truthfully account for and pay over FICA and federal income taxes withheld from employee wages although proof showed that there were no collections, since employer merely retains money already in his possession which is part of employee's wages, and after computing tax, employer, out of his own funds, pays remaining amount due employee and, also out of his own funds, is required to pay taxes withheld. *United States v Porth (1970, CA10 Kan) 426 F2d 519, 70-1 USTC P 9329, 25 AFTR 2d 961, cert den (1970) 400 US 824, 27 L Ed 2d 53, 91 S Ct 47.*

Consequently, there is probable cause to believe, and I do believe, that the DiBruno Family, and their criminal associates, have failed to account for, collect and pay over FICA and federal income taxes withheld from employees of KB Records, Kolor Blynd Records, International Senatorial Committee, DiBruno Brothers Mining, International Food Tech, IBD Group, US Dairy, Golden Jersey, and other similar entities, in violation of Title 26 USC §7202.

## Table of Offenses

### Tax Fraud: Fraud and False Statements

In addition to filing false tax returns, we have developed evidence that the DiBruno Family, and their criminal associates, have deliberately concealed paintings, guns, jewelry and other valuables in anticipation of an IRS inspection, and in an effort to avoid levy by the IRS.

These offenses are defined in Title 26 USC § 7206 entitled, "Fraud and false statements," which says, in pertinent part:

#### **Title 26 USC § 7206 Fraud and false statements**

##### **Any person who--**

**(1) Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct . . .; or**

**(4) Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized . . .; or**

**Shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$ 100,000 (\$ 500,000 in the case of a corporation), or imprisoned not more than 3 years, or both, together with the costs of prosecution.**

Upon information and belief, the DiBruno Family has been, and continues to be, engaged in an ongoing pattern of criminal activity, the essence of which is the generation of income via securities fraud, the conversion of that income to cash, and the use and/or concealment thereof. It is a foregone conclusion that they have filed false tax returns and failed to report the proceeds of their criminal activities as income.

The DiBruno Family has recruited third party assistance in concealing personal assets in the face of an IRS levy, in an effort to defeat the government's efforts to collect the tax. Specifically, they are alleged to have spirited away valuable paintings, guns, jewelry and other valuables,

Consequently, there is probable cause to believe, and I do believe, that the DiBruno Family, Minges, Lowther and/or other criminal associates, have filed false tax returns and concealed assets in an effort to evade the IRS collections process in violation of Title 26 USC §7206.

## Table of Offenses

### Conspiracy:

The DiBruno Family, Minges, Lowther, and/or other criminal associates, known and as yet unidentified, have been engaged, and continue to engage in a pattern of criminal activity that has been ongoing for at least twenty years in Florida, North Carolina, and elsewhere. Acting together, and in concert with one another, they have defrauded hundreds, and perhaps thousands, of unwary investors of tens of millions of dollars. In so doing, they have unlawfully, willfully, and knowingly combined, conspired, confederated, and agreed together, and with each other, to violate the laws of the United States, as set forth above.

Title 18 USC § 371 says, in pertinent part:

#### **§ 371. Conspiracy to commit offense or to defraud United States**

**If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.**

Conspiracies to defraud IRS are indictable offenses under *18 USCS § 371*, notwithstanding defendants' contention that statute was preempted by Congress' enactment of comprehensive penal provisions of Internal Revenue Code. *United States v Little (1984, CA9 Cal) 753 F2d 1420, 84-2 USTC P 9889, 55 AFTR 2d 85-345.*

Please note that Conspiracy is a continuing offense. For statutes such as 18 U.S.C. § 371, which require an overt act in furtherance of the conspiracy, the statute of limitations begins to run on the date of the last overt act. *See Fiswick v. United States, 329 U.S. 211 (1946); United States v. Butler, 792 F.2d 1528 (11th Cir. 1986).* The crucial question in this regard is the scope of the conspiratorial agreement, and the conspiracy is deemed to continue until its purpose has been achieved or abandoned. *See United States v. Northern Imp. Co., 814 F.2d 540 (8th Cir. 1987); United States v. Coia, 719 F.2d 1120 (11th Cir. 1983), cert. denied, 466 U.S. 973 (1984).*

Consequently, there is probable cause to believe, and I do believe, that the DiBruno Family, Minges, Lowther, and/or other criminal associates, unlawfully, willfully, and knowingly combined, conspired, confederated, and agreed together, and with each other, to violate the laws of the United States, in that they have fraudulently promoted, sold and transferred unregistered securities in the form of stock certificates and investment contracts; utilized the means and instrumentalities of interstate commerce, wire services and the mails in furtherance thereof; laundered the proceeds thereby derived; defrauded federally insured financial institutions; and evaded taxes attributable thereto, in violation of Title 18 USC §371, more commonly referred to as Conspiracy.



## Table of Offenses

### The RICO Act:

During the course of my career, I have oft heard it asked, “*Can we make a RICO case out of this?*” With regard to violation of Title 18 USC §§1961. et. seq., this wannabe Soprano “dog and pony show” makes itself.

Title 18 USCS §1962 defines the activities prohibited pursuant to the RICO Act as follows:

#### **Title 18 USCS §1962 Prohibited activities**

**(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity . . . to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce . . .**

**(b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.**

**(c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.**

**(d) It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.**


The DiBruno Family, and their criminal associates, are “persons” within the meaning of this statute, and their criminal activities in violation of federal law as set forth herein, qualify as a pattern of racketeering activity. KB Records, Kolor Blynd Records, International Senatorial Committee, DiBruno Brothers Mining, International Food Tech, IBD Group, US Dairy, Golden Jersey, and other similar entities, that served as the backdrop for their schemes and artifices to defraud, are properly categorized as enterprises engaged in, or affected, interstate or foreign commerce.

Consequently, there is probable cause to believe, and I do believe, that the DiBruno Family, Cecil Minges, Lee Lowther and/or other criminal associates, have engaged in a pattern of racketeering activity violative of the provisions as codified in Title 18 USC §§ 1961 et seq., and conspired with themselves and each other, to violate the provisions of Title 18 USC §§ 1961, et seq., more commonly referred to as the RICO Act.

FURTHER DECLARANT SAYETH NOT.

I declare under penalty of perjury, pursuant to the provisions of 28 U.S.C. §1746, and Florida Law, that all of the statements made in this Declaration are true and correct to the best of my information, knowledge, and belief.

Executed this 24<sup>th</sup> day of February, 2005, in Collier County, Florida.

A handwritten signature in black ink, appearing to read 'Bill E. Branscum', with a large, stylized initial 'B' and a horizontal line extending to the right.

Bill E. Branscum, Investigator

Oracle International

(239) 304-1639

[OracleIntL@aol.com](mailto:OracleIntL@aol.com)