IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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* *

WILLIAM RODRIGUEZ,

Plaintiff,

No. 04-4952

-against-

COMPLAINT IN CIVIL ACTION

1. GEORGE HERBERT WALKER BUSH,

TRIAL BY JURY DEMANDED

2. GEORGE WALKER BUSH,

3. JOHN "JEB" BUSH,

4. NEIL MALLON BUSH,

5. MARVIN BUSH,

6. RICHARD CHENEY,

7. DONALD H. RUMSFELD,

8. DOV ZAKHEIM,

9. COLIN POWELL,

10. RICHARD ARMITAGE,

11. CONDOLEEZA RICE,

12. JOHN ASHCROFT,

13. ROBERT S. MUELLER III,

14. DAVID FRASCA,

15. GEORGE J. TENET,

16. PORTER GOSS,

17. NORMAN Y. MINETA,

18. LARRY K. ARNOLD,

19. TOM RIDGE,

20. MARK RACICOT,

21. THE REPUBLICAN NATIONAL COMMITTEE, INC.,

22. ALAN GREENSPAN,

23. THOMAS A. KEAN,

24. JAMIE S. GORELICK,

25. PHILLIP D. ZELIKOW,

26. JOHN F. LEHMAN,

27. FRED F. FIELDING,

28. KARL ROVE,

29. THOMAS DeLAY,

30. RICHARD PERLE,

31. PAUL WOLFOWITZ

32. RICHARD MYERS,

33. RALPH E. EBERHART,

34. KENNETH R. FEINBERG,

35. HALLIBURTON COMPANY,

36. KELLOG BROWN & ROOT SERVICES,

37. THE PROJECT FOR THE NEW AMERICAN CENTURY, INC.,

38. ELECTION SYSTEMS & SOFTWARE,

39. DIEBOLD VOTING SYSTEMS, INC.,

40. WALDEN O'DELL,

41. SEQUOIA VOTING SYSTEMS, INC.

42. CHUCK HAGEL,

43. SAXBY CHAMBLISS,

44. NEW BRIDGE STRATEGIES, LLC

45. JOE M. ALLBAUGH,

46. JAMES A. BAKER III,

47. JOHN SWEENEY,

48. MATTHEW SCHLAPP,

49. THOMAS PYLE,

50. MICHAEL MURPHY,

51. GARRY MALPHRUS,

52. CHARLES ROYAL,

53. KEVIN SMITH,

54. THE UNITED STATES OF AMERICA,

55. THE UNITED STATES. DEPARTMENT OF HOMELAND SECURITY,

56. THE FEDERAL EMERGENCY MANAGEMENT AGENCY; and

57. DOE #1 Through DOE #100,

Defendants.

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Plaintiff, by his undersigned attorney, Philip J. Berg, Esquire, as and for his Complaint against the Defendants, respectfully alleges:[1]

I. INTRODUCTION

1. The Plaintiff, William Rodriguez, is a native of Puerto Rico, a citizen of the United States, and a resident of the State of New Jersey. On September 11, 2001, and for approximately nineteen years prior thereto, Rodriguez was employed as a maintenance worker at the World Trade Center ("WTC") in New York, New York. On 9-11,[2] Rodriguez single-handedly rescued fifteen (15) persons from the WTC, and — as Rodriguez was the only person at the site with the master key to the North Tower stairwells — he bravely led firefighters up the stairwell, unlocking doors as they ascended, thereby aiding in the successful evacuation of unknown hundreds of those who survived.

2. Rodriguez, at great risk to his own life, re-entered the Towers three times after the first, North Tower impact at about 8:46 A.M., and is believed to be the last person to exit the North Tower alive, surviving the building's collapse by diving beneath a fire truck. After receiving medical attention at the WTC site for his injuries, Rodriguez spent the rest of 9-11 aiding as a volunteer in the rescue efforts, and at dawn the following morning, was back at "Ground Zero" continuing his heroic efforts.

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[1] N.B. Material set forth in footnotes is for reference and/or the edification of the reader, and should not be deemed to be allegations requiring a response by any Defendant. Also, while efforts have been made to ensure the correctness of citations to published sources, such references should not be deemed part of this complaint for purposes of Rule 11, Fed. R. Civ. P. Also, in some instances, citations have been made to internet web sites, which may become, or may already have become, inaccessible.

[2] As used herein, "9-11" refers variously – according to the context – to the date of September 11, 2001, as well as globally to the events related to the seizure and diversion of aircraft and the strikes against the World Trade Center and the Pentagon on that day.

3. Rodriguez lost his employment of 19 years and his means of earning a living as a direct result of the attacks on the WTC on 9-11. Deeply affected, as one might imagine, by his experiences of 9-11, Rodriguez has, in a variety of capacities and through several different organizations, worked ever since that terrible day to help others who were affected by the atrocities committed. He has continued in these labors, notwithstanding the fact that, due to the loss of his employment, he has been unable to earn a living, and was even homeless for a time.

4. While there have been convened two purported "investigations" of 9-11, one by a joint committee of Congress plus a second, "independent" investigation conducted, in the main, by the Commission chaired by Thomas Kean[3] and comprised of persons with flagrant conflicts of interest, neither investigation has addressed in earnest and transparently — much less made known to the public — the facts of what really happened on 9-11 to deprive plaintiff of his livelihood, and to cause the deaths of approximately 2,993 persons from some 83 countries (most of the deceased being citizens of the United States).

5. The government, and most of the major media allied with, or operating in fear of offending, the Bush II Administration, would have the public believe that the facts of by whom and in what manner the 9-11 attacks were carried out have been investigated, and the 2,993 homicide cases are "closed," but for the hoped-for capture of Osama bin Laden and others of the "al Qaeda" network who may have aided in the attacks. Literally within just a few hours following the attacks, government and corporate media sources put forth an "Official Story" which, with minor patching-up to gloss over revelations that President George W. Bush and other high government and military officials had many, surprisingly specific warnings of terror attacks using airplanes as weapons, is essentially as follows. Four planes, American Airlines

[3] Formally, the National Commission on Terrorist Attacks Upon the United States, hereinafter referred to as the "Commission."

Flights 11 and 77, and United Airlines Flights 93 and 175, were hijacked by four teams of Arab hijackers totaling 19 men. The hijackers were part of a decentralized network of Islamist militants, whose leader (or one of whose top leaders) is Osama bin Laden, who although generally acknowledged as a onetime CIA "asset" (at the time that the U.S. Government and the CIA funneled funds to anti-Soviet militants fighting in Afghanistan) is now depicted as a devout enemy of America. Bin Laden, and the hijackers, are said to have been motivated by their hatred for America (in President Bush's words by hatred of "our freedoms") and resentment over U.S. troops remaining stationed in Saudi Arabia and other Muslim countries, U.S. support for Israel and its treatment of the Palestinian Arabs, and perceived American opposition to Islam. Initially, the "Official Story" claimed that the attacks came "without warning," that "no one could have imagined [them]." As such claims were resoundingly discredited, the story was revised to assert that such warnings as were received were too indefinite to allow actions as might have prevented the attacks from occurring. Upon information, *not one* American who held on 9-11 a position in the Government, the military, the affected airlines, the airport security systems, or the civilian air traffic control systems has been discharged, or forced to resign his or her job, or court martialled due to failure to do their duty in respect of the attacks. The Official Story, of course, fails even to consider as within the realm of possibility that high government or military personnel may have affirmatively desired that the attacks succeed, and for that reason failed to take measures as might have prevented the attacks or, once the same were in progress, mitigated the loss of life (such as intercepting the diverted aircraft before the WTC and the Pentagon were struck). That such persons might have actively participated in planning or sponsoring the attacks, or enabling the attacks to succeed, is considered so incredible as to be unworthy of refutation by the proponents of the "Official Story."

6. As will be examined below, to accept the Official Story as true, one must ignore much evidence to the contrary, believe many facts that range from implausible to impossible, and ignore the stunning number of bizarre "coincidences" which alone can explain the events of 9-11, if one rejects that the attacks were an "inside job." Although the infrequent references to "9-11 skeptics" in mainstream media generally denigrate them as "tinfoil hat-wearing" eccentrics, or persons who hate America, in point of fact large numbers of Americans harbor serious doubt as to the veracity of the Official Story. Indeed, a mainstream publication (Harpers) is running in its October 2004 issue a 12-page essay by Benjamin de Mott entitled "Whitewash as Public Service: How the 9/11 Commission Report Defrauds America." On August 31, 2004, Zogby International, a respected polling organization, released the results of surveys taken in the days preceding the 2004 Republican National Convention, indicating that 49.3% of the population of New York City, and 41% of the residents of New York State, were of the belief that the U.S. government "knew in advance that attacks were planned on or about September 11, 2001 . . . and consciously failed to act." Such figures, especially given that major media (like the Commission) have assiduously "whitewashed" the facts of the actual 9-11 attacks for more than three years, are astounding. Thus, however disturbing the implications of the plaintiff's allegations in this lawsuit, he cannot be dismissed as a lone eccentric. As an American and as an undisputed hero of the events in question, Rodriguez, in demanding the truth of those events that cost him his job and anguish as few people are called upon to undergo, deserves the full benefits of American justice, and his day in court.

7. Plaintiff's RICO claim is supported by the following compelling facts, among others, which he intends to prove at trial:

a. Scientific data clearly indicates that the World Trade Center buildings, including the little-discussed Building 7, were destroyed by means of controlled demolitions, of the sort that take weeks or months to prepare and could only have been an "inside job"; there were large explosive charges in the sub-basements of both of the Twin Towers, as well as smaller charges used to bring the buildings down in an orderly fashion, and neither tower collapsed due solely to the aircraft impacts or heat generated by the burning of jet fuel on the aircraft;

b. FDNY employees were and continue to be under a "gag order" imposed by senior FDNY officials on instructions of ex-CIA director James Woolsey and others, which forbids them to talk about (among other things) multiple explosions at the WTC on 9-11;

c. WTC Building 7 was deliberately "pulled" (demolished) by agreement between the FDNY and Larry Silverstein shortly after 5:00 P.M. on 9-11, as he himself admitted on public television;

d. FEMA, the agency that deliberately removed or destroyed the physical WTC evidence before independent experts could examine it could examine it, has as its principal purpose the perpetuation of an invisible government designed to replace our existing elected government;

e. All of the planes, excepting possibly Flight 11, could and ought to have been intercepted before striking their putative targets;

f. Military intervention was delayed because of a military exercise that simulated an attack on the Pentagon, which was being carried out on the morning of 9-11

– an attack of which the perpetrators could have known only with access to inside information;

g. To successfully make the many and lengthy cell phone calls allegedly made by passengers from the hijacked planes was statistically impossible, given the prevailing state of cell phone technology;

h. The sophisticated flight maneuvers attributed to the terrorist pilot who allegedly flew into the Pentagon were far too complex for a man who flunked flight training school;

i. No reliable evidence puts any Arabs, or persons with Arab names, on any of the four diverted aircraft of 9-11;

j. The missile that struck the Pentagon was not Flight 77; the hole made in the Pentagon on 9-11 was too small to accommodate an airliner, and no airliner debris appears in any photograph of the wreckage;

k. President Bush and other senior officials had multiple, actionable warnings of the attacks (if, indeed, they did not sponsor and schedule the attacks);

l. The "insider trading" on United, American Airlines and other 9-11-affected stocks was the subject of an ongoing cover-up, to conceal the identities of persons who had advance notice of the 9-11 attacks;

m. Significant evidence indicates that Flight 93 was shot down, and did not crash due to a struggle between hijackers and passengers; and that stories to the contrary were

fabricated by the Enterprise (as defined in paragraphs 88-91 hereafter) for the media, which it largely owns and controls; and

n. The Enterprise, and American oil, gas, weapons, private security (mercenary) and other Enterprise-affiliated and Enterprise-friendly financial interests have profited, and continue to profit, from the "war on terror" within the United States, the military actions taken in Afghanistan and Iraq, and the extreme right-wing view of "national security"; and economic advantage favors the continuation and expansion of those efforts.

8. As will be shown, the Official Story of 9-11, in all or most of its material details, is a propaganda exercise and untrue, which untruth the Enterprise and the Bush II Administration dearly wish to maintain in the minds of the majority of the American people. A number of the points raised above are detailed in this complaint as a sampling of the weight of evidence currently available. Plaintiff submits that the cumulative body of this evidence mandates a fair hearing in a court of law.

9. Without a true investigation — not a cover-up, not a "limited, modified hang-out" largely restricted to supposed "intelligence failures" — plaintiff, and indeed every victim of 9-11 and the country at large, will be denied justice, and the American people will be denied the truth of the most stunning, catastrophic and consequential event within our borders since (at least) the assassination of President John F. Kennedy in 1963. Owing to the Republican Party's control of Congress and the immense power of the defendants at bar, as a practical matter either the truth concerning 9-11 will emerge because of and through discovery and a public trial in this lawsuit, or the same will remain concealed, perhaps for decades.

10. Plaintiff avows at the outset that he does not know all the facts of the catastrophes of 9-11, but his study of facts available in the public domain — most of which come from "conventional" or "mainstream" news media, or agencies of the U.S. government — have convinced him, to a moral certainty (as they have convinced millions of Americans who, regrettably, are being ignored by Congress and establishment media) that the "Official Story" is a government propaganda exercise, and a "Big Lie" in the ugly tradition of Joseph Goebbels, to maintain the control of the elite over the masses.

11. Plaintiff's study of 9-11 leads him to conclude, and therefore to allege upon information and belief as set forth below, that President George W. Bush, his father, former President George H. W. Bush, his brothers, Jeb Bush, Neil Mallon Bush, and Marvin Bush, Vice President Richard Cheney, Secretary of Defense Donald H. Rumsfeld, National Security Advisor Condoleeza Rice, then-Acting Chairman of the Joint Chiefs of Staff, General Richard Meyers, then-NORAD chief Gen. Ralph E. Eberhart, then-FEMA Director Joe M. Allbaugh, Senior Political Advisor Karl Rove, and others of the Defendants had actual knowledge, prior to September 11, 2001, that on or about that date one or more commercial airliners would be commandeered or diverted, flown into a landmark building or structure within the territory of the United States, and that the deaths of all or most of the passengers on the airplane(s), as well as hundreds or thousands of people in and about the targeted building(s), would result.

12. Plaintiff further alleges on information and belief that Defendants not only had foreknowledge that the World Trade Center and other landmark targets would be attacked on 9-11, with mass casualties being an intended result, but that they actively conspired to bring about a "new Pearl Harbor," in order to promote a criminal enterprise classically within the reach of the RICO statute. Plaintiff will not be equivocal. His complaint is not based on allegations of

the defendants' negligence, nonfeasance, errors in judgment, poor management of various branches of the government bureaucracy, or intelligence failures (*e.g.*, failing to resolve "turf battles" among security agencies such as the CIA and the FBI, or failing to "connect up the dots" of supposedly sketchy information that threatened possible attacks on American soil). Although all of the foregoing may have occurred, plaintiff is accusing the defendants[4] of foreknowledge of, and (in the case of most of the defendants) *approval and sponsorship* of the 9-11 attacks, kidnapping, arson, murder, treason against the United States, conspiracy to commit the foregoing and multiple other crimes (many of which are enumerated "predicate acts" under the RICO statute), aiding and abetting such crimes, and/or being accessories after the fact to the same.

13. In today's world — and especially in the United States, where agricultural employment has virtually disappeared and manufacturing jobs are fleeing overseas — more than in any other sectors (with a few favored exceptions, of which the pharmaceutical companies are an example) big money is made primarily in the following areas: (1) war preparations, and the international trade in weapons, both legal and illegal; (2) oil, gas, and related energy services; (3) trafficking in narcotics and other illegal drugs; (4) "white collar crime," e.g., embezzlement, securities fraud, insider trading, price-fixing, the illegal manipulation of markets, denuding funds from banks and pension plans, large-scale identity and credit-card theft, stealing huge sums of money from government-funded programs, blackmailing public officials, etc.; (5) trafficking in humans, in part for forced labor, but primarily the abducting and selling of women and children for sex; and (6) money laundering, to "cleanse" the (mostly) illegal proceeds of the foregoing. Although space does not permit the full exposition of the same in this complaint, upon information and belief, members of the Enterprise alleged herein have been directly involved, or

[4] With the exception of the Florida Election Riot Defendants.

long and closely associated with persons known to be involved, in some or all of the aforementioned activities. Their activities have been, and continue to be, in large part criminal *per se*. And, even to the extent that some of their business activities (e.g., oil and gas investments, investments in defense-related industries) may not be illegal, those activities are intertwined with, and supported by, murder, drug-trafficking,[5] financial scams, the blackmailing of politicians, vote-rigging, the planning and waging of wars of aggression, and the torture and abuse of prisoners that are crimes under treaties and the law of nations.

14. Broadly described, Defendants' paramount (but by no means its only) motive in orchestrating the 9-11 attacks was to obtain a "blank check" to conduct wars of aggression, to consolidate economic and political power by the seizure of the oil fields of Iraq and a right-of-way for a natural gas pipeline to be built in part across the territory of Afghanistan, and to promote their own financial interests and those of their RICO "enterprise," which exists and carries out crimes on a scale that "traditional" organized crime organizations, such as the New York Mafia "families," could never dream of achieving. (The "Enterprise" is defined in paragraphs 88-91 hereafter.)

15. In addition, the attacks and the destruction of three buildings at the World Trade Center complex in New York City destroyed, and were intended by the Enterprise to destroy, a large volume of documents, books and records in offices of the Federal Bureau of Investigation in the North Tower, the Security and Exchange Commission in World Trade Center Building 7, and other offices in those buildings, to thwart investigations contrary to the interests of and potentially damaging to the fortunes of the Enterprise, corporations friendly to the Enterprise that were under investigation by the FBI and SEC, Federal Reserve Chairman Alan Greenspan, a

[5] *See* Michael Levine with Lura Kavanau-Levine, "CIA Drug Trafficking a Licensed Activity," The Washington Weekly, 4/7/1998.

number of prominent banks and brokerage houses with strong ties to the Enterprise, the Council on Foreign Relations, the CIA, and others.

16. As will be set forth below, in broad terms Plaintiff's allegations rest upon three sets of facts. First, the official story of 9-11 promulgated by Defendants, and investigated by no one (private researchers aside), is unsupportable. As will be explained, the "Osama and the 19 Muslim Zealots" story, promulgated by Defendants and the media they control, is a factual impossibility, and a deliberate fabrication.

17. Second, as any detective knows, a major part of any investigation of any crime of this kind is to ask, *cui bono?* (who benefits?). A review of the facts concerning 9-11, and the enormous benefits (political, financial, and other) reaped by the defendants, shows that it is scandalous in the extreme that no highly-experienced, truly apolitical and independent prosecutor, fully supported with sufficient funding and staff — and armed with broad subpoena powers to compel sworn testimony from everyone from the President of the United States on down — has not been investigating this mass murder from the outset.

18. Third, the guilt of the defendants is compellingly suggested by their myriad lies, their thwarting of any proper investigation, and their stonewalling and failure to truly cooperate even with the "limited hangout"[6] Commission "investigation" that culminated in the Final Report issued in July 2004. It is further confirmed as the most plausible, or even the only rational, explanation as to why the Bush Administration effected a massive reconfiguration of the federal government — conjoining many agencies into a new "Department of Homeland Security" - *and then proceeded to starve it for funding, doing almost nothing to truly secure the homeland from*

[6] The term derives from the following exchange among President Nixon and his aides in respect of the Watergate cover-up: President Nixon: "Do you think we want to go this route now? Let it hang out?" John Dean: "Well, it isn't really that." John Haldemann "It's a limited hang-out." John Erlichman: "It's a modified, limited hang-out."

terrorist threats from afar, while doing much to attack freedom at home, while and aggressively and unlawfully pursuing empire overseas[7].

19. While assuredly many individual employees of the FBI are loyal to their lawful responsibilities, and not individually part of the criminal enterprise herein alleged, *it is a matter of public record, not disputed, that the Bush Administration had called the FBI off of its investigation of the bin Laden family in the months that preceded the attacks.*

20. While one would expect that the City of New York would have an interest in thoroughly and honestly investigating the murder of more than 2,500 persons (to say nothing of the destruction of an appreciable percentage of the financial center's "Grade A" office space) within its jurisdiction, agents of the Enterprise — acting through FEMA, a shadowy "black budget" agency created not by Congress but by Executive Order, and which combining largely secret martial-law preparations with benign, disaster-relief functions — were immediately in place. FEMA took and maintained strict control over the crime scene, and, with stunning dispatch, removed the principal evidence — the wreckage of the buildings — to Third World countries. Amazingly, there has been no homicide investigation by local authorities, who have primary jurisdiction, in New York City or in Somerset County, Pennsylvania (where Flight 93 is alleged to have crashed) or in Arlington, Virginia (site of the Pentagon, which allegedly was struck by Flight 77 on 9-11). Literally within hours of the attacks, the U.S. government and major media (largely under the indirect control of the U.S. government) had "solved" the crime, and "convicted" Osama bin Laden, allegedly the "black sheep" of a wealthy Saudi family having

[7] "Report: Homeland Security Grossly Underfunded," CNN, 6/30/2003 (based on report by Former Sen. Warren Rudman [R-VT]). *See also* "Homeland Security is a Con to Stop Senate Oversight Over Terror Info," www.memes.org/modules.php?op=modload&name=News&file=article&sid=2483&mo (3/3/2004).

close financial and personal ties to the Bush family (and others of the Defendants), and 19 Arabs, 15 of them Saudis like bin Laden, who were quickly "identified," even though all presumably perished in the attacks, there are no photos of any of them on the aircraft or in any of the airports from which the planes departed on 9-11,[8] and the passenger manifests included none neither any of the alleged hijackers' names (nor any names that appear to be Arab or suggestive of origins in any predominantly Muslim lands).

21. The Department of Justice ["DOJ"] has not, and will not, conduct a true investigation into 9-11. Indeed, again with a dispatch that defies belief *unless Attorney General Ashcroft and others within the Department of Justice knew that a "new Pearl Harbor" was impending* – the primary response of the DOJ was to muscle through Congress the grotesquely misnamed "Patriot Act." That legislation, comprising hundreds of pages and amending dozens of existing laws, was *passed by Congress without hearings, and without any but a handful of members having read it, or having even been provided with the text, before a vote called in the dead of night*[9].

22. A few members of Congress, notably Senators Daschle (D-SD) and Leahy (D-VT), briefly resisted the "Patriot Act" with its many unconstitutional provisions. Messrs. Daschle and Leahy, however, were thereupon sent potentially fatal dosages of "weaponized" anthrax, *from American stores*. Congress has been mostly supine since.

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[8] After the first draft of this complaint was written, and nearly three years following the attacks, a purported video of two of the hijackers passing through airport security emerged.

[9] Plaintiff makes grateful mention of the laudable, although as yet unsuccessful, efforts by a few in the Congress, notably Rep. Ron Paul (R-TX), a genuine, anti-fascist conservative, and the liberal Rep. Dennis Kucinich (D-OH) to repeal the most offensive provisions of the Patriot Act. The co-sponsorship by Rep. Paul and Rep. Kucinich of the "Benjamin Franklin True Patriot Act" shows speaks volumes that the struggle is not one of liberals against conservatives, but one of patriots against criminals and enemies of freedom, the Enterprise being within the latter category.

23. Curiously, and little reported by the media, the first of the half-dozen fatalities in the October 2001 anthrax attacks was a tabloid newspaper photo editor from Florida, Robert Stevens. While most Americans probably believe to this day that these anthrax attacks were the deeds of radical Islamists – notwithstanding that all evidence points to domestic sources – whom had Mr. Stevens offended? The answer is that *he had offended the Bush family*, by selecting for publication in the supermarket tabloid that employed him an embarrassing photograph of the President's daughter, Jenna Bush, appearing tipsy and holding a cigarette, while staggering across a dance floor with a female friend in a nightclub.

24. When former Senator Max Cleland (D-GA) left the "independent" 9-11 Commission and Senator Daschle had the opportunity to designate his replacement, he ignored thousands of e-mails urging him to name Kristen Breitweiser of New Jersey, a valiant, eloquent 9-11 widow with a law degree, and opted instead for former Senator Bob Kerrey (D-NE). *The determination to cover up the truth was so complete, and so "bipartisan," that not even one outsider, not one person directly injured by the attacks, not even the estimable (and, as it happens, Republican) Ms. Breitweiser could be brought into that sanctum in which "truth" is fabricated for the masses.* While Mr. Kerrey has an impressive résumé (if one overlooks admitted war crimes during his military service in Vietnam) in recent times he has stood out as perhaps the most prominent Democrat to enthusiastically call for the invasion of Iraq, to "liberate" it from Saddam Hussein. Obviously, as 9-11 and contrived connections between 9-11 and Saddam Hussein led, in a direct line, to an invasion of that country, Mr. Kerrey, as a wholehearted supporter of the war, would be unlikely to stray from the course prescribed for the Commission – namely, to produce a "modified limited hang-out" acknowledging "failures," while steering clear of investigating *actual high-level U.S. complicity in the attacks.* That Sen. Daschle named the

avidly pro-war Mr. Kerrey to replace the Commission's most (perhaps its only) skeptical and independent member, Mr. Cleland, suggests that the minority leader has been thoroughly sobered by his near-death encounter with U.S. Government anthrax.

25. In connection with the anthrax attempt on Senator Daschle's life, the New York Times reported:

> The dry powder used in the anthrax attacks is virtually indistinguishable in critical technical respects from that produced by the United States military before it shut down its biowarfare program, according to federal scientists and military contractor documents. The similarity to the levels achieved by the United States military lends support to the idea that someone with ties to the old program may be behind the attacks that have killed five people. Its high concentration is surprising, weapon experts said, and far beyond what military analysts once judged as the likely abilities of terrorists. The anthrax sent to the Senate contained as many as one trillion spores per gram. If a lethal dose is estimated conservatively at 10,000 microscopic spores, then a gram in theory could cause about 100 million deaths. The letter sent to Tom Daschle, the Senate Democratic leader, is said to have held two grams of anthrax. (Emphasis added).[10]

26. Thus, neither the FBI, nor the Justice Department, nor the New York Police Department, nor Congress, nor the "independent" 9-11 commission has conducted a true and thorough investigation into exactly who killed almost 3,000 people on 9-11, and set in motion events that have brought about the deaths of more than 1,050 United States military personnel — with no end to the bloody war in Iraq in sight— and many thousands of Afghan and Iraqi citizens (to say nothing of incalculable property damage, much of which will ultimately be borne by American taxpayers, with companies that are members or friends of the Enterprise reaping vast profits from "rebuilding" that which was wantonly and unlawfully destroyed).

27. The supposedly "independent" 9-11 commission, apart from being headed by a blood relative of the President (Thomas A. Kean, upon information and belief a distant cousin) and

[10] William Broad, "Terror Anthrax Linked to Type Made by U.S.," New York Times, 12/3/2001.

comprised in large part of people with resounding conflicts of interest,[11] has allowed the President and Vice President to dictate the terms of their testimony,[12] and has tiptoed past the critical issues. As will be described, the "fix-is-in" Commission (to which tender hands the Administration acceded most reluctantly, and which it has sought to stonewall) has been created to produce a foreordained result: that while there may have been "intelligence failures" (for which *no one* has been, or is to be, held accountable), the attacks were planned and carried out by nineteen radical Islamists, under the leadership of Osama bin Laden, out of hatred for America and resentment over the American military presence in Saudi Arabia, its support of Israel, and its perceived opposition to Islam.

28. If it does not suffice to show the practical uselessness of the Commission to point to its membership, loaded with intelligence, military, corporate and other pro-Administration "insiders," the narrowness of its mandate, and its deference in permitting persons who should be suspects from testifying under oath, the Commission's final report was completed only in July 2004, whereupon "the White House [reviewed] the text . . . and could determine when the report will be released."[13] Thus — and to date plaintiff is aware of no howls of indignation from the Commission or the media — the persons plaintiff believes to be guilty for the 9-11 attacks, having appointed half of the Commission in the first place, has it well within its power to excise any damaging findings (in the name of "national security," of course) and, had it so chosen,

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[11] Peep Escobar, "9-11 and the Smoking Gun, Part 1: 'Independent' Commission," Asia Times Online, 4-7-2004.

"Testimony" is too generous a term, actually, as the national leaders on whose watch these attacks occurred prefer to be and were interviewed together, so as to avoid any conflicts in their accounts, without being sworn to tell the truth subject to the penalties for perjury, and with no record, except for one staff member who was be permitted to take notes. This, plaintiff submits, is not an investigation, it is an elaborate political fig leaf, a pretence intended to hide the truth, while pretending to show respect for the families of the 9-11 attack victims.

[13] Barbara Slavin, "White House Has Final Say on 9-11 Report," USA Today, 4/4/2004.

could have delayed public release of the Commission's report until after the November 2004 presidential election. The Commission almost makes the Warren Commission look like a model of truth-seeking and alacrity. At least the Warren Commission required witnesses to be sworn.

29. Plaintiff has every expectation that this lawsuit will be met by attempts on the part of the enormously powerful members of the Enterprise to silence the Plaintiff — if not by more drastic measures, than at least by delay and obstruction to disclosure, in the name of "executive privilege," "national security" and the esoteric "state secrets privilege." *If we do not live already in a de facto police state, there is no "privilege" that protects kidnapping, arson, and mass murder, or even gross misfeasance that permits attacks on the scale of 9-11.* As for "national security," even if plaintiff can be shown to be in error as to actual participation, sponsorship, and approval of the attacks on the part of senior Bush II Administration figures, the words "national security" should stick in these defendants' throats. *Having – at the very least -- failed so abjectly in their primary task, which is the protection of American lives, the Defendants must not be allowed to hide either their malfeasance or their misfeasance behind the curtain of "national security."* If the principal defendants were honorable individuals, most of them would have resigned for their abject failure to discharge adequately their primary duties to the nation. The lone high-level resignation since 9-11, that of Mr. Tenet, occurred more than 2-1/2 years after the event, and was not accompanied by any expression of contrition, or admission of failure or of wrongdoing.

30. In the more than three years since 9-11, most Americans, as indeed the entire world, have been made aware that the U.S. government and many of the defendants have been falsifying information about what knowledge they had of the dangers of attacks prior to 9-11, and fabricated a pretext to carry out a prior (pre-9-11) determination to attack and occupy Iraq,

based on knowingly false claims concerning non-existent "weapons of mass destruction." Not yet making the conventional news is that the Bush II Administration, despite the end of the Cold War more than a decade ago, plans (at enormous cost, of course) to "revitalize [America's] nuclear weapons manufacturing infrastructure" and to build nuclear "robust nuclear earth-penetrator" warheads.[14]

31. Although the idea of the United States government, or key elements of it, planning and carrying out terror attacks against American citizens on American soil may seem incomprehensible, there is documented precedent for a plot essentially the same as that alleged in this complaint. In the early 1960s, a plan code-named "Operation Northwoods," endorsed in writing by all of the then-Joint Chiefs of Staff, envisaged the possible assassination of Cuban émigrés, sinking boats carrying Cuban refugees on the high seas, hijacking airplanes, blowing up a U.S. ship, and even orchestrating violent terrorism in U.S. cities.[15] If plans such as "Operation Northwoods" could be proposed in earnest, at a time when Cuba was under the wing of a rival, nuclear-armed superpower, it should not be impossible to believe that the Bush II Administration — not constrained by the existence of any power corresponding to the USSR forty years ago — might consider similar plans to gain license to seize the second-largest known petroleum reserves on the planet, those of Iraq.[16]

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[14] Fred Kaplan, "Our Hidden WMD Program: Why Bush is spending so much on nuclear weapons," Slate, 4/23/2004.

[15] James Bamford, *Body of Secrets*, (Doubleday 2004); David Ruppe, "Friendly Fire — Book: U.S. Military Drafted Plans to Terrorize U.S. Cities to Provoke War with Cuba," www.abcnews.com, 5/1/2004.

[16] A thoughtful, moderate and comprehensive argument for a truly independent, apolitical investigation of 9-11, and that the same may have been engineered by the parties who have benefited, is theologian David Ray Griffin's essential *The New Pearl Harbor: Disturbing Questions About the Bush Administration and 9-11*.

32. Against the criminals who have hijacked not just four airplanes but the government of the United States, and who have virtually unlimited financial and other resources at their disposal, stands a solitary American hero — whose valor shone brightly on that day, as defendants were flown hither and yon, and skulked in "undisclosed secure locations." Plaintiff has continued to shine in his selfless, unpaid efforts to relieve the suffering of the victims, as the defendants have launched wars and inflicted measureless suffering, to benefit themselves and their cronies. Plaintiff, in the utmost good faith, alleges that there is much evidence that this happened, or at the very least was allowed to happen, to further the defendants' imperial aspirations and their monetary greed, and (as no one in government has done their duty to investigate, expose and prosecute these crimes) this lawsuit may be the only peaceable means to reveal the truth.

33. Plaintiff, to say nothing of the people of the United States, whose security, democracy and freedom are in peril, must have a full, true and fearless accounting, wherever that path may lead. History at times casts unlikely candidates, often unwillingly, into situations in which it matters greatly that they summon all of their courage, all of their integrity, to take the path of truth and resistance to tyranny. Into that breach, William Rodriguez invites the judges before whom his action may come to join him.

II. PARTIES, JURISDICTION, AND VENUE

34. The Court has jurisdiction over the action pursuant to 28 U.S.C. § 1331 (federal question), 18 U.S.C. § 1964 (RICO), 18 U.S.C. § 2333 (Anti-Terrorism Act of 1991), 28 U.S.C. § 2201 *et seq.* (Declaratory Judgment Act), 18 U.S.C. § 2441 (War Crimes Act of 1996), 18 U.S.C. § 4 (Misprision of Felony statute) and 18 U.S.C. § 2382 (Misprision of Treason Statute).

Venue as to the several defendants is proper, pursuant *inter alia* to 18 U.S.C. § 1965(a) and/or 18 U.S.C. § 1965(b).

35. Plaintiff, William Rodriguez, is a resident of New Jersey who suffered personal injuries, severe and continuing emotional distress, and the loss of his employment of nineteen years, as proximate results of the 9-11 attacks on the WTC, and the acts of the defendants as herein alleged.

36. Defendant, George H. W. Bush is a private citizen with homes in Texas, Florida and Maine. Beginning in or about the mid to late 1950s, he was an agent of the Central Intelligence Agency ("CIA"), and was later a Congressman from Texas, Director of Central Intelligence, Vice President of the United States in the Reagan Administration (1981-1989), and President of the United States (1989-1993). He is currently an employee or paid consultant of The Carlyle Group, an investment vehicle which, generally described, affords investment opportunities, mainly in weapons manufacture and other war-related and government-regulated industries, to select former insiders of the Reagan and Bush I Administrations,[17] former British Prime Minister John Major, and others. George H. W. Bush is the father of Defendants George W. Bush, John "Jeb" Bush, Neil Bush, and Marvin Bush.

37. George W. Bush is the President of the United States. Note that while many of the acts and omissions alleged in this complaint against George W. Bush and other defendants who are now, or who were at the time of the acts complained of, the holders of public offices (federal or other) and such acts and omissions were or may have been done under color of their official

[17] According to the context, the terms "Reagan Administration," "Bush I Administration," and "Bush II Administration" denote, respectively, the presidential terms of office of Ronald Reagan (1981-1989), George H. W. Bush (1989-1993) and George W. Bush (2001-) or, collectively, to the senior officials who comprised, from time to time, the policy-making governmental and political apparatus of each of those administrations.

authority, plaintiff sues each of said defendants in his or her individual capacity or capacities only as to Counts "One" through "Eight" and Count "Eleven" of this Complaint, as the acts complained of were not within the scope of such defendants' official duties, but were crimes and unlawful acts outside the scope of such duties, and plaintiff seeks recovery for the acts and omissions of each such defendant individually and from his or her personal assets, not against the government body that is (or was) such defendant's employer at the time of the acts complained of.

38. John "Jeb" Bush ("Jeb Bush") is the Governor of the State of Florida. He is a son of George H. W. Bush, and a brother of George W. Bush, Neil Mallon Bush, and Marvin Bush.

39. Neil Mallon Bush ("Neil Bush") is a private citizen residing in Colorado. He is a son of George H. W. Bush, and a brother of George W. Bush, Jeb Bush, and Marvin Bush.

40. Marvin Bush is a private citizen residing in Florida. He is a son of George H. W. Bush and a brother of George W. Bush, Jeb Bush, and Neil Mallon Bush.

41. Richard Cheney ("Cheney") is the Vice-President of the United States. He was formerly Secretary of Defense in the Bush I Administration, and a Republican Congressman from Wyoming.

42. Donald H. Rumsfeld ("Rumsfeld") is the Secretary of Defense.

43. Dov Zakheim ("Zakheim") was formerly Deputy Under Secretary of Defense for Planning and Resources (1985-87) and was later CEO of SPC International Corp., a subsidiary of System Planning Corp. of which he was corporate vice president. System Planning Corp. is noteworthy, among other things, in that it has been engaged on remote-control technology for aircraft, and another of its subsidiaries, Tridata Corp., headed the investigation into the attack on the WTC in 1993. Zakheim, a co-signer of the Project for the New American Century's which

statement that encouraged mentioned, longingly, a "New Pearl Harbor," became Under Secretary of Defense (Comptroller), the CFO of the Pentagon, in May 2001. After 9-11, Zakheim took a lucrative position at Booz Allen Hamilton, another high-tech warfare and "homeland security" firm, whose website boasts of its "global presence" and "spotlight on next-generation outsourcing and offshoring." Upon information and belief, Zakheim holds an Israeli passport as well as a United States passport.

44. Colin Powell ("Powell") is the Secretary of State.

45. Richard Armitage ("Armitage") is the Assistant Secretary of State.

46. Condoleeza Rice ("Rice") is the National Security Advisor to President George W. Bush.

47. John Ashcroft ("Ashcroft") is the Attorney General of the United States.

48. Robert S. Mueller III ("Mueller") is the Director of the Federal Bureau of Investigation ("FBI").

49. David Frasca ("Frasca") is an employee of the FBI, and at times prior to 9-11, Frasca was in charge of the FBI's so-called Radical Fundamentalist Unit.

50. George J. Tenet ("Tenet") was formerly and at times hereinbelow mentioned (including 9-11) Director of Central Intelligence (of the Central Intelligence Agency ["CIA"]).

51. Porter Goss ("Goss") has affiliations with the CIA dating back to the early 1960s. In recent years and as of 9-11, he was a Republican Congressman from the State of Florida. He is now the Director of Central Intelligence. For many years, he has been involved in dubious financial dealings with members of the Bush family, including the Destin Country Club group, Swissco Management, Topsail Development Ltd., and the Destin Dome development, among others. He is widely reported to have been a member of an illegal international CIA murder

squad (which included other associates of George H. W. Bush, and persons who would become Iran-Contra figures) while still in his twenties, and among other disreputable things in his first CIA stint was involved in illegal efforts to maintain the Somoza regime in Nicaragua and later, to overthrow the Sandinista government of that country. Goss has also figured prominently, also, in suppressing the truth of extensive trafficking in illegal drugs, within and without the United States, by the CIA.

52. Norman Y. Mineta ("Mineta") is the Secretary of the United States Department of Transportation ("USDOT").

53. General Larry K. Arnold ("Arnold") was Commander of the U.S. Central Command on 9-11.

54. Tom Ridge ("Ridge") is the Director of the United States Department of Homeland Security ("USDHS").

55. Mark Racicot ("Racicot") is the Chairman of the Republican National Committee.

56. The Republican National Committee, Inc. ("RNC") is the umbrella organization for all of the Republican Party organizations in the United States.

57. Alan Greenspan ("Greenspan") is the Chairman of the Federal Reserve. As such, he is not an employee of the United States government, and is not entitled to be represented by attorneys of the U.S. Justice Department.

58. Thomas A. Kean ("Kean") is the chair of the Commission, which purported to investigate certain matters related to the attacks of 9-11. The Commission released a final report on or about July 26, 2004.

59. Jamie S. Gorelick ("Gorelick") is a member of the same Commission.

60. Phillip D. Zelikow ("Zelikow") is Executive Director of the Commission.

61. John F. Lehman ("Lehman") is a member of the Commission.

62. Fred F. Fielding ("Fielding") is a member of the Commission.

63. Karl Rove ("Rove"), the legendary political "dirty trickster, works" works in the White House with the title of Senior Political Advisor to the President.

64. Richard Perle ("Perle") is a private citizen, and a principal of the Project for the New American Century, Inc. ("PNAC").

65. Paul Wolfowitz ("Wolfowitz") is Assistant Secretary of Defense.

66. Richard Myers ("Myers") is a General in the United States Army and Chairman of the Joint Chiefs of Staff. As of 9-11, Gen. Myers was Acting Chairman of the Joint Chiefs of Staff.

67. Ralph E. Eberhart ("Eberhart") is a General in the U.S. Air Force. On 9-11, he was in charge of NORAD, a joint U.S.-Canadian military operation responsible for to protecting the skies of the two countries from enemy attack. Today, he is head of the "Northern Command" instituted after 9-11, making the United States a zone of anticipated future military operations, probably related to martial law and the suspension in whole or in part of the U.S. Constitution.[18]

68. Kenneth R. Feinberg ("Feinberg"), as Special Master, headed the 9-11 Victims Compensation which Fund that was created by the Enterprise, among other things, to use public funds to deter lawsuits by family members of the persons killed on 9-11, and thereby conceal the truth concerning Enterprise sponsorship of the attacks.

69. Halliburton Company ("Halliburton") is a private corporation engaged in, among other things, construction and oilfield services.

[18] Defendants George H. W. Bush, George W. Bush, JebBush, Neil Bush, Marvin Bush, Cheney, Rumsfeld, Powell, Armitage, Ashcroft, Mueller, Frasca, Tenet, Mineta, Ridge, Rice, Perle, Wolfowitz, Myers, Eberhart, Allbaugh, Greenspan, and Rove are sometimes referred to collectively herein as the "Principal Defendants."

70. Kellogg Brown & Root ("KB&R") is a subsidiary of Halliburton, and is engaged in, among other things, construction.

71. Election Systems & Software ("ES&S") is a corporation that designs, manufactures and sells, among other things, touch-screen machines for recording and tabulating votes in elections.

72. Diebold Voting Systems ("Diebold") is a corporation that designs, manufactures and sells, among other things, touch-screen machines for recording and tabulating votes in elections.

73. Walden O'Dell is a resident of Ohio, in which state he has acted as a leading fund-raiser for President George W. Bush and the Republican Party, and the CEO of Diebold.

74. Sequoia Voting Systems, Inc. ("Sequoia") that designs, manufactures and sells, among other things, touch-screen machines for recording and tabulating votes in elections.

75. Chuck Hagel ("Hagel") is United States Senator from Nebraska, and now or formerly the owner of a beneficial interest in ES&S. Conveniently, in both of the statewide elections in which Senator Hagel was elected and re-elected to his Senate seat, roughly 80% of the votes cast were recorded and tabulated on voting machines manufactured by ES&S — which is to say on voting machines made by the Senator's own company.

76. Saxby Chambliss ("Chambliss") is United States Senator from Georgia, to which office he was elected in November 2002 in a statewide election that was the first in which touch-screen voting machines, designed and manufactured by Diebold, were used to record and tabulate the votes cast throughout a state (the state in question being Georgia).[19] Although lagging badly in the polls within days prior to the election, the votes as tabulated by Diebold

[19] Defendants George W. Bush, Cheney, Rove, RNC, Racicot, Baker, ES&S, Diebold, O'Dell, Sequoia, Hagel and Chambliss are sometimes referred to collectively herein as the "Election-Rigging Defendants."

made Mr. Chambliss, a right-wing Republican who did not serve in the Armed Forces during the Vietnam conflict, a surprise, upset winner over incumbent Sen. Max Cleland, a Democrat. Senator Chambliss, in addition to having the vote counted on machines manufactured by a company owned by right-wing Republicans and that left no "paper trail" as might permit a recount, relied heavily in his campaign on impugning the patriotism of Sen. Cleland, a triple amputee of the Vietnam conflict.

77. New Bridge Strategies LLC ("New Bridge") is a business vehicle, established by and for the benefit of present and former officials and supporters of the Bush I and Bush II Administration, and intended to profit from business opportunities afforded to private investors in the United States owing to the overthrow of the Saddam Hussein regime in Iraq by U.S. military forces, the continuing presence of U.S. and other western troops in Iraq, and the planned installation and maintenance of permanent U.S. military bases throughout Iraq and a government having effective sovereignty to be limited by an ongoing large-scale U.S. military presence in Iraq.

78. Joe M. Allbaugh ("Allbaugh") is the CEO of New Bridge. This lucrative position was, in part, a reward to Mr. Allbaugh for services rendered by him, in his former position as director of the Federal Emergency Management Agency [FEMA] in seizing control of the "Ground Zero" World Trade Center site, and seeing to the speedy removal to foreign lands of the debris from the collapse of buildings at the site, and obstruction of justice in keeping from the public and from local law enforcement proof concerning the manner and cause of the collapse of World Trade Center Buildings Nos. 1, 2 and 7.

79. James A. Baker III ("Baker") is at present a private citizen, and a partner of the law firm of Baker & Botts LLP in Houston, Texas. Formerly, he was Chief of Staff and Secretary of

State during the Presidential administration of George H. W. Bush. Among other accomplishments, Mr. Baker boasts of having been the man who "fixed Florida" for George W. Bush and Richard B. Cheney after the 2000 presidential election.[20]

80. John Sweeney ("Sweeney") is a Republican Congressman from New York. Upon information and belief, on behalf of the Bush-Cheney 2000 Campaign and the RNC, he dispatched persons to cross state lines, using the means of interstate commerce, to intimidate local officials endeavoring to recount votes cast in Florida in the 2000 presidential election, and thereby to commit extortion as defined under the statutes of the State of Florida, and predicate acts under the RICO statute.

81. Thomas Pyle ("Pyle"), Garry Malphrus ("Malphrus"), Charles Royal ("Royal") and Kevin Smith ("Smith"), on information and belief, who were paid by the RNC or by the Bush-Cheney 2000 Campaign to travel across state lines, using commercial airlines or other means of transit in interstate commerce, to intimidate local officials endeavoring to recount votes cast in Florida in the 2000 presidential election, and who participated in the so-called "Brooks Brothers Riot" which was intended to, and did, coerce and intimidate such officials and caused them to cease their attempts to recount votes. Although guilty of membership and participation in the Enterprise, and the commission of crimes that are predicate acts under the RICO statute, the defendants named in this paragraph are not believed by plaintiff to have had foreknowledge of, or to have sponsored, planned, carried out or participated in, the attacks of 9-11.

[20] Defendants George H. W. Bush, George W. Bush, Jeb Bush, Neil Bush, Marvin Bush, Cheney, Perle, Wolfowitz, Allbaugh, Halliburton, Brown & Root and New Bridges are sometimes referred to collectively herein as the "War Profiteering Defendants."

82. Defendant, United States of America is the federal government. It is named herein as a Defendant only as to those counts of the Complaint that do not arise under RICO, 18 U.S.C. §§ 1961 *et seq.*

83. The United States Department of Homeland Security is a cabinet-level agency or branch of the United States Government. It is named herein as a Defendant only as to those counts of the Complaint that do not arise under RICO, 18 U.S.C. §§ 1961 *et seq.*

84. The Federal Emergency Management Agency ["FEMA"], prior to 9-11, a separate agency, was later merged into the Department of Homeland Security. It is named herein as a Defendant only as to those counts of the Complaint that do not arise under RICO, 18 U.S.C. §§ 1961 *et seq.*

85. The "Doe" Defendants are persons and entities, not identified by name, who participated as principals, co-conspirators and/or who aided and abetted and/or who were accessories to acts committed by other Defendants.

86. The "Enterprise" alleged herein is not fully coextensive with the United States (that is, the federal government, its officers, agencies and instrumentalities) which, for the most part, is comprised of well-meaning civil servants. The "Enterprise" does, however, embrace all of the other defendants, and the United States to the extent that the latter, its officers, agencies and instrumentalities are controlled by defendants individually named, and other persons not named who act in concert with and on the instructions of named defendants, and have (acting by, through or at the direction of senior officials) served as instrumentalities in the planning, sponsorship, funding, provision of the means to carry out, execution, and concealment of RICO predicate acts alleged in this complaint, and in secreting or destroying evidence, intimidating and killing possible witnesses to or concerning predicate acts, suborning perjury and breach of duty

and providing knowingly false information to Congress, the Commission, the media and hence to the public concerning 9-11 and other predicate acts, and have acted to delay, hinder, prevent and obstruct the carrying out of a true, complete, apolitical, adequately funded, and *bona fide* investigation of 9-11, intended not to conceal the truth and promulgate a knowingly false depiction intended to appease the public and survivors' families — which is, manifestly, the function of the Commission — but to determine justly the facts of the occurrences, and to bring the guilty parties to justice.

87. All of the Defendants, including the "Doe" Defendants and additional persons not known to the Plaintiff [but excluding, nevertheless, the United States and its agencies, including the Department of Homeland Security, to the extent described in the last preceding paragraph] together comprise an "Enterprise," as such term is used in the RICO statute. The objectives of the "Enterprise" include, but are not necessarily limited to, the following:

a. To enrich members and associates through the commission of multiple crimes, including predicate crimes under the RICO statute (e.g., murder, arson, kidnapping, extortion, wire fraud, interstate travel in promotion of racketeering) and other grave felonies, including but not limited to wars of aggression and crimes against humanity that are condemned under international law; the rigging of elections, the bribery of members of Congress, foreign officials, and others, obstruction of justice, trafficking in weapons and narcotics, and the corruption of various agencies and instrumentalities of government to carry out and to cover up the foregoing and other crimes.

b. To advance the interests of certain corporate entities — especially those in the oil, energy services, and weapons industries, in which a number of the individual defendants are heavily invested;[21]

c. To use both political control and the giving and withholding of favors (e.g., approval for mergers and relaxation of FCC rules limiting common ownership of media outlets) to induce major media outlets and media celebrities to fail to report, or to under-report, matters unfavorable to the Enterprise and its members, or as might incite further inquiry, and thereby

[21] *See* Linda S. Heard, "When Endless War Means Endless Cashflow," Arab News, 3/30/2004.

disclose unlawful acts committed by them, and to manage and control public opinion for the benefit of the Enterprise and its members;

d. To strengthen and perpetuate Enterprise and U.S. control, direct and through client governments, of petroleum, natural gas, and other natural resources in the Middle East, Central Asian republics, and throughout the world;

e. To cause the United States to wage war as widely and as frequently as possible, consistent with the objective of avoiding any large-scale exchange of nuclear and other "weapons of mass destruction," in part to achieve external ends (control of petroleum resources, the overthrow of insufficiently servient foreign governments) and in part for its own sake, since war profiteering, and investments in arms manufacturing and other war-related companies, being are major sources of Enterprise money and influence;

f. To develop and — by the overthrow of competing governments, and the murder of prominent scientists — to achieve and to maintain a monopoly on a variety of biological and chemical weapons, and the means of delivering them, notwithstanding that the development and use of such weapons are crimes under international and domestic law;[22]

g. To supplant multi-party, representative democracy having a Bill of Rights and checks and balances with a regime insulated from removal, by elections or otherwise, using raw, arbitrary power, aggressive abroad and despotic at home;

h. To establish *de facto* one-party (Republican Party) rule at the national level in the United States, with all other parties reduced to the status of impotent "window-dressing";

i. To perfect the "merger of political and corporate power" (the definition of fascism given by Benito Mussolini, an authority on the subject) if possible covertly, among other means by rigging of elections, the control of judicial appointments,[23] influence over major media suppressing reporting

[22]Paul Thompson, "Anthrax Attacks and Microbiologist Deaths," www.cooperativeresearch.org/timeline/main/Aaanthrax.html. *See also* Judith Miller, "Russian Scientist Dies in Ebola Accident at Former Weapons Lab," New York Times, 5/24/2004.

[23] By way of a recent and singularly reprehensible example, consider the case of Jay S. Bybee, a Justice Department attorney who wrote a shocking and despicable memorandum stating, among other things, that President Bush's "commander-in-chief" power in effect gives him license to disregard international and domestic laws against torture, and embracing athe defense for subordinates that was, so soundly condemned at Nuremberg, that underlings are exempt from punishment for torture, war crimes etc. ordered by superior officers. Bybee's arguments are worthy of Hitler or Stalin. Instead of being fired or, better, disbarred, Bybee for his writings so

of Enterprise activities; the exploitation of the fear of terrorism, the exaggeration of the threat posed to America and its citizens by foreign terrorists (including, but not limited to, the staging of terror attacks against Americans that are then blamed on foreigners), and the increased militarization of society (e.g., the "War on Terror" and planned re-institution of military conscription) and suppression of dissent and Constitutional rights (through the "Patriot Act" and other legislation, enacted with little or no publicity);

j. To complete, also under the guise of "homeland security," the "war on terrorism," and largely under the auspices of FEMA, an unelected, extra constitutional and impregnable "shadow government" of far-right interests, as well as preparations for martial law as a backup to the preferred means of achieving virtually absolute power (including the power, already inchoate in the "Patriot Act," to imprison American citizens indefinitely, without charges and without the right to counsel, and even to kill American citizens at the unreviewable direction of the President);

k. To disarm the civilian population of the United States, or such elements thereof as are deemed to be unfavorable to the Enterprise, via gun-control legislation and, in the future, the confiscation of firearms and other weapons and ammunition;

l. To markedly reduce the living standards of approximately 80% of the population of the United States, among other means by the subsidized exportation of most better-paying jobs to low-wage countries that do not have free labor unions, environmental standards, and human rights protections; by bankrupting and, over time, abolishing Social Security, Medicaid, and Medicare; by shifting the burden of supporting the federal government through the income tax to the upper-middle class, while conferring enormous tax reductions on the extremely wealthy; by slashing federal and other public support to a host of social programs that benefit the middle and lower classes; and by permitting large numbers of immigrants to enter and remain in the United States, with the threefold objectives of (1) depressing wages; (2) fomenting conflict between native-born, low and middle-income Americans on the one hand, and immigrants on the other hand; and (3) creating a class of persons who, owing to the threat of discovery of their undocumented status and their fear of deportation, can readily be exploited;

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hostile to the Constitution and to humanity has been rewarded with a lifetime appointment, at a six-figure salary, as a Judge of the United States Court of Appeals for the Ninth Circuit. Rodriguez proposes this is, of itself, a national disgrace.

m. To use martial law and the threat of martial law – already openly enunciated by General Tommy Franks in 2003 – to intimidate and marginalize dissenters;

n. To advance "American" interests – more truly, the interests of the Enterprise and corporate interests within and without the Enterprise that are favorable to it – by means both covert (e.g., the "destabilization" of disfavored regimes, such as was recently effected in Haiti and is underway in Venezuela, by CIA and other Enterprise vehicles) and overt (by the kidnapping [e.g., President Aristide of Haiti] and murder [e.g., President Allende of Chile] of foreign leaders, the invasion of countries under various pretexts [e.g., Afghanistan, Iraq] and the installation of servient regimes);

o. To augment the "black" budgets of the CIA, FEMA, and other government Enterprise vehicles (i.e., the federal funds appropriated under cover of Defense and other programs, but without meaningful review by Congress, and used largely for assassinations, the undermining and overthrow of foreign governments, the payment of bribes to foreign governments and politicians, and other crimes) by black market trafficking in weapons and narcotics worldwide;

p. To reward financial donors, agents, and persons aiding and abetting their unlawful acts with political patronage, employment with companies controlled by, or friendly to, the Enterprise, government contracts, and other benefits;

q. To slander, intimidate, silence and, if need be, murder persons — including loyal United States citizens, not guilty of any crimes — who disclose or threaten disclosure of Enterprise activities, or information tending to discredit major Enterprise actors.

88. The essence of Plaintiff's complaint is that a classic RICO "Enterprise," having gained control of key offices and instrumentalities of the United States government (including semi-Constitutional "black ops" organizations, such as the CIA and FEMA) and the Armed Forces, are guilty of (among other crimes that are "predicate acts" under RICO) kidnapping, arson, and murder including, but not limited to, the carrying out of the 9-11 terror attacks that resulted in the death of nearly 3,000 persons.

89. As will be described in more detail below, Plaintiff alleges that in carrying out, or causing the air defenses of the United States to "stand down" so as to ensure the success of the 9-

11 attacks, the motives of the Enterprise included (but were not necessarily limited to)[24] the following:

a. To create and to maintain a climate of fear throughout the United States;

b. To create and to maintain a climate in which neither the public, the media, nor Congress would resist or consider critically plans *already made in secret* to launch military attacks on Afghanistan and Iraq;

c. By military action in Afghanistan, to secure a right-of-way for a natural gas pipeline, for the benefit of private interests related to the Enterprise;

d. To benefit Kenneth Lay – the largest contributor to the Bush II presidential campaign – and Enron Corporation, both by diverting public attention away from the crimes committed by Enron executives and, if possible, to enable Enron to avoid bankruptcy by helping to rescue Enron's troubled facility in Bhopal, India;[25]

e. By deposing the conservative Muslim clerics of the Taliban, to reverse the clerics' suppression of opium cultivation in Afghanistan;

f. By restoring large-scale opium production in Afghanistan, to re-establish markets of opium and heroin trafficking that directly benefit CIA and others' "black ops," and the vast proceeds of which are deposited to financial institutions, thereby directly and indirectly benefiting the Enterprise (certain of whom, notably Jeb Bush and other members of the Bush family, upon information and belief, are intimately involved with laundering drug and other criminal proceeds of Enterprise activities, for which they are compensated with deposits to offshore accounts controlled by them);

g. By overthrowing Saddam Hussein's regime in Iraq, to remove a perceived threat to the government of Israel;

h. By overthrowing Saddam Hussein's regime in Iraq, to obtain by force access to permanent military bases on Iraqi soil. (Retired Gen. Jay Garner, who was in charge of planning and administering postwar

[24] *See* Catherine Austin Fits, "9-11 Profiteering: A Framework for Building the 'Cui Bono?' — Unanswered Questions," www.unansweredquestions.org.

[25] Plaintiff believes also that the ferocity with which Vice President Cheney has sought to conceal papers concerning his pre-9-11 energy task force is due in part to the likelihood that Cheney and oil industry executives discussed plans, already in the works, to attack Afghanistan and Iraq. *See* Katherine Yurica, "Fraud Traced to the White House: How California Energy Scam Was Inextricably Linked to a War for Oil Scheme," www.yuricareport.com (2003). *See also* Sam Parry, "Bush Did Try to Save Enron," www.consortiumnews.com, 5/29/2002.

reconstruction from January through May 2002, stated that "[O]ne of the most important things we can do right now is start getting basing rights with [the Iraqi authorities]" and compared Iraq with the Philippines, which served the U.S. Navy as a "coaling station" around the turn of the 20th century. "That's what Iraq is for the next few decades: our coaling station that gives us great presence in the Middle East.")[26]

i. By overthrowing Saddam Hussein, establishing permanent military bases in Iraq, and installing a government which, however the same might be adorned with trappings of "democracy" and "sovereignty," would lack *effective* sovereignty, given limits on its power, a *de facto* U.S. veto over its acts and appointments, provisions being imposed to exempt U.S. civilian and military personnel from liability for crimes, including murder, torture, war crimes, crimes against humanity, and the spoliation of the environment resulting from, among other things, the use of depleted uranium-containing munitions, and the ongoing presence of hundreds of thousands of heavily armed U.S. and other "coalition" forces on its territory;

j. To ensure access to — indeed, control of — the petroleum of Iraq, constituting the second-largest known reserves of any country (after Saudi Arabia);

k. To eliminate or reduce any U.S. military presence in Saudi Arabia, (a sensitive issue especially given the precariousness of the Saudi rulers' political situation in difficult economic times, and a source of particular resentment amongst Muslims, due to the location of the holy sites of Mecca and Medina in the Saudi kingdom) by taking, in effect at gunpoint, long-term basing rights in Iraq;

l. To create political and military pressure against Iran through a substantial and ongoing U.S. military presence in Afghanistan and Iraq;

m. To carry out one or several projected "regime changes" as advocated by Wolfowitz and other "neo-cons," and envisaged in the manifesto of the Project for a New American Century;

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[26] Jim Lobe, "Chalabi, Garner Provide New Clues to War," Inter Press Service News Agency, 2/20/2004. Compare "Rumsfeld Says U.S. Not Seeking Permanent Military Bases in Iraq," U.S. Dept. of State, International Information Programs, 4/21/2003 (Rumsfeld: there has been "zero discussion" concerning permanent bases among senior Bush administration officials); Christine Spolar, "14 Permanent Bases Set in Iraq," Chicago Tribune, 3/26/2004 (Bush II Administration "eager to maintain a robust military presence in the Middle East," with more than 100,000 U.S. troops to remain in Iraq at least through 2006). See also, David Teather and Ian Traynor, "US to Keep bases in Iraq," The Guardian, 4/21/2003.

n. To create a political climate (fear and uncritical patriotic fervor) favorable to the passage of unconstitutional legislation included in the "Patriot Act," and tolerance for extensive surveillance and the suppression of dissent;

o. To increase military and related spending at the expense of U.S. taxpayers, while the wealthiest Americans receive unprecedented tax cuts;

p. By increases in military spending, to conceal misappropriation of monies already appropriated for that purpose, and to bring about the award of large, mostly "no-bid" contracts to Halliburton, Brown and Root, various corporate "armies" (mercenaries) and contractors favorable to the Enterprise;

q. To efface from the consciousness of the public the revelations made by Defense Secretary Rumsfeld shortly before 9-11 that *roughly one-fourth of the nation's vast military expenditures are disappearing, and cannot be accounted for*;[27]

r. To keep from widespread public attention that Federal Reserve Chairman Alan Greenspan, and financial institutions extensively tied to the Enterprise, were accused of manipulating the price of gold over a period of years, concealing their acts and, and lying about it;

s. To destroy records maintained in the World Trade Center offices of the FBI, SEC, and other government agencies of investigations into the burgeoning (but since unnoticed) gold price-fixing scandal, and possible crimes committed in connection therewith, as well as literally thousands of other corporate scandals under SEC investigation;[28]

t. To enable persons connected with the Enterprise to reap millions in profits from short sales and put options on stocks of companies including the affected air carriers (American and United) and companies based in the World Trade Center;

u. To create and to maintain the illusion of George W. Bush, a corruptly-installed President with an under-reported history of serious, long-term alcohol and cocaine abuse, whose successes in life had been attributable to

[27] Plaintiff assumes that some fraction of these losses are the result of poor record-keeping, mismanagement and theft by persons unconnected to the Enterprise, but believes also that large sums are being diverted (1) to preparations for possible martial law and a police state, to be run mostly under auspices of FEMA; (2) other "black ops" in America and abroad; and (3) the pockets and offshore bank accounts of members of the Enterprise and their associates. Plaintiff notes that this was ongoing during the tenure of defendant Zakheim as Comptroller of the Pentagon.

[28] *See* "The 9-11 Wolfowitz Conspiracy, a Frame-Up Cover-Up for the Oil, Investment-Bank-Laundered Opium Revenues, and for War on Islamic Populism," www.newworldpeace.com.

amiability, amorality, and family connections, as a "strong leader" in a phony "war against terrorism," a significant part of such "terrorism" to be created by the Enterprise itself;

v. To distract the attention of voters and financial markets from corporate scandals, a stock market that dropped approximately 900 points just in the three weeks immediately preceding 9-11, the outsourcing of American jobs to foreign countries, outrageous favoritism benefiting the very rich, and disastrous environmental policies;[29]

w. To distract public scrutiny away from the Cheney energy-policy group and its formulating energy policy for the Bush II Administration as a virtual "wish-list" for the fossil fuel companies;

x. To reward Larry Silverstein, the principal of Silverstein Properties (lessee of the World Trade Center) and friend of Rupert Murdock (right-wing media baron, and ardent Bush supporter) for his aid and assistance in effecting and concealing the crimes involving the destruction of the World Trade Center, by conspiring to commit a multi-billion dollar insurance fraud, redounding to Silverstein's benefit;

y. To prepare for future, even more odious operations (the launching of wars overseas, possible martial law and wide-scale extra-judicial detentions and killings within the United States) by testing the extent to which the "mainstream," corporate-controlled mass media will fail to report, or will under-report, information concerning crimes committed by the Enterprise, or otherwise unfavorable to the Enterprise and its principals;

z. By carrying out a relatively small-scale operation that, while disguised for public consumption as an act of "Islamic terror," would be recognized by senior government and military figures as what it was — treason and mass murder — thereby permitting the Enterprise to further corrupt the government and the military, drive many government employees and military officers loyal to the Constitution and not approving of the attacks into retirement, and allowing the Enterprise to identify, isolate and neutralize dissenters in sensitive positions, in anticipation of later, larger operations yet to be carried out.

[29] Extensive rule changes were effectively written by lobbyists for industries benefiting from pollution, and an almost comical number of positions affecting environmental decisions were filled by recent employees of the industries wishing to pollute the resources supposedly being protected.

90. In light of the extraordinary character of the allegations and the identities of the Defendants, plaintiff sets forth below, in abridged form, some of the facts that reveal the implausibility of the Official Story of "9-11."

III. FACTS ON WHICH CLAIMS FOR RELIEF ARE PREDICATED.

A. THE WTC TWIN TOWERS – AS WELL AS WTC BUILDING #7 – WERE DESTROYED BY CONTROLLED DEMOLITION, AS CLEARLY PROVEN BY THE LAWS OF PHYSICS; THIS DEMOLITION COULD ONLY HAVE BEEN AN "INSIDE JOB."

91. In an interview that appeared in the German press in January 2002, Andreas von Bülow, Germany's former research minister, said:

> I can state: the planning of the [9-11] attacks was technically and organizationally a master achievement. To hijack four huge airplanes within a few minutes and within one hour, to drive them into their targets, with complicated flight maneuvers! This is unthinkable, without years-long support from secret apparatuses of the state and industry.[30]

92. Plaintiff is informed and believes that the evidence compels us to add to the exploits of the (possibly non-existent) nineteen thugs and amateur pilots such feats as equipping one or more of the commercial aircraft with missile pods, firing projectiles into one or both of the Twin Towers a fraction of a second before impact, and bringing down the Twin Towers in a controlled demolition. Under such scenarios, "professionals must have done the overall job," which is to say a government, acting through "black ops" agencies, or its military, or in collaboration with powerful corporate interests that can be trusted to keep silence (or kill those who might not).

[30] Tagesspiegel, 01/13/2002.

93. Myriad circumstances establish to a near certainty that all three of the World Trade Center buildings that collapsed on 9-11 – *i.e.*, the Twin Towers (WTC Buildings 1 and 2) and the 47-story WTC 7 (which collapsed about 5:20 P.M. on 9-11) --were brought down in deliberate, controlled demolitions. (See below.) Controlled demolition of the World Trade Center necessarily implies unimpeded prior access to both towers, access to explosives, a high level of technical expertise in laying explosive charges, avoiding detection between the placement of the explosives sometime prior to 9-11 and the date of the attacks, and accomplices not on the planes, who detonated the demolition charges. The U.S. government can, *e.g.*, by viewing video and consulting engineers and demolition experts, discern whether the Twin Towers were demolished (as opposed to collapsing due to the structural effects of the aircrafts' impact, and/or fires started by burning jet fuel). If the Twin Towers were demolished, and explosives for that purpose were placed in the towers prior to 9-11, then to a virtual certainty there has been and there continues to be a cover-up, and the case for official, high-level complicity is very strong indeed.

94. The evidence for such controlled demolitions is impressive. Consider, first, that *all three* skyscrapers collapsed relatively tidily, symmetrically, into their respective footprints. That is the very purpose of the science of controlled implosions. Inward collapses are triggered by precision-timed explosives, placed on strategic, load-bearing columns and beams, to demolish large structures in congested areas while limiting damage to structures nearby.

95. Probably the most conclusive evidence that each of the Twin Towers fell in a controlled demolition is that the tops of the respective buildings reached the ground almost as quickly as if they had fallen in a vacuum. From a height of 1,360 feet, an object falling in a vacuum would take a little more than 9 seconds to reach the ground. *As a matter of physics*, if the top parts of the buildings were not speeded in their descent by explosives weakening the

concrete and steel of the bottom 80 stories or so of the towers that lay in their respective paths, the towers could not possibly have collapsed as quickly as they did. Some part of the energy that, in a vacuum, would be available for falling downward at an accelerating rate would have to be expended instead in tearing through the many stories of concrete and steel that lay between the top of each WTC tower, and the street.

96. Not long after 9-11, FEMA produced a bogus study that claimed that fire produced the collapse of World Trade Center 7. Yet, a year later — although the revelation produced no significant public reaction — Larry Silverstein, head of the company that took a 99-year lease to the WTC *just weeks before the attacks*, admitted on television that WTC was "pulled." In context, what Silverstein's little-reported remarks clearly meant was that WTC 7 (landlord to the IRS, Secret Service, Securities and Exchange Commission and the CIA) was demolished. In a PBS documentary first aired in September 2002, entitled "America Rebuilds," Silverstein said:

> I remember getting a call from the, er, fire department commander, telling me that they were not sure they were gonna be able to contain the fire, and I said, "We've had such a terrible loss of life, maybe the smartest thing to do is pull it." And they made that decision to pull and we watched the building collapse." (Emphasis added).[31]

97. Hours after the attack, Van Romero, an explosives expert and former director of the Energetic Materials Research and Testing Center at New Mexico Tech, stated, "My opinion is, based on the videotapes, that after the airplanes hit the World Trade Center there were some explosive devices inside the buildings that caused the towers to collapse." Although he would recant days later – with some prodding, perhaps, from representatives of the Enterprise – Romero

[31] Mr. Silverstein's comments are memorialized on PBS Home Video, ISBN 0-7806-4006-3, available from PBS, as well as on the internet as an audio file, http://VestigialConscience.com/PullIt.mp3.

said on 9-11 that the collapses were "too methodical to be a chance result of airplanes colliding with the structures."[32]

98. Indeed, there are multiple sites on the Internet on which one can see videos of the collapses of the towers, displaying "squibs" (lateral explosions, blowing out windows at intervals of roughly 5 stories, descending just ahead of the dust cloud) and other visual indicia of controlled demolitions.

99. Plaintiff notes also that there was a "power down" condition in the South Tower, ostensibly due to the need to carry out a "cabling upgrade," on the weekend of September 8-9, 2001. This could have afforded Enterprise demolition agents the opportunity to implant explosives in the South Tower, without being recorded on security cameras. Plaintiff notes further that Stratesec, a company of which Marvin Bush, the President's brother, was formerly a director, provided security in the WTC Complex.[33]

100. Never in the history of steel reinforced concrete skyscrapers have such buildings collapsed due to fire – except, we are supposed to believe, in three separate (if coordinated) occurrences on 9-11. Implausible, also, is that the towers did not merely fail structurally, but produced mushroom clouds of fine powder, supposedly as a result of the fires. It can be demonstrated -- again using laws of physics not subject to distortion by Enterprise-friendly Supreme Court Justices -- that the energy needed to produce mushroom clouds of the dimensions seen on 9-11 was more than could have resulted from collapses due to fire, without powerful explosives being present as well.

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[32] "Eyewitness Reports Persist of Bombs at WTC Collapse," www.rense.com, 12/02/2001.

[33] Margie Burns, "Bush-Linked Company Handled Security for the WTC, Dulles and United," Prince George's Journal (Maryland) 2/4/2003.

101. There are also multiple incongruities with claims of the "Official Story" that burning jet fuel so weakened floor trusses or angle clips that the towers "pancaked" and fell as a result. Many skeptics have pointed out that the WTC, when constructed one of the world's tallest buildings, was built with a safety factor of at least 600%. Molten steel was found at bedrock, seven stories below street level and 80 stories or more beneath the points of impact, although the melting point of steel is on the order of 1500 degrees Celsius, and burning jet fuel does not produce *flame* temperatures higher than about 1000 degrees Celsius. While steel may be weakened sufficiently short of melting to fail, claims that "infernos" led to the towers' collapses (among other flaws) confuse flame temperatures, and the temperature of the steel coming into contact with it. Upon information and belief, it is not likely that the structural steel of the WTC reached temperatures higher than approximately 360 degrees Celsius – far short of the approximately 550 degrees Celsius which is a threshold temperature in that, at that temperature, steel starts losing its elasticity. Even at the higher temperature, however, the WTC steel would have retained about 60% of its structural strength – sufficient to support three times its rated load.

102. Accounts supportive of the Official Story indicate that the design of the WTC included no significant lateral support for the walls against wind loading, whereas in reality, at about 13'4" intervals the perimeter walls were affixed to 24" x 18" metal plates covered with shear studs, and set in the concrete slab. In addition, pairs of foot6-foot long, flat steel bars connected directly on the perimeter columns. Thus, owing to the composite action between the concrete and the steelwork, achieved by extending the diagonal web members of the joists through the steel decking, and embedding them in the slab of each floor, it is not true that nothing more than the so-called "angle clips" held up each floor. In addition, a number of

"mechanical floors" in each tower, stories that would be subjected to extraordinary loads for things such as air conditioning equipment, used solid steel beams in their flooring. Moreover, the embedding of the tops of the trusses in the concrete slab means that, even had the trusses been heated to the point of failure, the concrete slab would have held the trusses up. Had one truss failed, its load would be redistributed to the concrete slab, and all remaining trusses associated with that slab. So the failure of one, or even many, trusses would not lead to overall failure, and it is impossible that the trusses collapsed one after the other, as the Official Story supposes.

103. In addition, even if we suppose that fires within the building could have heated the bolts or flanges sufficiently that they fell apart, or tore through the steel, for each of the Twin Towers to have fallen symmetrically, presumably all of the joints between the platter and the central columns would have to have been heated at almost exactly the same rate, in order to collapse tidily, at the same time, and at the same rate as the joints with the outer columns on all sides.

104. Further fallacies inherent in the "jet fuel inferno" elements of the Official Story include that:

a. "Infernos" are inconsistent with the sooty (oxygen-starved and hence not very hot) fires observed (especially in the North Tower);

b. Much of the planes' jet fuel burned *outside* the buildings (especially in the case of the South Tower, which was struck at an oblique angle, producing an orange fireball which, although impressive visually, consumed much of the fuel outside the building);

c. The jet fuel fires would have been brief – most of it burning off or evaporating within 30 seconds, and all of it within about 2-3 minutes. The energy produced by the burning jet fuel, not absorbed by the concrete and steel within this brief period, would have been vented to the exterior;

d. Had temperatures over any appreciable area within either tower climbed to 700 degrees Celsius, the glow produced by such temperatures would have

been clearly visible (and nothing of the sort may be seen in the videotapes available);

e. Official Story historians neglect that, on February 23, 1975, the North Tower experienced a fire that burned for 3 to 4 hours, demonstrating the truss-slab combination's survivability in such circumstances;

f. The Official Story does not explain how the 47 massive central core columns, which held up the greater part of the weight of each building, failed; and

g. It has been calculated that if the entire 10,000 gallons of jet fuel from the aircraft was injected into just one floor of the WTC, and the jet fuel was then burned with perfect efficiency, no hot gases leaving the single story of the building and no heat escaping by conduction, the jet fuel would have raised the temperature to a maximum temperature of 280 degrees Celsius.

105. The existence of "infernos" is disproved also by eyewitness testimony. Whereas the Official Story has it that temperatures were hot enough to cause the trusses of the South Tower to fail, eyewitness-survivors state, to the contrary, that temperatures were cool enough for them to walk away:

a. The impact floors of the South Tower were 78 through 84. Donovan Cowan was in an open elevator at the 78th floor sky-lobby. He stated, "We went into the elevator. As soon as I hit the button, that's when there was a big boom. We both got knocked down. I remember feeling this intense heat. The doors were still open. The heat lasted for maybe 15 to 20 seconds I guess. Then it stopped."

b. Ling Young was in her 78th floor office. She said: "Only in my area were people alive, and the people alive were from my office. I figured that out later because I sat around in there for 10 or 15 minutes. That's how I got so burned."

c. Photographs of the aircraft impact area of the North Tower show a survivor peering out – hardly consistent with an "inferno" of 800 degrees Celsius;

d. Although, suspiciously, certain segments of the same have been classified, FDNY audiotape from 9-11 reveals that the fires were believed to be under control (far from "infernos" capable of melting steel) and that firemen on the scene had no indication that either of the towers were unstable or might fall, or of their own impending doom.

106. Jet fuel fires as the effective cause of the Twin Towers' collapses are discredited also by seismic evidence. The Lamont-Doherty Earth Observatory in Palisades, New York (in Rockland County, roughly 21 miles or 34 km north of the WTC) recorded seismographs on 9-11 that show seismic events *at the beginning* of the collapse of each of the Twin Towers. There was a 2.1 magnitude earthquake just as the South Tower began its 10-second collapse at 9:59:04, and a 2.3 magnitude earthquake as the North Tower began its collapse at 10:28:31. Jet fuel – most of which was burned off or evaporated at levels 80 stories or more above the ground level, within a few minutes following the impacts – cannot account for the fires that continued to burn, deep in the pile of rubble within the buildings' footprints, for 100 days after 9-11. The only reasonable explanation for the earthquakes as the buildings *began* to fall, and for the long-lasting fires, is that the true perpetrators of the attacks placed and detonated explosives below ground level beneath each of the towers, where the columns were affixed to bedrock. This also helps explain how the towers fell so quickly (almost as fast as if in an unimpeded free fall) and almost entirely within their respective footprints.

107. The obvious difficulty that the seismic recordings present to the believer in the Official Story, however, is that, *in addition to* having the resources and the skill to pull off the hijackings and the flying of the planes into buildings, for the Official Story to be credible the hijackers had to have, first, obtained explosives sufficient to produce the massive explosions recorded. Then, they would have had to gain access to sub-basement areas of each building, some seven stories below street level. They would have had to know how and at what locations to place the explosives in advance of 9-11, so as to produce the effect of blowing out massive steel columns connected to bedrock. They would have had to have the cunning to prepare and

place the explosives without being detected, and to detonate or cause the detonation of the explosives 1-1/4 to 1-1/2 hours after their "martyrdom."

108. Finally, in addition to the resources and the skill to accomplish all of the foregoing, it seems the "terrorist hijackers" would need to have had the influence to prevent, and to continue to prevent for more than 3 years following the attacks (throughout which time they have been the object of nationwide revulsion) widespread disclosure of the full extent of their deeds (*i.e.*, the placement and detonation of huge explosive charges beneath each of the towers). In fact, the evidence was whisked away with astonishing speed. (See below)

109. As, clearly, the entire approach of the Bush II Administration since 9-11 has been to maximize public fears of terrorism, not to assuage them, a cover-up of the facts of the explosions and of the demolitions of the Twin Towers can only indicate that the Defendants intend that such facts remain little-known *because they are fatal to the Official Story, and argue powerfully that the WTC attacks were an "inside job" done by, or with the complicity of, the U.S. government.* Were this not so, the government would be trumpeting these facts, with the aim of showing that "Muslim terrorists" are *even more frightful* than supposed, and as justification for more surveillance, more military spending, and more abridgements of Constitutional rights.

110. Finally, there are video images that appear to depict each of the supposed "Flight 11" and "Flight 175" shooting projectiles into the North Tower and the South Tower, respectively, just prior to impact. The North Tower video is from the Naudet Brothers' "Fireman's Video" which became the basis of the television documentary "9-11." Allegedly, those who taped the documentary on home VCR machines, or purchased the VBS videotape, can see the "flash" of the projectile ejecting from the plane just before it hit the North Tower. The

later, DVD "collector's edition" of the documentary allegedly was digitally edited to remove the "flash."

111. Evidence wholly independent of video images purporting to show missiles being fired into the WTC towers amply shows (1) that the planes' impact and jet fuel fires do not sufficiently explain the collapse of the towers; and (2) there is abundant evidence of high explosives at the foundations and controlled demolitions. Even more shocking than the consumer-quality videotape of the Naudet Brothers are the images that can be seen on www.letsroll911.org. These images from major news sources show "Flight 175" as it strikes the South Tower on 9-11. When slowed down, the images appear to show (albeit not very distinctly) (a) an apparatus on the underside of "Flight 175," believed to be a missile pod, not normally found on the Boeing 757; and (b) a bright object projected from the location of the pod preceding (by perhaps 1/3 second) the plane into the South Tower. No major media outlet has reported on these images, as the same are presented on the www.letsroll.911.org website. As the website owner himself admits, many thousands of copies of the "Flight 175" images from CNN and other major media outlets must exist on Americans' shelves, as the second strike occurred when millions had their TV sets on and, no doubt, many people taped the terrible events as they occurred. Thus, as the www.letsroll911.org webmaster, Phil Jayhan, states by way of a challenge, if the images presented on that website are not genuine, refuting them ought to be an easy task.

112. The "letsroll911" video images remain controversial even within the growing community of 9-11 skeptics, and perhaps they are insufficiently clear to establish the "missile and pod" theory beyond a reasonable doubt. Nevertheless, the number of "hits" on the website and other evidence suggests that many agencies of the U.S. government and the media claiming

to have produced the images have repeatedly visited the www.letsroll911.org website, and certainly the images are convincing enough at least to demand careful examination. One would think, certainly, that if some activist were attracting huge attention (if only on the internet) by publicizing major media images from 9-11 *that had been doctored to add a missile being fired from "Flight 175,"* the media would have reacted publicly, or sought a court injunction to disavow and discredit the doctored images. Upon information and belief, none of the media have claimed the images appearing on the website to be anything but genuine. If they *do* show the firing of a missile, and they are genuine, then clearly the Official Story— although "alive and well" as Enterprise, CNN, Fox News and other captive media propaganda sources — is, in objective fact, a dead letter.

113. From the foregoing, missiles firing or not, Plaintiff submits it is evident that the Twin Towers were demolished, and that the "jet fuel inferno" account is disproved as a sufficient cause of the collapses. The discrediting of such critical elements of the Official Story, coupled with the lack of any true investigation of the actual events, establishes a cover-up. Moreover, if the Twin Towers were demolished, unless the 19 alleged hijackers were superhuman, then some element of the United States government, some secret service, some extremely powerful actors were participants in the attacks.

B. FEMA, WHICH REMOVED THE WTC EVIDENCE BEFORE IT COULD BE INDEPENDENTLY EXAMINED, MAINTAINS A BLACK-OP SHADOW GOVERNMENT DESIGNED TO REPLACE THE ELECTED GOVERNMENT OF THE UNITED STATES.

114. A supposedly definitive technical study concerning the collapses of World Trade Center 1 and 2 (the North Tower and South Tower) appeared just two days after 9-11, but the

actual evidence (the rubble from the destroyed buildings, especially the structural steel) was kept under the exclusive control of FEMA, removed from the site, and shipped overseas with haste that dismayed engineers, and astonished everyone. Called by its right name, this was the destruction of evidence, and an obstruction of justice, brazenly carried out in plain view.

115. The predominant public view of FEMA is that it is a well-intentioned if lethargic service bureaucracy that parcels out rebuilding funds after floods and earthquakes. FEMA does perform some useful disaster-relief functions, but its principal (and largely secret and "black budget") function is and always has been "Continuity of Government." Its main objective is to make sure that centralized federal control – if need be, in the hands of executives neither elected by, nor indeed known to, the electorate, who already function as a "shadow government" – continue, no matter what. To that end, it has constructed dozens of secret underground bunkers, capable of sustaining the select few admitted to them following any catastrophe. It has budgets with millions for disaster relief, but *billions* for unspecified "other purposes." Like the CIA, it receives unknown sums in black-budget appropriations and, also like the CIA, upon information and belief finances its secret operations in significant part by drug dealing, gun running, and assassinations.

116. If and when martial law comes to America at large, it will be under the auspices of the shadowy Federal Emergency Management Agency ("FEMA"), a massive, secretive agency operated from a huge, fortified bunker in Virginia, and established by unconstitutional means to carry out an unconstitutional and indeed anti-constitutional program.

117. Many Americans who listened to the televised hearings of the (limited) investigation of the Iran-Contra scandal were surprised to hear a committee member inquire about an article alleging secret White House plans to suspend the Constitution. Even more surprising was that

committee chair Sen. Daniel Inouye interrupted the speaker, demanding that all discussion on that question take place in closed session, out of public hearing.

118. Lest Plaintiff's allegations concerning a parallel government be dismissed as sheer paranoid fantasy, Plaintiff annexes as Exhibit "B" the full text of an article that appeared in the "mainstream" Miami Herald for July 5, 1987. That article alleges a secret, parallel government from the earliest days of the Reagan Administration, its activities extending far beyond the secret arms sales to Iran and aid to the Nicaraguan "Contras" then under investigation, and plans drawn by Lt. Col. Oliver North and others to suspend the Constitution in the event of a "national crisis" including "*widespread dissent or national opposition to a U.S. military invasion abroad*."

119. Today, a large number of the Reagan and Bush I Administration's most controversial personnel, including several notable figures convicted of crimes relating to Iran-Contra, have joined the Bush II Administration. There being credible allegations (raised by, among others, General Wesley K. Clark) that the Bush II Administration envisages a series of wars and violent "regime changes" around the globe,[34] it is fitting to ask if the Iran-Contra plans for the mass internment of dissenters or opponents of empire are again being taken seriously, and to look more closely at FEMA.

120. Established without Congressional advice, consent or objection, wholly by a series of Presidential Executive Orders of doubtful constitutionality, FEMA had its origins in Kennedy-era orders that granted the federal government the power to seize a variety of private or local

[34] Richard Perle and David Frum, neo-con insiders, published a book recently with the astonishing title, *An End to Evil: Strategies for Victory in the War on Terror*. They advocate the U.S.- backed overthrow of the government of Iran, "regime change" in Syria, a blockade of North Korea, and the abandonment of the "illusion" that a Palestinian state will contribute in any important way to U.S. security.

functions in event of emergency. President Nixon consolidated and enlarged those powers in 1969, with Executive Order 11490.

121. President Ford signed Executive Order #11921, which, in the words of Dr. Henry Kliemann, political scientist at Boston University, "was understood by FEMA to mean that one day they would be in charge of the country. As these bureaucrats saw it, FEMA's real mission was to wait, prepare, and then take over when some 'situation' seemed serious enough to turn the United States into a police state."

122. A few years after President Carter, again by Executive Order, made FEMA "official," President Reagan appointed as its head Gen. Louis Giuffrida, who had written a paper advocating the declaration of martial law in response to black militancy. His plan could have sent millions of African-Americans to detention camps. Giuffrida also wrote "Martial rule comes into existence upon a determination (not a declaration) by the senior military commander that civil government must be replaced because it is no longer functioning anyway."[35]

123. Indeed, the author for President Carter of Presidential Memorandum 32 was Harvard Prof. Samuel P. Huntington, who wrote in the mid 1970s that democracy and economic development are outdated ideas. As co-author of the book *Crisis in Democracy*, Mr. Huntington said:

> We have come to recognize that there are potential desirable limits to economic growth. There are also potentially desirable limits to the indefinite extension of political democracy. *A government, which lacks authority, will have little ability short of cataclysmic crisis to impose on its people the sacrifices that may be necessary.*

[35] Perhaps the Bush II Administration's unprecedentedunprecedented and reckless budget deficits are *intended* to bankrupt the United States, so as to bring about a collapse of democratic institutions and usher in a FEMA-run police state.

124. In an interview in the December 2003 issue of *Cigar Aficionado*, Gen. Tommy Franks, who led the U.S. military operation to overthrow Saddam Hussein, asserted that, were there to occur another mass-casualty attack, the "grand experiment that we call democracy" would come to an end, and the Constitution would be discarded in favor of a military government.

125. In a joint statement dated September 30, 1973, Senator Frank Church (D-Idaho) and Charles McMathias (R-Maryland) stated: "While the danger of a dictatorship arising through legal means may seem remote...recent history records Hitler seizing control through the use of the emergency powers provisions contained in the laws of the Weimar Republic." Although, to be sure, non-Enterprise terror and terrorism exist, and are evils to be combated, the Enterprise and the Bush II Administration are embarked on a program to exaggerate the threat of terrorism, and to aggrandize their own power and wealth via measures that would not be accepted absent a perceived emergency, but which are succeeding because of a climate of fear, created in part by acts of terror sanctioned and carried out by or with the approval of the Enterprise itself.

126. It is intriguing, and circumstantial proof of Enterprise foreknowledge of the 9-11 attacks, that on September 7, 2001, *just four days before 9-11*, the President's brother Jeb Bush, as Governor of Florida, issued an Executive Order (#01-261) delegating to the Adjutant General of the state of Florida, "all necessary authority . . . to order members of the Florida National Guard into Active Service." Immediately after the collapse of the South Tower on 9-11, Governor Jeb Bush signed Executive Order #01-262, declaring a state of emergency in Florida that upon information and belief remained in effect for a year or longer, despite the fact that no acts of terrorism have occurred in Florida. Under an open-ended state of emergency, the

Director of the Division of Emergency Management has (among others) all of the following martial-law powers:

a. To suspend the effect of any statute or rule governing the conduct of state business;

b. To suspend the effect of any order or rule of any government entity;

c. To seize and utilize any and all real or personal property as needed to meet this emergency;

d. To order the evacuation of any or all persons from any location in the State; and

e. To regulate the return of the evacuees to their home communities.

127. Upon information and belief, FEMA directly or indirectly received funds from "Operation Watchtower," a drug smuggling operation including U.S. Army Special Forces personnel. "Operation Watchtower" entailed the placement and operation of low-frequency radio beacons to guide low-flying pilots from Colombia to Panama. It also consisted of making available to the drug pilots the radio frequencies and schedules of drug interdiction aircraft so as to enable them to avoid detection.

128. According to an affidavit made by Colonel Edward P. Cutolo, a purported copy of which is annexed as Exhibit "D," numerous individuals met their deaths under suspicious circumstances who had posed a threat to "blow the whistle" on yet another U.S. government exercise in funding "black ops" with laundered proceeds from drug dealing.

129. Col. Cutolo himself died in a one-car accident near Skullthorpe, England, in 1980. His affidavit states that Mossad agents associated with Operation Watchtower were protected by CIA Director Stansfield Turner and George H. W. Bush, and Washington military authorities had approved the drug trafficking operation. Cutolo stated that he was told by CIA operative Edwin

Wilson that Operation Watchtower was but one of a number of similar operations around the world, and that 70% of its proceeds were laundered through banks in Panama.

130. Wilson, according to Cutolo, described to him an additional secret operation, Operation Orwell, which spied on politicians for purposes of blackmail. Allegedly, information gathered on politicians was forwarded to Washington, D.C. and disseminated to private corporations who were developing weapons systems for the Department of Defense. Those corporations were encouraged to use the sensitive information gathered from surveillance of U.S. senators and representatives as leverage, which is to say blackmail, to induce them to vote to approve whatever costs the weapons systems incurred. Upon information and belief, such blackmail has continued and is ongoing at the present time.

131. The extraordinary, police-state powers granted to FEMA and to other federal bodies by Executive Orders ("EOs") include but are not limited to the following:

a. To take over all modes of transportation, and control of highways and seaports (EO 10990);

b. To seize and control the communications media (EO 10995);

c. To take over all electrical power, gas, petroleum, fuels and minerals (EO 10997);

d. To take over all food resources and farms (EO 10998);

e. To mobilize civilians into work brigades under government supervision (slave labor) (EO 11000);

f. To take over all health, education and welfare functions (EO 11001);

g. To compile and to operate, acting through the Postmaster General, a national registration of all persons (EO 11002);

h. To take over all airports and aircraft, including commercial aircraft (EO 11003);

i. To relocate communities, build new housing with public funds, designate areas to be abandoned, and establish new locations for populations (EO 11004);

j. To take over railroads, inland waterways and public storage facilities (EO 11005);

k. To put all Executive Orders into effect in times of increased international tensions and economic or financial crisis (through the Office of Emergency Planning);

l. Through the Department of Justice, to enforce plans set out in Executive Orders, institute industrial support, to establish judicial and legislative liaison, control all aliens, operate penal and correctional institutions, and advise and assist the President (EO 11310); and

m. To develop plans to establish control over the mechanisms of production and distribution, energy resources, wages, salaries, credit and the follow of money in U.S. financial institutions in any undefined national emergency. (EO 11921) This Executive Order provides further that, when the President declares a state of emergency, Congress cannot review the action for six months.

General Frank Salzedo, then Chief of FEMA's "Civil Security Division," stated in a 1983 conference that he saw FEMA's role as including the denial of "access to U.S. opinion" to "dissident groups" in times of crisis. In other words, if the President declares a state of emergency, the First Amendment is a dead letter, and FEMA's role includes the suppression of dissent.

132. In 1979, President Carter consolidated FEMA's powers to include:

a. The National Security Act of 1947, which allows for the strategic relocation of industries, services, government and other essential economic activities, and to rationalize the requirements for manpower, resources and production facilities;

b. The 1950 Defense Production Act, which gives the President sweeping powers over all aspects of the economy;

c. The Act of August 29, 1916, which authorizes the Secretary of the Army, in time of war, to take possession of any transportation system for transporting troops, materiel, or any other purpose related to the emergency; and

d. The International Emergency Economic Powers Act, which enables the President to seize the property of a foreign country or national.

133. The ideological inspiration for what we know as FEMA today can be typified by a few noteworthy U.S. government pronouncements. In February 1948, for example, George Kennon of the U.S. State Department Planning Staff stated in Policy Planning Study No. 23 that:

> [T]he U.S. must devise a pattern of relationships that will permit them to maintain 50% of the world's wealth while only having 6% of the world's population. The U.S. must cease to talk about unreal objectives such as human rights, raising of the living standard and democratization.

134. In National Security Memorandum No. 200, Henry A. Kissinger stated in 1975 that:

> [A] reduction of the rate of population of these states [third world countries] is a matter of vital U.S. security since the U.S. will require large and increasing amounts of materials from abroad, especially from Less Developed Countries (LDC's). That fact gives the U.S. enhanced interest in the political, economic and social stability of these supplying countries. Wherever a lessening of population can increase the prospects of such stability, population policy becomes relevant to resources supplied and to the economic interest of the United States.

135. While many Americans, whatever their racial background, will no doubt be shocked and repelled that genocide in the interests of white economic supremacy is an unacknowledged bedrock of U.S. international policy, a report commissioned by President Carter, "Global 2000 – Report to the President" (1978) asserted that:

> There will be zero population growth for the whites on the earth by the year 2000, and in order to preserve the survival of the white race, lands that contain resources that the U.S. needs must be freed of its surplus population.[36]

136. In the short term, it has suited the Enterprise and the extreme right wing to allow huge numbers of undocumented and largely Hispanic and nonwhite immigrants to enter and remain in the U.S., to depress wages and working conditions here, and to "divide and conquer" the majority of the population, by fueling tensions between native-born Americans and

[36] This, perhaps, explains why so little is being done by the United States to relieve the AIDS pandemic, in Africa and elsewhere. "Freeing" lands of "surplus population" is doublespeak for killing poor people of color, or hastening their mortality.

immigrants. The Enterprise has long recognized, however, that a program of empire and even genocide aimed at the nonwhite nations and economies of the third world, intensifying as U.S. demand for resources – especially oil and other fossil fuels – grows more acute, could well lead to restiveness on the part of nonwhite persons living in the U.S., and a great many others as well. Thus, quietly, a parallel government, in its essentials a police state readying "all the odious apparatus of Nazi rule,"[37] has been erected alongside the Constitutional government to provide for the day when the governing elite deems it useful to jettison the Constitution. That day may be fast approaching.

137. Presidential powers were further increased with successive Crime Bills (particularly those enacted in 1991 and 1993). This legislation increased the power to suspend rights guaranteed under the Constitution, and to seize the property of persons including suspected drug dealers, and individuals who participate in a public protest or demonstration.

138. Notwithstanding the real dangers posed by non-Enterprise terrorists, justification for substantially all of the "emergency" powers now held by FEMA (a black-budget agency existing thanks to Executive Orders and minimally subject to Congressional oversight) is manifestly weaker today, years after the dissolution of the Soviet Union, than during the Cold War, when thousands of nuclear warheads were aimed at United States territory.

139, Although the fact is no doubt unknown to ninety percent or more of the population of the United States, "emergency" plans are in existence, for which expansive logistical preparations have been made for suspending the Constitution, turning the reigns of government over to FEMA, and appointing military commanders to run state and local governments. FEMA would further be empowered to order the detention, indefinitely and without trial, of anyone

[37] The quoted phrase is from Winston S. Churchill.

whom it believes "might" engage in, or conspire with others to engage in, espionage or sabotage. A national police force, with the euphemistic name of the Multi Jurisdictional Task Force, wearing black uniforms and composed of specially-selected US military personnel (those willing to fire on Americans), foreign military units with UN identification cards and specially-trained police groups from larger U.S. cities, will enforce martial law, under the direction and control of FEMA.

140. Even short of full-scale police-state measures, the "war on terror" can be used as a pretext for draconian powers. For example, on March 16, 2003, a Gannett News Service article reported that Sid Caspersen, Director of the Office of Counter-Terrorism for the State of New Jersey, stated at a news conference that "If the nation escalates to 'red alert,' which is the highest in the color-coded readiness against terror, you will be assumed by authorities to be the enemy if you so much as venture outside your home." The article also stated, "A red alert would also tear away virtually all personal freedoms to move about and associate." Caspersen was quoted as saying "You literally are staying home, is what happens, unless you are required to be out."

141. A February 14, 2003 article in the Washington Post reported that Washington, D.C. area schools were planning to prevent parents from picking up *their own children* in the event of a terrorist attack. A parent from Bolton, Massachusetts telephoned a radio talk-show, saying he had received a letter from the Nashoba Regional School District, telling parents they would not be allowed to pick up their children during a "red alert" and that the children would in such event *be bused to a secret location that cannot be disclosed to parents.*[38]

[38] See, David Cho, "Schools Boost Preparations for Attack, Many Anti-Terror Plans Would Stop Parents From Picking Up Children," Washington Post, 2/14/2003; Peabody and Rendon, "Schools ready for emergencies – Area districts tell parents not to pick up children during lockdowns: Houston Chronicle, 3/19/2003.

142. Reportedly, children attending the Milbourne Elementary School in the rural community of Milbourne, Arkansas, were held on Friday, March 21, 2003 beyond their release time, forced to watch terrifying videos of terrorist attacks, and locked in their classrooms (as were their teachers) by men in dark blue uniforms with rifles. The children were then marched outdoors where they saw prison-style school buses with US ARMY written on the side. The children were then returned to their classrooms, the armed men and buses disappeared, and only then were the children permitted to go home.

143. In March 1999 – before 9-11 -- Marines and elements of the U.S. Coast Guard took over the Hobbs Middle School in Milton, Florida. The Marines told terrified children that the mock takeover "was a way to illustrate what martial law is all about."[39] Why, plaintiff asks, is there the need to instruct Florida schoolchildren regarding "what martial law is all about"?

144. The foregoing powers are utterly irreconcilable with the Constitution of the United States, including but not limited to Article IV, Section 4, and the Tenth Amendment. They are, simply stated, a prescription for a police state, for a totalitarian state very much like those ruled by Josef Stalin and Adolph Hitler.

145. For many years, FEMA denied the existence of its primary bunker, Mount Weather in Virginia. Even after admitting to its existence, FEMA refused to disclose its purpose, even to its ostensible bosses in Congress. At 1975 hearings, retired Air Force General Leslie W. Bray, the director of FEMA's predecessor, the Federal Prepared Agency, stonewalled a U.S. Senate subcommittee, insisting, "I am not at liberty to describe precisely what is the role and the mission and the capability that we have at Mount Weather, or at any other precise location." Is that not information to which the people's elected representatives are entitled?

[39] Pensacola News Journal, 03/26/1999.

146. Since Hurricane Andrew and 9-11, however, it has become somewhat more widely known that Mount Weather houses an entire parallel and unelected government – with a president, who by protocol must be addressed as "Mr. President," and a cabinet not confirmed by the Senate, nor known to the public, all ready to take over the country in an "emergency" which, per President Carter's order, embraces "any accidental, natural, man-caused, or wartime emergency or threat thereof, which causes or may cause substantial injury or harm to the population or substantial damage to or loss of property."

147. The foregoing definition, of course, is ample enough to authorize a FEMA takeover based on whatever the President, or the director of FEMA, declares to be sufficient cause. Back in 1975 – the stone age of computer technology – the Senate hearings that failed to learn the purpose of Mount Weather *did* learn that "... the facility held dossiers on at least 100,000 Americans. [Senator] John Tunney later alleged that the Mount Weather computers can obtain millions of pieces of additional information on the personal lives of American citizens simply by tapping the data stored at any of the other ninety-six Federal Relocation Centers." The subcommittee concluded that Mount Weather's databases "operate with few, if any, safeguards or guidelines." It appears a foregone conclusion that the unelected parallel government's intrusion into the private lives of Americans could only have increased exponentially in the years since 1975.

148. 9-11 provided the occasion for a practice exercise in "continuity of government." According to the Washington Post,[40] "Within hours of the synchronized attacks on the Pentagon and the World Trade Center, Military District of Washington helicopters lifted off with the first wave of evacuated officials." "Only the executive branch is represented in the full-time shadow

[40] Barton Gellman and Susan Schmidt, "Shadow Government Is at Work in Secret," Washington Post, 03/01/2002.

administration," the Post noted, and "[m]any departments, including Justice and Treasury, have completed plans to delegate statutory powers to officials who would not normally exercise them." Thus, if a disaster can be fabricated sufficient to serve as a pretext to declare martial law, the executive branch could exercise power through persons neither elected by the public nor confirmed by the Senate, and indeed the checks and balances traditionally supplied by the legislative and judicial branches would effectively be nullified. It is no wonder that Republican Party stalwarts such as William Safire have floated "trial balloons" foreseeing terror attacks immediately before the scheduled 2004 presidential election.[41] According to sources with the FBI and the CIA, the White House from some time has been manufacturing terror alerts to keep the issue alive in the minds of voters, and to bolster President Bush's approval ratings.[42]

149. As recent revelations of the widespread, systematic abuse of Iraqi detainees by U.S. and British forces (which came to public notice only in April 2004 although at the highest levels allegedly knew of the abuse for many months[43] at least since December 2003), there have again emerged "expert" predictions that a "dirty bomb" will create panic and death in a Western city. On information and belief, these "predictions" are issued at such strategic times to take attention off the horrific, unconscionable offenses that are now coming to light.[44] Indeed, the mere planting of such rumors tends to diminish outrage and demands for accountability among the

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[41] William Safire, "From Politics to Books, My Picks for 2004," Salt Lake Tribune, 01/04/2004.

[42] Jon Dougherty, "Terror Alerts Manufactured? FBI Agents Say White House Scripting 'Hysterics' for Political Effect," WorldNetDaily.com, 1/4/2003. *See also,* Joseph Kay, "More 'Washington Whispers' About Possible Pre-Election Terrorist Attack," www.wsws.org; Erica Werner, "Voting Official Seeks Process for Canceling Election Day Over Terrorism, Associated Press, 6/25/2004.

[43] Marian Wilkinson, "Troops 'have been abusing Iraqis for a year,'" Sydney Morning Herald, 05/05/2004; *see also,* Ted Rall, "An Army of Scum," Yahoo News, 05/04/2004.

[44] Douglas Frantz, "Experts fear 'dirty bomb' attack in U.S., Europe," Chicago Tribune, 05/09/2004.

American public. Why be concerned that Iraqis are being tortured, humiliated, and abused, when a "dirty bomb" might spew deadly radiation in our hometown?

150. Evidence of the moral degradation to which the Bush II Administration is leading America is that Rush Limbaugh, far-right commentator and hero of the Republican Party, with an audience of 20 million, dismissed the abuse of Iraqi prisoners in the following terms:

> . . . Somebody has to provide a little levity here. This is not so serious as everybody is making it to be . . . We act like . . . "What can we do to make these people feel better? Let's just pull out of there, and let's just go." . . . I mean, it's ridiculous. . . . This is a pure, media-generated story. . . . we're going to hamper our military effort, and then we are going to really hammer them [the troops accused of abusing Iraqis] because they had a good time. . . . I'm talking about people having a good time . . . you ever heard of emotional release? You heard of need to blow some steam off?[45]

151. In 1984, the Iran-Contra affair spurred planning to suppress a possible flow of refugees in the event the United States were to go to war against the Sandinista regime of Nicaragua. "Readiness" exercises under the code name REX-84 were conducted on the assumption that FEMA might have to detain a large number of refugees. Detention centers were set up at least ten military bases to provide for such a contingency.

152. REX-84 coordinated 34 federal departments and agencies in "readiness exercises" held from April 5-13, 1984. The training exercise included the use of the military to control civil disturbances, major demonstrations and strikes. It also included exercises in conducting large population movements, and imposing martial law.

153. REX-84 was so secretive that special metal security doors were placed on the fifth floor of the FEMA building in Washington, D.C., and many long-standing Civil Defense employees were denied entry. The emergency plan was vehemently opposed by then-Attorney

[45] Dick Meyer, "Rush: MPs Just 'Blowing Off Steam,'" CBS News, 05/06/2004.

General William French Smith. It was drawn in large part by Lt. Col. Oliver North, infamous for his Iran-Contra exploits, and for his blatant perjury before Congress. This "dry run" for fascism advocated the roundup and transfer to "assembly centers or relocation camps" of at least 21 MILLION African-Americans in the event of large-scale rioting or disorder, a proposal Hitlerian in inspiration and stunning in its scale.

154. "Operation Garden Plot," or United States Civil Disturbance Plan 55-2, provides for federal military assistance to be given to local and state law enforcement agencies during times of civil disturbances to control the civilian population. This operation will target people or groups that the government considers "disruptive elements," defined very broadly to include resistance groups, tax protesters, right-wing extremist groups, non-conformists, or people protesting the imposition of martial law. It expressly authorizes the use of deadly force to suppress civil disorder. Operation Garden Plot came into play, for example in 1992, at the time of the riots in Los Angeles, California, following the acquittal of the white police officers who had beaten black motorist Rodney King.

155. Under the host of Executive Orders that give the President dictatorial powers in the event of an emergency, the President can declare martial law, give FEMA the authority to take control of the economy and infrastructure of the United States, and suspend the Constitution and the Bill of Rights.

156. Under Executive Order 12919 and DODD 3025.12, FEMA would be empowered to hold civilian detainees in concentration camps. It could also use the detainees as forced labor, which would be monitored by the Department of Defense, but supervised by the FBI.

157. There are a number of fully-prepared "detention centers" ready to receive large numbers of civilian detainees. Those established in the early 1980s included Fort Drum (NY),

Fort Indian Town Gap (PA), Camp A. P. Hill (VA), Fort Benning (GA), Fort Stewart (GA), Eglin AFB (FL), Fort Chaffee (AR), Fort Huachuca (AZ), Oakdale (CA), Fort McCoy (WI), Batwood (PA), Florence (AZ), Wicksburg (AZ), El Rio (OK), Tooly Lake (CA), Maxwell AFB (AL), Camp Krome Detention Center (FL), Alderson (WV), Greenville (SC), Fort Jackson (SC), Avon Lake AFB (CA) and Elmundorf AFB (AK). Upon information and belief, many more detention facilities are located on active military bases that have been closed and converted to that purpose, and a remarkable number of them are located in Texas. Upon information and belief, the construction and expansion of concentration camps has accelerated greatly during the Bush II administration, with camps being constructed mostly in remote locations, in secret, and under tight security.

158. Although reports of FEMA concentration camps (and foreign troops training in remote national forest areas declared off-limits to the public, ostensibly to protect endangered species) are scoffed at by many as "urban legends," many photographs of what certainly appear to be recently-constructed facilities have appeared on the Internet, and there are a large number of former U.S. military installations which, while inactive (some of them for years) for their traditional defense purposes, remain secured out of the public's view.

159. Between 1976 and 1983 (from the latter part of the Ford Administration when George H. W. Bush was CIA Director, through the entire Carter Administration and the first three years of the Reagan Administration) the Argentine government conducted a "Dirty War," which, upon information and belief, was known to and abetted by elements of the government of the United States. Approximately 340 secret detention centers, referred to by the Armed Forces as "Prisoner Assessment Centers," formed an unofficial Argentine prison system that operated alongside the legal structure. The secret detention camps were intended to hold thousands of

people who disappeared in Argentina on the orders of the military dictatorship. Thousands were illegally detained, tortured and murdered as supposed threats to "national security" and the "Western Christian way of life." Although rationalized as a defense against terrorism of the extreme left, the "Dirty War" targeted dissidents, trade unionists, social reformers, human rights activists, nuns, priests, pacifists, psychologist, journalists, students, teachers, lawyers, actors, workers, housewives – thousands of persons not guilty of any crime whatsoever.[46] Having countenanced such measures in allied countries, there is no reason to suppose that elements of the United States government involved in the Enterprise are incapable of themselves conducting themselves in the same manner toward U.S. residents.

160. A memo from C. Dean Rhody, Director of Resource Management for the Department of the Army, dated July 27, 1994, makes reference to a "Civilian Inmate Labor Oversight Committee" and procedures "to establish civilian inmate labor programs" and "civilian prison camps" on Army installations. The referenced plans have not emerged into public view, but former Congressman Henry Gonzalez of Texas admitted in an interview, "The truth is, yes, you do have these standby provisions . . . whereby you could, in the name of stopping terrorism . . . invoke the military and arrest Americans and put them in detention camps."

161. Although the very notion of an "American gulag" might appear incredible, recent reporting by distinguished investigative reporter Seymour M. Hersh indicates that Donald H. Rumsfeld has, presumably with the knowledge and consent of President George W. Bush and Vice President Cheney, created a *worldwide* American "Gulag," consisting of secret prisons whose operations and existence were largely or totally concealed from Congress and the public,

[46] Source: (Argentine) National Commission on the Disappeared.

in which detainees – arrested without formal charges, held incognito and without access to legal assistance -- are systematically tortured and abused. Reportedly, this Bush II Administration "Gulag" is so repellent to worldwide human rights norms that the CIA, not renowned for its delicacy concerning torture and other human rights abuses, is objecting to it.[47]

162. Similarly, Secretary of State Colin Powell is publicly repudiating the doctrine reportedly set forth in a memo from White House counsel Alberto Gonzales a few months after 9-11, asserting that the attacks created a "new paradigm" under which the Geneva Convention's limitations on the questioning of enemy prisoners had become "obsolete," and even "quaint."[48] As a former military officer, Gen. Powell no doubt has concerns that America's repudiation of the Geneva Conventions might lead to the abuse and torture of American military personnel taken prisoner in current and future conflicts. Conduct at Abu Ghraib, Mr. Gonzalez' memo and other actions suggest that the Bush II Administration is prepared to scrap fundamental human rights norms overseas "because we can" -because- because there is no power forceful enough to constrain it as the world's sole superpower. If so, preparations to scrap Constitutional rights at home are not difficult to believe.

163. The turnover of the federal government to FEMA under martial law will be a clear violation of Article IV, Section 4 of the Constitution, which provides that "The United States shall guarantee to every State in this Union a Republican form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when

[47] Seymour M. Hersh, "The Gray Zone: How a Secret Pentagon Program Came to Abu Ghraib," The New Yorker, 05/24/2004. *See also* John White and Scott Higham, "Use of Dogs to Scare Prisoners Was Authorized," Washington Post, 6/11/2004; Nat Hentoff, "What Did Bush Know: the Inside Story on the Official Manual on How to Torture Without Being Prosecuted," Village Voice, 6/28/2004; David Johnston and James risen, "Aides Say Memo Backed Coercion for Qaeda Cases," New York Times, 6/27/2004.

the Legislature cannot be convened) against domestic violence." FEMA police-state rule is *not* a republican form of government. FEMA is not elected by the people to govern the country; it is a largely secret, black-budget operation set up by persons with suspect motives, now in the hands of the Enterprise.

164. The public needs to be made fully aware of the preparations for martial law (a euphemism for a "police state") and large-scale detentions being made by FEMA, largely under the pretext of a "war on terrorism." The United States did not need FEMA during World War I, World War II, the Korean War, the Vietnam War or, as events proved, the Cold War. Although Like the CIA, which combines legitimate intelligence-coordination activities with criminal "black ops," FEMA's activities may include a component of legitimate disaster-relief activities. However, following criticism of FEMA in the wake of its inept relief efforts following Hurricane Andrew, Congress found out that FEMA – long before 9-11 – was spending a dozen times more on secret bunkers and "black operations" than on disaster relief.

165. Further, the blurring of distinctions between the U.S. military and civilian law enforcement should be halted and reversed.[49] Under the Posse Comitatus Act (1879) it is unlawful to employ the Army for the purpose of executing laws, but after 9-11 the U.S. Army established a "Northern Command," including the entire territory of the United States, under Gen. Ralph Eberhart. This is the same Ralph Eberhart who was in charge of NORAD on 9-11. If the 9-11 attacks were not carried out or approved by the Enterprise, acting as and through the United States government, General Eberhart would have been court-martialed for dereliction of duty.

[49] "Is Military Creeping Into Domestic Law Enforcement?" Wall Street Journal, 3/9/2004.

C. DEFENDANTSDELIBERATELY CONCEALED THE FACT THAT THEY HAD AMPLE WARNINGS OF TERRORIST ATTACKS AND FAILED TO ACT ON THEM, A WAR ON TERROR BEING NECESSARY TO JUSTIFY THEIR POLITICAL AGENDA.

166. In unsworn May 2003 "testimony" to the Commission, Transportation Secretary Norman Mineta stated, "I don't think we ever thought of an aircraft being used as a missile. We had no information of that nature at all."[50]

167. FAA Administrator Jane Garvey said before the Commission, "I was not aware of any information about [airplanes] being used as weapons that was credible."[51]

168. The denials by Mr. Mineta and Ms. Garvey merely reiterated numerous Bush II Administration claims made since 9-11. For example, National Security Advisor Condoleeza Rice stated in May 2002, "All this reporting about hijacking was about traditional hijacking."[52]

169. President Bush himself stated in a speech to NATO, "Never did anybody's thought process about how to protect America (sic) did we ever think that the evildoers would fly not one, but four commercial aircraft into precious US targets – never."[53]

170. The foregoing denials of advance warnings made by Secretary Mineta, FAA Administrator Garvey, National Security Advisor Rice and President Bush are all deliberate lies[54] and were patently false, and known to be false when made. A review of the record and of information that has come into the public domain from government sources and "mainstream"

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[50] Norman Mineta Testimony, 5/23/2003. Plaintiff gratefully acknowledges research compiled by the Center for Cooperative Research, and summarized by Paul Thompson, used in preparing this complaint. See www.cooperativeresearch.org.

[51] UPI, 05/22/2003.

[52] Washington Post, 09/18/2002.

[53] Address of President George W. Bush to NATO, 09/16/2001.

[54] See Scott Paltrow, "White House Statements Aside, Protective Steps Date Back Through Clinton Administration," Wall Street Journal, 04/01/2004.

(corporate, mainly pro-Bush II Administration) media makes plain that the aforementioned officials could not reasonably have believed them to be true when they made them.

171. Sibel Edmonds, a former translator for the FBI, has stated that she saw documents prior to 9-11 that belie claims that the Bush II Administration had no knowledge of the possibility that terrorists might use hijacked airliners against buildings. Edmonds has been and continues to be harassed by the FBI, and has been threatened with jail if she reveals more of what she knows. Plaintiff alleges on information and belief that the Bush II Administration has resorted to a rarely-used "State Secrets" privilege to hide the fact that *it lied, over and over again, to the American people*.[55]

172. Edmonds has stated that the claim by Condoleeza Rice that there was no information suggesting the possibility of an al-Qaeda attack using aircraft is an "outrageous lie." Edmonds told the Commission "details of specific investigation files, the specific dates, specific target information, specific managers in charge of the investigation. I gave them everything so that they could go back and follow up. This is not hearsay. These are things that are documented. These things can be established very easily."[56]

173. On July 6, 2004, a federal judge appointed by President George W. Bush, Reggie B. Walton, threw out Ms. Edmonds' whistle-blower suit on "national security" grounds, accepting claims by Ashcroft and a senior FBI official that allowing publication of Edmonds' claims could expose intelligence-gathering methods, and disrupt diplomatic relations with foreign governments. According to Edmonds, Judge Walton dismissed her lawsuit without hearing from

[55] Michael C. Ruppert, "DOJ Moves to Invoke State Secrets Privilege to Prevent FBI Whistleblower From Giving a Deposition in 9/11 Suit," From the Wilderness, 4/26/2004.

[56] Andrew Buncombe, "'I saw papers that show US knew al-Qa'ida would attack cities with aeroplanes,' Whistleblower the White House wants to silence speaks to The Independent," The Independent, 4/2/2004. See also, Tom Flocco, "DOJ Asked FBI Translator to Change Pre 9-11 Intercepts," www.tomflocco.com, 3/24/2004.

her attorneys, although reportedly he met at least twice with government lawyers. Judge Walton himself admitted to some "consternation" that he was, as he admitted, dismissing a lawsuit solely on the say-so of the executive branch, before any of the facts could be heard, a "draconian" measure.[57] So much for the avoidance of *ex parte* communications, the separation of powers, and the even-handedness and independence of the federal judiciary in post-9-11 America.[58]

174. Historically, there have been many attacks using airplanes as weapons; an obvious example being the "kamikaze" strikes by Japanese pilots on Allied ships during World War II. In 1994, there were 0three separate attempts to hijack airplanes and fly them into buildings. A disgruntled Federal Express worker tried to crash a DC-10 into a company building in Memphis, Tennessee, but was overpowered by the crew. Also in 1994, a lone pilot crashed a small plane onto the White House grounds, just missing President Clinton's bedroom. That same year, an Air France flight was hijacked by a terrorist group said to be linked to al-Qaeda, with the aim of

[57] Ted Bridis, "Judge Dismisses Lawsuit by Fired FBI Translator," Associated Press, 7/6/2004.

[58] Another very disturbing example of the collapse of checks and balances and the cave-in of both Congress and the judiciary to Enterprise dictates may be found in the elevation to the U.S. Court of Appeals for the Ninth Circuit of Jay S. Bybee. While an attorney for the Bush-Ashcroft Justice Department, Mr. Bybee wrote the notorious memorandum of August 1, 2002 defining torture as being limited to pain like that accompanying "death, organ failure or the permanent impairment of a significant body function." Mr. Bybee went on to say, absurdly, that torture is unlawful only if the infliction of pain is the offender's specific objective. "Even if the defendant knows that severe pain will result from his actions, if causing such harm is not his objective, he lacks the requisite specific intent," Bybee wrote. Bybee's memo also discussed various potential defenses to criminal prosecutions for torture, including necessity and self-defense. Finally, it asserted that the president was free, under his authority as commander-in-chief, to order torture, notwithstanding treaties and laws barring it.[58] The logic of Mr. Bybee's memo is the logic of totalitarianism. Far from deserving appointment for life (at a six-figure salary) to the federal appellate bench, Mr. Bybee should probably be fighting against disbarment. That such men sit on the federal bench suggests that the American judiciary is being debased, much as the German judiciary was debased in the years of the Hitler regime. That Bybee was confirmed to his appointment by the U.S. Senate shows that Congress, too, lacks the integrity or the courage to defend the United States Constitution. That the major media have but matter-of-factly reported on Bybee's appointment in light of the reprehensible — and legally meritless — views expressed by him in his memo suggests that Congress and the media, too, are snugly in the pocket of the Enterprise.

flying it into the Eiffel Tower. French Special Forces prevented the strike by storming the plane while it was refueling.[59]

175. In January 1995, acclaimed 9-11 "mastermind" Khalid Shaikh Mohammed and others reportedly were within weeks of carrying out a massive plot named "Operation Bojinka," when Philippine authorities foiled them. This plot involved the simultaneous bombing of up to a dozen passenger airliners flying over the Pacific Ocean. Note that, in some variations of this plan, planes were to be hijacked and flown into "key structures" in the United States. According to a U.S. intelligence analysis shortly after the plot was uncovered, "The World Trade Center, the White House, the Pentagon, the Transamerica Tower, and the Sears Tower were among the prominent structures that had been identified in the plans that we had decoded."[60]

176. One would-be "Bojinka" pilot, Abdul Hakim Murad (who learned to fly in U.S. flight schools) confessed that his role was to crash a plane into CIA headquarters.[61]

177. Details of Operation Bojinka were widely known within the U.S. government; Yet Khalid Shaikh Mohammed escaped capture, and later stated that the 9-11 attacks were essentially a refinement and resurrection of Operation Bojinka.[62] In 1997 the intelligence agency of Qatar, where Mohammed had been hiding, told the U.S. that Mohammed was once again planning "to hijack some planes."[63] In June 2001, U.S. intelligence additionally learned that Mohammed was

[59] New York Times, 10/03/2001.

[60] Village Voice, 09/26/2001.

[61] Washington Post, 09/23/2001.

[62] The Australian, 09/09/2002.

[63] UPI, 09/30/2002.

interested in "sending terrorists to the United States" and was planning to assist their activities there.[64]

178. Not only did the Bush II Administration have detailed forewarnings about probable attempts to use commercial airplanes as weapons to carry out mass-casualty attacks against U.S. landmarks, but astonishingly — given the ineptitude of the response to actual events on 9-11 — *the government carried out exercises that were supposedly intended to enable it to counter attempts to carry out such attacks, and was carrying out such an exercise on the very morning of September 11, 2001.*

179. Earlier, on October 24-26, 2000, Pentagon officials carried out a "detailed" emergency drill, based on the crashing of an airliner into the Pentagon.[65] In other words, incredibly, in repeated statements Condoleeza Rice and other high government officials feigned surprise at the occurrence of a scenario *identical to that against which the Pentagon had held detailed practice drills* – the flying of an airplane into the Pentagon, obviously a target of great objective and symbolic value to potential terrorists or to enemies of the United States. Shortly after 9-11, the Enterprise caused to be "scrubbed" from the internet website of the Military District of Washington an article concerning the Pentagon's exercise simulating the crash of an airplane into the Pentagon conducted on from October 24-26, 2000. However, a copy of that article was "mirrored" by researchers, and is annexed to this Complaint as Exhibit "A". As may be seen from the article, attributed to Dennis Ryan of the Military District of Washington News Service, the "Pentagon Mass Casualties Exercise" of October 24-26, 2000 was conducted from the conference room of the Office of the Secretary of Defense. Jake Burrell, identified as a

[64] Los Angeles Times, 12/12/2002.

[65] Military District of Washington News Service, 11/03/2000, The Mirror, 05/24/2002.

member of the Pentagon Emergency Management Team, is quoted and said to have coordinated similar exercises for *four years*.

180. US Medicine magazine reported that in May 2001, "[Department of Defense] medical personnel had been trained" to respond to "an ersatz guided missile in the form of a hijacked 757 airliner" crashing into the Pentagon.[66]

181. On June 1-2, 2001, NORAD sponsored a multi-agency planning exercise named "Amalgam Virgo 01," which involved the hypothetical scenario of a cruise missile launched by "a rogue [government] or somebody" from a barge off the East Coast. None other than *Osama bin Laden was pictured on the cover of the proposal for the exercise.* The attacks of 9-11 occurred, of course, while the sun was in the astrological sign of Virgo, in the year "01."[67]

182. Prior to 9-11, a follow-up program to "Amalgam Virgo" was planned, to involve a simultaneous hijacking scenario.[68]

183. Additionally, at some time prior to 9-11, NORAD conducted another drill, the complete details of which have not been made public, except that it involved a plane hijacked from a foreign airport slamming into a highly visible target within the United States.[69]

184. Perhaps most astonishing of all is that, *on the very morning of 9-11*, "[John] Fulton and his team at the CIA were running a pre-planned simulation to explore the emergency response issues that would be created if a plane were to strike a building."[70] Fulton's team was part of the National Reconnaissance Office, which "operates many of the nation's spy satellites.

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[66] US Medicine, 10/2001.

[67] American Forces Press Service, 06/04/2002.

[68] NORAD testimony to the Commission, 05/23/2003.

[69] AP, 10/07/2001.

[70] National Law Enforcement Security Institute, 08/2002.

It draws its personnel from the military and the CIA." The simulation was to start at 9:00 A.M., just four miles from where one of the real hijacked planes had just taken off.[71]

185. Also on 9-11, NORAD was conducting a periodic war game, this one known as "Vigilant Guardian." Details have not been made public, but it is known that the scenario was supposed to test "an imaginary crisis to North American Air Defense outposts nationwide."[72] According to one NORAD employee, "everybody" at NORAD initially thought that the real hijackings on 9-11 were part of the exercise.[73] If top-level U.S. government personnel, civilian and military, were complicit in the attacks, then having a war game in progress, involving a scenario very much like what actually transpired on 9-11, was an ingenious way to confound first responders, and delay an effective response to the attacks. If the U.S. government was *not* affirmatively complicit in the attacks, then the concurrent "Vigilant Guardian" and other exercises are among the impossible number of supposed 9-11 "coincidences," and the torpor and ineffectiveness of the defense response to the hijackings on 9-11 is all the more astounding.

186. Further belying the claim that the defendants "never thought of an aircraft being used as a missile" are a litany of warnings of that nature, going back at least to 1996. In January 1996, U.S. intelligence received information concerning a planned suicide attack by individuals allegedly connected with al-Qaeda. They wanted to fly from Afghanistan to the U.S., and crash

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[71] AP, 08/21/2002.

[72] Newhouse News, 01/25/2002.

[73] Aviation Week and Space Technology, 06/03/2002, Newhouse News, 01/25/2002, ABC News, 09/11/2002. If top-level U.S. government personnel, civilian and military, were complicit in the attacks, then having a war game in progress, involving a scenario very much like what actually transpired on 9-11, was an ingenious way to confound first responders, and delay an effective response to the attacks. If the U.S. government was *not* affirmatively complicit in the attacks, then the concurrent "Vigilant Guardian" and other exercises are among the impossible number of supposed 9-11 "coincidences," and the torpor and ineffectiveness of the defense response to the hijackings on 9-11 is all the more astounding.

into the White House. In October 1996, an Iranian plot to hijack a Japanese plane over Israel and crash it into Tel Aviv was exposed.[74]

187. On November 24, 1996, several Ethiopians took over a passenger airliner, and let it run out of fuel. Hijackers fought with the pilot as the hijackers tried to steer the plane into a resort on a Comoros Islands beach, but seconds before reaching the resort, the pilot was able to crash the plane into shallow waters about 500 yards short of the resort. 123 of 175 passengers and crewmembers died.[75]

188. In August 1998, a CIA intelligence report asserted that Arab terrorists were planning to fly a bomb-laden aircraft from a foreign country into the World Trade Center. Later, other intelligence information connected this group to al-Qaeda.[76]

189. In September 1998, information given to U.S. intelligence suggested that al-Qaeda's next operation might involve crashing an aircraft loaded with explosives into a U.S. airport.[77]

190. In November 1998, the U.S. learned that a Turkish group, cooperating with al-Qaeda, planned to crash an airplane packed with explosives into a famous tomb during a government ceremony. They were arrested before they could carry out the plot.[78]

191. In 1999, an Egyptian pilot flew a passenger airliner into the ocean, killing everyone on board.[79]118. In August 2001 – just weeks before 9-11 -- U.S. authorities learned of a plot to either bomb the U.S. embassy in Nairobi, or crash an airplane into it. Two people who were

[74] Senate Intelligence Committee, 09/18/2002.

[75] New York Times, 11/25/1996, Houston Chronicle 11/26/1996.

[76] New York Times, 09/18/2002, Senate Intelligence Committee, 09/18/2002.

[77] Senate Intelligence Committee, 09/18/2002, Washington Post, 09/19/2002.

[78] Senate Intelligence Committee, 09/18/2002.

[79] AP, 01/21/2000, Atlantic Monthly, 11/2001, Aviation Week and Space Technology, 03/25/2002.

reportedly acting on instructions from Osama bin Laden met in October 2000 to discuss this plot.[80]118. In July 2001, President Bush attended the G-8 Summit in Genoa, Italy. The Egyptian government warned that al-Qaeda planned to assassinate President Bush and other heads of state, using "an airplane stuffed with explosives."[81] U.S. intelligence also learned of this plan to attack the G-8 Summit from Russia and other sources.[82] The Italian government surrounded the summit with antiaircraft guns, kept fighters in the air, and closed off local airspace to all planes.[83] Reports of plans to attack the July 2001 G-8 Summit were taken so seriously that President Bush stayed overnight on an aircraft carrier offshore.[84] The planned attack was not attempted; possibly because the plot was reported in the media before the summit began.[85]

192. Numerous foreign governments warned the U.S. that it was likely to be attacked by airplanes used as weapons. In 1999, the British warned that al-Qaeda had plans to use "commercial aircraft" in "unconventional ways, possibly as flying bombs."[86]

193. In early August 2001 — the month preceding 9-11 — Britain gave a categorical warning that the U.S. should expect multiple airline hijackings. This warning was passed on to President Bush a short time later.[87]

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[80] Senate Intelligence Committee, 09/18/2002.

[81] New York Times 09/26/2001.

[82] CNN, 03/2002.

[83] Los Angeles Times, 09/27/2001.

[84] CNN, 07/18/2001.

[85] Los Angeles Times, 09/27/2001.

[86] Sunday Times, 06/09/2002.

[87] Sunday Herald, 05/19/2002.

194. In June 2001, Germany warned that Middle Eastern terrorists were planning to hijack commercial aircraft and to use them as weapons to attack "American and Israeli symbols, which stand out."[88]

195. In August 2001, Russia's President Putin warned the U.S. that suicide pilots were training for attacks on U.S. targets.[89]

196. In late July 2001, "Egyptian Intelligence [learned] . . . from one of its operatives in Afghanistan that 20 al-Qaeda members had slipped into the U.S. and four of them had received flight training on Cessnas. To the Egyptians, pilots of small planes didn't sound terribly alarming, but they passed on the message to the CIA anyway, fully expecting Washington to request information. The request never came."[90]

197. Around the end of August 2001, Egyptian intelligence followed up with a warning that al-Qaeda was in the advanced stages of executing a significant operation against an American target, probably within the U.S.[91]

198. The government of Jordan passed on the message that a major attack, code named the "Big Wedding," was planned inside the U.S., and that aircraft would be used.[92] Later, "Big Wedding" was claimed to be al-Qaeda's secret code name for the 9-11 attacks.[93]

199. Reportedly, in mid-August 2001, the government of Israel warned that between 50 and 200 al-Qaeda terrorists had slipped into the U.S., and were planning an imminent, "major

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[88] Frankfurter Algemeine Zeitung, 09/11/2001, Washington Post, 09/14/2001, Fox News, 05/17/2002.

[89] Fox News, 05/17/2002.

[90] CBS, 10/09/2002.

[91] AP, 12/07/2001; New York Times, 06/04/2002.

[92] International Herald Tribune, 05/21/2002, Christian Science Monitor, 05/23/2002.

[93] Chicago Tribune, 09/05/2002.

assault on the United States." They said it was likely to be on a "large scale target." The CIA has denied it received this warning.[94]

200. On August 23, 2001, the government of Israel even gave the CIA a list of 19 terrorists within the U.S. who were about to stage an attack. This list is known to contain the names of at least four of the alleged hijackers of 9-11: Nawaf Alhamzi, Khalid Almihdhar, Marwan Alshehhi and Mohamed Atta.[95]

201. Apparently, Israeli intelligence had for months prior to September 2001 monitored at least some of the alleged 9-11 hijackers. For example, beginning in December 2002, agents took up residence a few blocks from Marwan Alshehhi and Mohamed Atta, and observed them "around the clock."[96]

202. In the autumn of 1998, U.S. intelligence heard of an al-Qaeda plot that involved aircraft in the New York City and Washington, D.C. areas.[97] At about the same time, Osama bin Laden declared a worldwide *fatwa*, a religious call to arms, against U.S. targets and American citizens anywhere in the world. By December 1998, a U.S. intelligence assessment stated, "Multiple reports indicate bin Laden is keenly interested in striking the U.S. on its own soil."[98] Later in December 1998, a Time Magazine cover story, entitled "The Hunt for Osama," reported that intelligence sources had "evidence that bin Laden may be planning his boldest move yet – a strike on Washington or possibly New York City..."[99]

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[94] Telegraph, 09/16/2001, Los Angeles Times, 09/20/2001, Fox News, 05/17/2002.

[95] Die Zeit, 10/01/2002, Der Spiegel, 10/91/2001, BBC, 10/02/2002, Ha'aretz, 10/3/2002.

[96] Salon, 05/07/2002, Der Spiegel, 10/01/2002.

[97] Senate Intelligence Committee, 09/18/2002, New York Times, 09/18/2002.

[98] Senate Intelligence Committee, 09/18/2002, Washington Post, 09/19/2002.

[99] Time, 12/21/1998.

203. In July 1999 an agent of Pakistan's intelligence service, in the United States to buy illegal weapons for al-Qaeda and the Taliban in Afghanistan, pointed to the World Trade Center and stated, "Those towers are coming down." An FBI informant recorded him saying this and similar threats against the World Trade Center on two other occasions. This information reached higher officials, including the office of Senator Bob Graham, who was chairman of the Senate Intelligence Committee.[100]

204. In September 1999, U.S. intelligence learned of a planned al-Qaeda attack in the United States, possibly against landmarks in California and New York City.[101] Two months later, in December 1999, an al-Qaeda bomb attack on the Los Angeles International Airport was narrowly averted. Ahmed Ressam was arrested by an alert Washington State border guard, who noticed his nervousness.[102] Documents found with Ressam led to co-conspirators in New York, Boston and Seattle. Enough people were arrested to prevent a series of "Y2K" attacks planned for December 31, 1999. National Security Council Chief of Counter terrorism Richard Clarke later said that, as a result, "I think a lot of the FBI leadership for the first time realized that . . . there probably were al-Qaeda people in the United States."[103]

205. In April 2000, a man walked into the FBI office in Newark, New Jersey, and claimed he had received hijacking training in an al-Qaeda camp in Pakistan. He also stated that he was supposed to meet five or six other individuals in the U.S. and participate in the hijacking of a 747. Pilots in the hijacking team would either fly the plane to Afghanistan or blow it up.

[100] WPBF Channel 25, 08/05/2002, Cox News, 08/02/2002, Palm Beach Post, 10/17/2002.

[101] Senate Intelligence Committee, 09/18/2002.

[102] New York Times, 12/30/2001.

[103] PBS Frontline, 10/03/2002.

This individual passed an FBI polygraph, but the FBI did not verify his story, or identify his contacts in the U.S.[104]

206. Until just a few months before 9-11, U.S. officials were negotiating with the Taliban for rights to construct a pipeline across Afghani territory, and the U.S. was supplying financial aid to the Taliban regime. Late in July 2001, Wakil Ahmed Mattawakil, the foreign minister for the Taliban, tried to warn the U.S. that al-Qaeda was planning a "huge attack" on targets inside America. The attack was imminent, and would kill thousands. Muttawakil's message was given to U.S. officials, although it remains a secret just how high within the Bush II Administration this warning went.[105] Then, according to a CIA official, "There was something specific in early August that said to us that [Osama bin Laden] was determined in striking on U.S. soil."[106]

207. "Shortly before" 9-11, reportedly there was even an intercept of a conversation between Osama bin Laden and an associate, talking about an incident to take place in the U.S. on or about 9-11, and its implications.[107]

208. Denials to the contrary, for years prior to 9-11 government experts had considered the use of an airplane as a weapon to attack a national landmark. For example, in 1993, an expert panel commissioned by the Pentagon suggested that very possibility. The panel was not allowed to mention this in its published report.[108] However, in 1994, one of the participants in

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[104] Senate Intelligence Committee, 09/18/2002. *See* Julie Hyland, "Further Evidence that FBI Was Informed of 9/11 Terror Attacks," www.WSWS.org, 6/10/2004.

[105] The Independent, 09/07/2002, Reuters, 09/07/2002. More than two years after the attacks, it is incomprehensible that disclosure as to which high-level officials learned of this warning poses any danger to lives or property. This information is held in secret to protect members of the Enterprise, not the American public.

[106] AP, 10/03/2001.

[107] Sunday Times, 10/07/2001.

[108] ABC News, 02/20/2002.

the Pentagon study wrote in Futurist magazine, "Targets such as the World Trade Center not only provide the requisite casualties but, because of their symbolic nature, provide more bang for the buck. In order to maximize their odds for success, terrorist groups will likely consider mounting multiple, simultaneous operations with the aim of overtaking a government's ability to respond, as well as demonstrating their professionalism and reach."[109]

209. The popular author Tom Clancy published a novel in 1994, in which terrorists tried to destroy the U.S. Capitol by crashing a radio-controlled airplane into it. In a Time magazine cover story the next year, Senator Sam Nunn referred to Clancy's idea and said it was not "far-fetched."[110]

210. During every quadrennial Olympic games going back to 1972, security officials have specifically attempted to prevent terrorists from crashing airplanes into crowed stadiums.[111] During the 1996 Olympic games held in Atlanta, Georgia, airplanes were banned from over flying Olympic venues, and helicopters and jets were deployed to intercept suspicious aircraft approaching too near.[112] At the 2000 Olympics in Sydney, Australia, six planes were kept in the sky at all times to intercept any aircraft. Officials considered al-Qaeda the foremost threat, and the idea of a "fully loaded, fueled airliner crashing into the opening ceremony" was one of their greatest fears.[113]

211. In September 1999, a report by a group advising the president and U.S. intelligence on emerging threats contained the following ideas: "Al-Qaeda's expected retaliation for the U.S.

[109] Washington Post, 10/02/2001.

[110] Time, 04/03/1995.

[111] Sydney Morning Herald, 09/20/2001.

[112] Chicago Tribune, 11/18/2001.

[113] Sydney Morning Herald, 09/20/2001.

cruise missile attack . . . could take several forms of terrorist attack in the nation's capital. Al-Qaeda could detonate a Chechen-type building-buster bomb at a federal building . . . Suicide bomber(s) belonging to al-Qaeda's martyrdom Battalion could crash-land an aircraft packed with high explosives (C-4 and Semtex) into the Pentagon, the headquarters of the Central Intelligence Agency (CIA) or the White House. . . . Whatever form an attack may take, bin Laden will most likely retaliate in a spectacular way."[114] The Bush II Administration later claimed to have never heard of this publicly released report until after 9-11, even though the New York Times said the report was "widely shared within the government."[115] On the day that President George W. Bush received the briefing entitled "bin Laden to Strike in US" (August 6, 2001), he "broke off from work early and spent most of the day fishing."[116] In the moments that followed his learning of the attacks on the morning of 9-11 itself, the Commander-in-Chief also displayed astonishing nonchalance. Plaintiff asks: Was this because President Bush knew that the planned attacks had been co-opted if not indeed planned and carried out by members of the Enterprise, that they would inure to the advantage of the Enterprise, and would constitute the "catastrophic and catalyzing event for" for which the PNAC had expressed such fervent hope?

212. While many additional instances could be cited, from the foregoing it should be clear that government claims that the 9-11 attacks were not foreseen, and could not have been foreseen or prevented, were false and were known to be false when made. Not surprisingly, the Bush II Administration has refused to allow many of the findings of the Congressional inquiry

[114] AP, 04/18/2002.

[115] CNN, 05/18/2002, New York Times, 05/18/2002.

[116] New York Times, 05/25/2002.

into 9-11 to be made public, and has stubbornly — and, to date, successfully — prevented any genuine investigation into 9-11.[117]

213. The Bush II Administration has even sought to have material already in the public domain "reclassified." The Congressional inquiry was not allowed to reveal which warnings reached which officials. Its final report, released in July 2003, withheld 28 pages of critical information. Until it was leaked to the press in May 2002, the Bush II Administration withheld from the public the title of the CIA's daily briefing to President Bush on August 6, 2001: "Bin Laden Determined to Strike in U.S."[118]

214. Given the number and the specificity of the warnings we now know to have reached the U.S. government prior to 9-11, the response of patriotic officials, mindful that their paramount duty is the protection of the U.S. population and U.S. territory, would have been to take decisive steps to prevent the hijacking of commercial airliners and the use of such planes as weapons to strike high-profile targets. But because the Enterprise *affirmatively wished for* a "new Pearl Harbor," a "catastrophic and catalyzing event" that would "shock and awe" the public and Congress into giving the Bush II Administration and the Enterprise *carte blanche* to wage war for empire and for oil, precisely *as advocated by Brzezinski and the Project for the New American Century in their polemics,* the government did nothing to prevent the attacks or to thwart them as they unfolded on 9-11. The lack of special preventive measures has been admitted: Transportation Secretary Mineta was asked at the May 2003 hearing before the Commission, "Did this higher level of [terrorist] chatter...result in any action across the government? I take it your answer is no." Mr. Mineta replied, "That's correct."[119] Plaintiff

[117] Newsweek, 04/30/203, Newsweek, 02/04/2002.

[118] Newsweek, 05/27/2002, New York Times, 05/15/2002, Die Zeit, 10/01/2002.

[119] AP, 05/23/2003.

asks: how is it that the officials, civilian and military, who permitted these attacks to occur, remain in their jobs (and, in some instances, have been promoted)? Unless the media and Congress have been corrupted or intimidated, unless nearly all Americans fear for their careers if not indeed their lives in posing the questions posed by this complaint, how could it be that to date, no one has been held to account for what, in the most indulgent possible view, involved (1) *repeated warnings*; (2) *no preventive measures* by those responsible, including many of the defendants here; (3) *mass casualty attacks*, precisely as predicted, with almost 3,000 deaths resulting; (4) an *utterly impotent response* on the day of the attacks itself; and (5) *repeated lies* by President Bush and other senior officials, claiming that the warnings had not happened?

215. On the day that President George W. Bush received the briefing entitled "bin Laden to Strike in US" (August 6, 2001), he "broke off from work early and spent most of the day fishing."[120] In the moments that followed his learning of the attacks on the morning of 9-11 itself, the Commander-in-Chief also displayed astonished nonchalance. Plaintiff asks: Was this because President Bush knew that the planned attacks had been co-opted if not indeed planned and carried out by members of the Enterprise, that they would inure to the advantage of the Enterprise, and would constitute the "catastrophic and catalyzing event" for which the PNAC had expressed such fervent hope?

D. DEFENDANTS CONSPIRED TO AND DID ALLOW THE ATTACKS TO HAPPEN BY DELAYING MILITARY INTERCEPTION OF THE HIJACKED PLANES. WHETHER BY MULTIPLE CONCURRENT WAR GAMES OR ATTACK SIMULATIONS OR BY AN UNPRECEDENTED "GROUND STOP," THE EVIDENCE SHOWS THAT THE AIR FORCE AND AIR NATIONAL GUARD WERE CAUSED TO "STAND DOWN" AS THE 9-11 HIJACKINGS BECAME KNOWN, AND THAT

[120] New York Times, 05/25/2002.

MOST OR ALL OF THE HIJACKED AIRCRAFT COULD HAVE BEEN INTERCEPTED BY A TIMELY RESPONSE.

216. People tend to excuse the military for not promptly responding to the attacks of 9-11 because they have been led to believe that the only military alternative was to shoot down planes carrying civilian passengers; but this is not the case. Standard military procedure when a plane deviates off course (something air controllers know immediately) is to send up fighter planes to locate the "lost" plane, fly beside it, peer into the windows to see what is going on, and try to guide it to safety. None of this was done with any of the four hijacked planes, despite ample time in each case. In the case of Flight 77, the military had nearly an hour to do it; yet fighters were never sent up to accompany or communicate with the airliner before it crashed into the Pentagon.

217. Despite all of the warnings and the obvious fact that Washington, D.C., as the nation's capital, and New York City, its most populous city and a primary media and financial center, would be at the top of the list for any intended terrorist attack, officially as of 9-11 there were only two bases in the northeastern U.S. that were part of NORAD's defensive system. One was Otis Air National Guard Base on Cape Cod, about 188 miles distant from New York City. The other was Langley Air Force Base near Norfolk, Virginia, about 129 miles distant from Washington, D.C.[121]

218. During the Cold War, the U.S. had literally thousands of fighters on alert. By 9-11, the number was supposedly reduced to only *fourteen* in the entire continental U.S.[122] However, internet web pages for a number of Air National Guard units belie this, as the same boasted of

[121] BBC, 08/29/02. Note that Langley, Virginia is where the headquarters of the Central Intelligence Agency is located.

[122] Los Angeles Times, 09/15/2001.

five minute alert status, meaning that from the moment they were ordered into the air, they could be airborne within five minutes. These websites used terms like "combat ready," "five minute alert," "highest state of readiness" and so on. Indeed, the web site for Andrews Air Force Base, about ten miles from Washington, D.C., stated that it hosted two "combat ready" squadrons, "capable and ready response forces for the District of Columbia in the event of a natural disaster or civil emergency." The District of Columbia Air National Guard – also stationed at Andrews – claimed that its mission was "to provide combat units in the highest possible state of readiness." On September 12, 2001 -- as the Enterprise made haste to cover up that it had caused the U.S. military air defense system to "stand down," permitting the 9-11 attacks to be carried out -- both websites were sanitized, with phrases suggesting quick response capability being expurgated.[123]

219. Upon information and belief, F-15 fighters, with pilots onboard and ready to take off, were held on the tarmac at Otis AFB awaiting authorization to take off and to intercept one or both of the hijacked planes that were headed for New York. Plaintiff is informed and believes that the squadron was intentionally delayed by senior officials, with the knowledge and consent, express or implied, of defendants including but not limited to George H. W. Bush, George W. Bush, Cheney, Rumsfeld, Rice, Myers, Rumsfeld, and Eberhart, for not less than fifteen minutes, whereupon the squadron leader took off on his own initiative.

220. Why were the fighters delayed? As of sunrise on the East Coast on 9-11, NORAD was taking part in "Vigilant Guardian," the war game that had begun a few days before.[124] Because of this, NORAD was fully staffed and alert, with senior officers manning stations

[123] DC Military website, DCANG Home Page [before and after the changes made on 9/12/2001]. Bases at Westfield, Massachusetts, Syracuse, New York and Hartford, Connecticut also promised high readiness status, and these bases would have been in a good position to defend the skies on 9-11.

[124] Newhouse News, 1/25/2002, Ottawa Citizen, 9/11/2002, Code One Magazine, 1/2002.

throughout the U.S. when the first real-life hijacking was reported.[125] Because of the war game, NORAD "had extra fighter planes on alert."[126] Colonel Robert Marr, in charge of NORAD's northeastern U.S. sector, said "We had the fighters with a little more gas on board. A few more weapons on board."[127] Why were these fighter planes not immediately "scrambled" to intercept the off-course airliners? Was it because the "exercise" was specifically scheduled for that day as a cover, deterring a prompt response with the allegation that it was "only an exercise?" The simultaneous occurrence of the two events could not have been mere coincidence; and without their simultaneous occurrence, the hijacking attempt would have failed. How did the hijackers know of the exercise? Plaintiff submits that the defendants were and could only have been complicit in the deed.

1. FLIGHT 11 (NORTH TOWER WTC) COULD HAVE BEEN BUT WAS NOT INTERCEPTED.

221. Edited transcripts of cockpit transmissions from Flight 11 indicate that the last routine communication with Boston air traffic control was at 8:13:47 A.M.[128] The loss of communications was quickly noticed; flight controllers can be heard discussing it at 8:15. Furthermore, "just moments" after radio contact was lost, Flight 11's transponder was turned off as well.[129] The transponder identifies the jet on the air traffic controller's screen, gives its exact location and altitude, and permits an emergency hijack code to be sent. Boston air traffic

[125] Aviation Week and Space Technology, 6/3/2002.

[126] ABC News, 9/14/2002.

[127] ABC News, 9/11/2002.

[128] New York Times, 10/16/2001.

[129] MSNBC, 09/15/2001.

manager Glenn Michael later said, "We considered [Flight 11] at that time to be a possible hijacking."[130]

222. Flight 11's pilot, Captain John Ogonowski, did not press the Emergency Locator Transmitter button, nor did the pilots of Flights 77 and 93; it has been surmised that this was because hijackers were already in the cockpits (for example, as guest pilots sitting in the cockpits' extra seats) when the hijackings began.[131] Captain Ogonowski is believed however to have turned the "talk-back" button off and on, enabling flight controllers to hear some of what was being said, and also enabling them to learn that something was wrong. This continued intermittently most of the way to New York, until about 8:38 a.m.[132]

223. Flight controllers suspected something was wrong, but may have been confused because Flight 11's ELT button had not been activated. At 8:20 a.m., however, Flight 11 stopped transmitting its IFF ("Identify Friend or Foe") beacon signal[133] and the plane was clearly off course by that time. As a result, at "about 8:20" Boston flight control decided that Flight 11 had probably been hijacked.[134] Beginning at 8:24:38, Boston flight controllers heard what they understood to be the hijackers in Flight 11's cockpit, broadcasting a message to the passengers: "We have some planes. Just stay quiet and you will be OK. We are returning to the airport." A flight controller responded, "Who's trying to call me?" The apparent hijacker continued, "Everything will be OK. If you try to make any moves you'll endanger yourself and the

[130] AP, 08/12/2001.

[131] Fox News, 09/24/2001, Boston Globe, 11/23/2001.

[132] Christian Science Monitor, 09/12/2001, MSNBC, 09/15/2001.

[133] CNN, 09/17/2001.

[134] Newsday, 09/23/2001, New York Times, 09/15/2001.

airplane. Just stay quiet."[135] A Boston flight controller later said that, immediately after hearing this voice, "he knew right then that he was working a hijack."[136]

224. At 8:25 exactly, Boston flight control notified other flight control centers of the apparent hijacking of Flight 11. This was twenty-one minutes before the impact at the World Trade Center North Tower. Unbelievably, according to NORAD, it was not told of the hijacking until 8:40 A.M. — fifteen minutes after other flight control centers were notified that Flight 11 had been hijacked, and twenty minutes from the shutoff of Flight 11's IFF beacon, which gave rise to suspicions that it had been hijacked.[137]

225. Thus, the nation's air defense system was somehow not working as from (at the latest) 8:20 A.M. on 9-11. FAA regulations in force at the time state, "Consider that an aircraft emergency exists . . . when . . . there is unexpected loss of radar contact with any aircraft." The regulations state further, "If . . . you are in doubt that a situation constitutes an emergency or potential emergency, handle it as though it were an emergency."[138]

226. According to an MSNBC report, a significant course deviation is "considered a real emergency, like a police car screeching down a highway at 100 miles an hour," and normally leads to fighters being quickly dispatched to see what the problem might be.[139] However, for reasons as yet unexplained, on 9-11, "There doesn't seem to have been alarm bells going off . . . There's a gap there that will have to be investigated."[140]

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[135] Guardian, 10/17/2001, New York Times, 10/16/2001.

[136] Village Voice, 09/13/2001.

[137] NORAD, 09/18/2001.

[138] FAA Regulations.

[139] MSNBC, 09/12/2001.

[140] ABC News, 09/14/2001.

227. This fifteen-minute gap from 8:25 to 8:40 is critical, since if NORAD had taken five minutes to process the alarm and scramble fighters at Otis AFB, the pilots had taken an additional five minutes to get aloft, and they had traveled the approximately 188 miles to Manhattan at slightly better than half of their F-15 fighters' top rated speed of 1875 mph, fighters could have been in New York City before the North Tower was struck at 8:46.[141] e. Those who perished in the strike and the collapse of the North Tower, thus might have been spared.[142] Even if fighters from Otis could not have arrived in New York in time to intercept Flight 11, if they had been aware at 8:25 a.m. that Flight 11 was hijacked and was off course heading in the direction of New York City, fighters could have been scrambled before Flight 175 is alleged to have struck the South Tower of the World Trade Center at 9:03 a.m.[143] Allowing five minutes (from 8:25 to 8:30) for NORAD to confirm and forward the information to Otis, and six minutes (from 8:30 to 8:36) for the pilots to get aloft, they would have had 27 minutes to cover the 188 miles from Otis to New York City. That would have required the F-15s, which have a top speed

[141] According to NORAD, fighters from Otis can reach New York City in 10 to 12 minutes (Cape Cod Times, 09/16/2001). Although NORAD later claimed that it could take as long as fifteen minutes to get fighters airborne as of 9-11 (NORAD Testimony, 05/23/2003, Calgary Herald, 10/13/2001) it claimed that the fighters from Otis took only six minutes to get ready and take off on 9-11, and not the maximum 15 (NORAD, 09/18/2001).

[142] Some independent researchers dispute that the aircraft that struck the North Tower, South Tower and Pentagon were in fact Flights 11, 175 and 77 respectively. Some speculate that passengers embarking on those flights on the morning of 9-11 were taken elsewhere to be killed (*e.g.*, to secret airfields, perhaps at inactive military bases, or over the Atlantic Ocean). The possibility that planes were substituted for those identified as Flights 11, 175 and 77 seems consistent with the otherwise mysterious turning off of each of the planes' transponders. The evidence for the aircraft that struck the buildings being other than as publicly identified seems especially strong as to Flight 77, but plaintiff does not have information sufficient to adopt a definitive view on these questions.

[143] Many published news reports, timelines, etc. give the hour of the South Tower impact as 9:03 A.M. Based on seismic data, Plaintiff believes the crash to have occurred a few seconds earlier, at 9:02:56, but shehe does not believe the difference to be critical, and therefore uses the approximate and (believed) exact times interchangeably.

of 1875 mph, to travel at an average speed slightly in excess of 6.96 miles per minute – or about 417 mph, an almost leisurely, subsonic speed for that aircraft.

228. Upon information and belief, as of the morning of 9-11, the commander on duty at Otis AFB was Brig. Gen. George W. Keefe ("Keefe").

229. Upon information and belief, fighters were not scrambled from Otis AFB for at least 30 minutes after NORAD knew or ought to have known that Flight 11 had been hijacked. [Upon information and belief, fighters were not scrambled from Otis AFB for at least 30 minutes after NORAD knew or ought to have known that Flight 11 had been hijacked.

230. Upon information and belief, F-15 fighters, with pilots onboard and ready to take off, were held on the tarmac at Otis AFB awaiting authorization to take off and to intercept one or both of the hijacked planes that were headed for New York. Plaintiff is informed and believes that the squadron was intentionally delayed by senior officials, with the knowledge and consent, express or implied, of defendants including but not limited to George H. W. Bush, George W. Bush, Cheney, Rumsfeld, Rice, Myers, Rumsfeld, and Eberhart, for not less than fifteen minutes, whereupon the squadron leader took off on his own initiative.

231. Upon information and belief, U.S. Military and/or National Guard personnel, present on 9-11 at Otis AFB and/or at nearby Camp Edwards, who witnessed the long delay between the appearance of the F-15 fighters on the tarmac, and their takeoff, reported the foregoing allegations to Military Intelligence.

232. Upon information and belief, one or more U.S. Military and/or National Guard personnel, with long record(s) of honorable service, were retaliated against for having imparted the foregoing facts to Military Intelligence.

233. Upon information and belief, the "official" NORAD account that it was not notified of the hijacking of Flight 11 until 8:40 A.M. on 9-11 is false. ABC News reported that the FAA notified NORAD employee Lt. Col. Dawne Deskins at 8:31 A.M., not 8:40.[144] A different version of the ABC News report has it that "Shortly after 8:30 A.M., behind the scenes, word of a possible hijacking reached various stations of NORAD.[145] It is difficult to believe that the FAA would have delayed so long in informing NORAD of the diversion of Flight 11. And, so far as has been made public, no air traffic control or FAA employees have been fired, suspended, reprimanded or otherwise disciplined for failure to give timely notice to NORAD on 9-11.

234. Other, critical aspects of the NORAD account of its actions on 9-11 cannot withstand scrutiny. NORAD's story was set forth in a press release on September 18, 2001. It claimed that after being told of the hijacking of Flight 11 at 8:40 A.M. on 9-11, it waited six minutes to give the scramble order to the pilots at Otis. Then, it took the pilots an additional 6 minutes to take off. Thus, according to NORAD, two fighter planes, F-15s, left Otis at 9:52 A.M., headed toward New York.[146] A NORAD commander claimed the planes were stocked with extra fuel.[147] One of the Otis pilots, Lt. Col. Timothy Duffy, stated that he flew "full-blower," which is to say at top speed, all the way.[148] An F-15 can travel over 1875 MPH.[149] Lt. Col. Duffy later said that he flew at supersonic speeds, headed for the airspace over Kennedy Airport in New York City.[150] Maj. Gen. Larry Arnold stated that the Otis pilots headed straight

[144] ABC News, 09/11/2002.

[145] ABC News, 09/14/2002.

[146] NORAD, 09/18/2001.

[147] Aviation Week and Space Technology, 06/03/2002.

[148] Aviation Week and Space Technology, 06/03/2002.

[149] Air Force News, 07/30/1997.

[150] ABC News, 09/11/2002.

for New York City, at about 1100 to 1200 MPH.[151] Maj. Gen. Paul Weaver, director of the Air National Guard, claimed that the Otis pilots headed toward New York "like a scalded ape" but could not arrive in time to prevent the South Tower from being struck at 9:03 A.M.[152]

235. The complete untruth and cynicism of these statements is confirmed by simple arithmetic. To cover 188 miles in 11 minutes, the F-15s would have had to travel at an average speed of 17.09 miles per minute, or 1,025.45 MPH. Even if the F-15's full listed maximum speed of 1,875 MPH may be unattainable given the complement of munitions, etc. normally carried, 1,025 MPH still falls woefully short of "full blower." Thus, even leaving Otis as late as 8:52 A.M., it is inexplicable that the F-15s failed to reach New York before 9:03 A.M.

236. NORAD cannot reconcile its "scalded ape," "full-blower" claims with its story that it took the F-15s from Otis *nineteen minutes* to reach New York City.[153] Traveling 188 miles in 19 minutes means that these 1875 MPH fighters responded to this crisis flying at an average speed of about 594 MPH, a distinctly subsonic speed, a fraction of the F-15's capabilities, and barely faster than the passenger airliner itself.

2. FLIGHT 175 COULD HAVE BEEN BUT WAS NOT INTERCEPTED.

237. Upon information and belief, Flight 175 took off from Boston Logan Airport at 8:16 A.M.[154] Its last routine communication occurred four seconds before 8:42. One minute later, a Boston flight controller said of Flight 175, "He's off about 9 o'clock and about 20 miles looks like he's heading southbound but there's no transponder no nothing and no one's talking to

[151] MSNBC, 09/23/01, Slate, 01/16/2002.

[152] Dallas Morning News, 09/16/01.

[153] NORAD, 09/18/2001.

[154] CNN, 09/17/2001, AP, 08/19/2002.

him."[155] By this time, notifying NORAD of the hijacking of Flight 175 was redundant, because NORAD technicians had their headsets linked to Boston flight control to hear about Flight 11, and thus learned about Flight 175 at the same time Boston did.[156] NORAD's timeline, in its press release of September 18, 2001, admitted that it received notice about Flight 175 at 8:43 A.M.[157] Any doubt that Flight 175 had been hijacked ought to have evaporated at 8:44:05, at which time Boston (with NORAD listening in) was told by a nearby airliner that it had heard Flight 175's Emergency Locator Transmitter go off.[158]

238. However, "testifying" (although not under oath) before the Commission on May 22, 2003, a NORAD spokesman made the bizarre claims (1) that NORAD learned only at 9:05 A.M. from the FAA of the "possible" hijacking of Flight 175, and (2) that Flight 175's transponder was never turned off.[159] As shown, NORAD was listening in at 8:43 A.M. when Boston was told that Flight 175's radio had been cut off, the transponder had been turned off, and the plane was seriously off course.[160]

239. Flight 175's transponder, after being off briefly, was turned on again, but changed to a signal not designated for any plane on that day.[161] This enabled controllers to track Flight 175 easily throughout the final 20 minutes before the South Tower was struck at 9:02:56 A.M. [162] Indeed, neither Flight 11 nor Flight 175 was at any time lost to Boston flight control's radar.

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[155] New York Times, 10/16/2001.

[156] Newhouse News, 01/25/2002.

[157] NORAD, 09/18/2001.

[158] New York Times, 10/16/2001.

[159] NORAD testimony, 05/22/2003.

[160] New York Times, 10/16/2001.

[161] Newsday, 09/10/2002.

[162] Washington Post, 09/17/2001.

When Flight 11's transponder was turned off at 8:14 A.M., that only prevented Boston from determining the plane's exact altitude, but it could still be tracked using primary radar.[163] At some point before the plane turned south toward New York City at 8:28 A.M., the FAA had tagged Flight 11's radar dot for easy visibility, and at American Airlines headquarters, "all eyes watched as the plane headed south."[164] Boston flight controller Mark Hodgkins later said that he had watched Flight 11 "all the way down."[165] Accordingly, from at least 8:28 A.M. until the North Tower (8:46 A.M.) and South Tower (9:03 A.M.) impacts, a number of persons watched as the planes diverged from their flight paths, and headed inexorably toward New York.

240. "Several minutes" after the first (North Tower) impact at 8:46 A.M., Boston flight control reported to NORAD that it was Flight 11 that had crashed into the North Tower.[166] "Within minutes" of the first impact at 8:46 A.M., two open telephone conference calls were established among the FAA, NORAD, the Secret Service, and a number of other government agencies.[167] Indeed, according to multiple news sources, even President Bush and Vice President Cheney were occasionally overheard on these open lines.[168]

241. Based on the foregoing, it defies belief that, as NORAD claimed in testimony before the Commission on May 23, 2003, it was not notified of Flight 11 striking the North Tower of the World Trade Center until 9:05 A.M.[169]

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[163] Christian Science Monitor, 09/13/2001, Newhouse News, 01/25/2002.

[164] Wall Street Journal, 10/15/2001.

[165] ABC, 09/06/2002.

[166] New York Times, 09/13/2001, Newhouse News, 01/25/2002.

[167] FAA, 05/22/2003, UPI, 05/22/2003.

[168] Aviation Week and Space Technology, 06/03/2002, CNN, 04/04/2002, ABC News, 09/11/2002.

[169] NORAD testimony, 05/23/2003.

242. No less unbelievable is NORAD's claim that it learned that Flight 175 had "possibly" been hijacked only two minutes *after* the impact at the South Tower of the World Trade Center.[170]

243. NORAD, plainly, cannot keep its lies straight, and has acted throughout like an entity that, while having much to hide, is supremely confident of its impunity and that it will never have to account for its dereliction of duty, and its multiple falsehoods concerning the same. Indeed, its entire story of having scrambled planes first from Otis and, later, from Langley may well be a fabrication, intended to cover that — plaintiff alleges due to the effective equivalent of a "Stand Down" order, given with the knowledge and approval of Defendants including, at least, all of President George W. Bush, ex-president and presidential advisor George H. W. Bush, Vice-President Cheney, and Generals Myers and Eberhart – NORAD did nothing between 8:40 A.M., at which hour it admits receiving word that Flight 11 had been hijacked, for at least *57 minutes*, until some time after the Pentagon was struck, at 9:37 A.M.[171] Plaintiff alleges this failure to act was due to the effective equivalent of a "Stand Down" order, given with the knowledge and approval of Defendants including, at least, all of President George W. Bush, ex-president and presidential advisor George H. W. Bush, Vice-President Cheney, and Generals Myers and Eberhart. In other words, in order to deceive the public into thinking that attempts had been made to intercept Flight 175 (with fighters scrambled from Otis) and Flight 77 (with F-

[170] NORAD testimony, 05/23/2003.

[171] A number of 9-11 researchers, including some who were near the scene on 9-11, insist that the Pentagon impact occurred some minutes later, at about 9:43 A.M. or as late as 9:48 A.M. Herein, we have provisionally accepted the published time as roughly accurate. Note, also, that plaintiff's reference to the "effective equivalent of a Stand Down order" is intended to allow for the possibility that senior defendants avoided leaving their "fingerprints" by issuing an express order not to intercept the diverted aircraft, but that there was nevertheless a knowing, intentional agreement among said defendants that was intended to, and did, prevent (or inhibit and to delay so as to render ineffective) such response as ought to have been made, and would have been made had defendants genuinely wanted to thwart the attacks as they unfolded.

16s scrambled from Langley), NORAD quite possibly created a fiction that fighters were scrambled but, despite flying like "scalded apes," could not prevent the South Tower and the Pentagon from being struck.

244. As shown above, even allowing for the improbable delays in NORAD being notified of the hijacking of Flight 11, it is not credible that planes were, in truth, scrambled, but were not able to reach their destinations in time.

245. Gen. Richard Myers was acting Chairman of the Joint Chiefs of Staff on 9-11.[172] Two days after 9-11, testifying under oath before the Senate Armed Services Committee, Myers was asked when the order to scramble planes was first given. Given the magnitude of the attacks, that the same had occurred on his watch, and that he was testifying at his own confirmation hearing, one would suppose that the General would come prepared, have the facts, and – if he could not testify truthfully – at least avoid egregious lies, that (at least in a country in which public officials are held to account) he might have to account for later. He responded, "That order, to the best of my knowledge, was after the Pentagon was struck [at 9:37 a.m.]"[173]

246. If Gen. Myers' testimony just quoted was truthful and correct, then NORAD'S claim to have ordered the scrambling of jets at 8:46 a.m.[174] is off by at least *fifty-one minutes*. So far as Plaintiff is aware, neither President George W. Bush, nor Vice President Cheney, nor Defense Secretary Rumsfeld, nor his deputy Mr. Wolfowitz, nor General Myers has been asked in public to explain (a) how Gen. Myers came to form the belief that no planes were scrambled until at least 9:37 a.m., and (b) whether it is true, and verifiably true, that fighters left Otis for New York City at 8:52 a.m., but arrived only nineteen minutes later.

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[172] Washington Post, 01/27/2002.

[173] Myers Senate Confirmation Hearing, 09/13/2001.

[174] NORAD, 09/18/2001.

247. While, again, it seems improbable in the extreme that, had fighters really been scrambled as NORAD now claims, General Myers would not have known of that fact when he appeared at his confirmation hearing on September 13th, NORAD spokesman, Marine Maj. Mike Snyder, also claimed that no fighters were scrambled until after the Pentagon was hit. Only then, according to Maj. Snyder, did the military realize the scope of the attacks, and order fighters into the air.[175]

248. Consistent with Plaintiff's analysis is that, while President Bush, Vice President Cheney, NORAD, the FAA, the Secret Service and other agencies had a conference call "within minutes" of 8:46 A.M.,[176] by which time all participating in the call had to know (1) that the North Tower had been struck; and (2) that Flight 175 was bearing down on New York City, from all indications it occurred to none of these devoted guardians of the public safety to notify New York City officials. As a result, from about 8:55 A.M. until shortly before the second impact, a public announcement was broadcast inside the South Tower of the World Trade Center, saying that the building was safe, and people could return to their offices.[177] Again, the Enterprise did not want quite so much "shock and awe" as would result from twin strikes at Indian Point nuclear power plant, but it had definite notions regarding how much shock and awe – that is, how many dead bodies -- it needed to achieve its political and imperial aims.

249. Flight controllers in New York City complained afterward that the crash of Flight 11 was confirmed to them only a minute or two before Flight 175 crashed a few seconds before 9:03 A.M. They also were not told that there was a concern with Flight 175 until right before it

[175] Boston Globe, 09/15/2001.

[176] FAA, 05/22/2003, UPI, 05/22/2003.

[177] USA Today, 09/03/2002, New York Times, 09/11/2002.

crashed.[178] Even the fighter pilots who may, or may not, have been en route to New York from Otis appear to have been uninformed. One pilot, Maj. Daniel Nash, stated that he could not recall actually being told of the Flight 11 crash.[179] Both Lt. Col Duffy and Maj. Nash (the two supposed F-15 pilots from Otis) deny they were told of the hijacking of Flight 175 until after the South Tower impact.[180] Maj. Nash suggested that, even if he had reached New York City before Flight 175, he could not have shot that plane down, because a decision to do so assuredly had to be made by the President, who by 9:03 A.M. was preoccupied with a classroom of children in Florida.[181]

250. Even viewed in the light most favorable to the Enterprise Defendants, the foregoing timeline shows the following. There is a huge, unexplained gap between when NORAD should have learned of the diversion of Flight 11 — by 8:25 A.M. — and the time it claims to have learned of that event — 8:40 A.M. If, indulgently, we credit *arguendo* NORAD's dubious claim that it learned of the Flight 11 hijacking only at 8:40 A.M., *even then* NORAD squandered a clear chance to intercept Flight 175, and a fighting chance to intercept Flight 11. NORAD's "scalded ape" story is palpably false. F-15 fighters departing Otis as late as 8:52 A.M. could, without undue effort, have reached New York in time to intercept Flight 175. The discrepancies in NORAD'S (and Gen. Myers') accounts are numerous, consequential, and highly suspect. If Presidential authority was needed to shoot down airliners aimed at large buildings,[182] such

[178] New York Times, 09/13/2001.

[179] Cape Cod Times, 08/21/2002.

[180] ABC News, 09/11/2002, ABC, 09/14/2002.

[181] Cape Cod Times, 08/21/2002.

[182] Plaintiff disputes that specific authorization was required by established procedures in effect on 9-11. In all events, Vice President Cheney on "Meet the Press" on 09/16/2001 tried to confuse the public concerning why none of the aircraft were "intercepted" by suggesting that "intercepting" the planes necessarily involved shooting them down, a falsehood.

authority could, and ought to have, been obtained during the conference call that began shortly after 8:46 A.M. It is shocking that, as Flight 175 approached the South Tower, announcements continued to be made that that building was safe. Given the number and seniority of participants in the conference call, it is at best difficult in the extreme to ascribe to confusion, or stress, the failure to notify New York City authorities that a second airliner (off course and out of touch with air traffic control) was bearing down on the city. Hundreds of lives might have been saved, had such notice been given.[183] However, had not both World Trade Center towers been reduced to clouds of fine, airborne dust, if either tower had been left standing with only a few hundred dead, perhaps the public would not have been shocked into uncritical approval of military adventures and attacks on Constitutional freedoms that the Bush II Administration had had in the works long before 9-11, and has put into effect and kept in force ever since.

251. As has been shown, the defense system's response on 9-11 to the diversion of Flight 11 and Flight 175 was so torpid, so inept, as to indicate that everyone comprising the top command (including at least President Bush, Cheney, Rumsfeld, Myers and Eberhart) either wanted the attacks to succeed (or was taking orders from someone who did). Even independently of other factors (*e.g.*, the abundant warnings, the wish by PNAC, composed largely of Bush II Administration insiders and even the President's brother Jeb Bush, for a "new

[183] No less shocking is that, while the pieces of information that cast such grave doubt on the Official Story of 9-11 have appeared in the corporate-owned, mainstream media, there has been no exposé, no celebrity anchor person hosting a prime-time special demonstrating how the pieces, when put together, demonstrate the impossibility of the official version of what happened on 9-11. The Joint Congressional Inquiry nowhere addressed, in its findings, the sufficiency or even the basic facts of the torpid response to the attacks themselves. The Commission received, it appears mostly behind closed doors, testimony on the subject which was largely unswornsubject that was largely unsworn and, in some respects, demonstrably false. "Intelligence failures" comprise the main thrust of the Commission report as well. Facts undermining the basic Official Story of what transpired on 9-11, and that Osama bin Laden was the true author of the attacks, are either glossed over, or simply disregarded.

Pearl Harbor," etc.). The response (or non-response) to Flights 11 and 175 was so shockingly inept as to raise deep suspicions that the government wanted the attacks to play out, and so did nothing to stop them. Even more suspicious was what happened concerning in respect of Flight 77.

3. BEFORE STRIKING THE PENTAGON, FLIGHT 77 NOT ONLY COULD HAVE BEEN INTERCEPTED BUT WAS IS ALLOWED TO FLY UNCONTESTED FOR ABOUT 50 MINUTES AFTER THE FIRST WTC STRIKE BEFORE STRIKING THE PENTAGON. THE GOVERNMENT'S ACCOUNT IS, AGAIN, INCONSISTENT AND NONSENSICAL.

252. Reportedly, Flight 77 took off from Dulles Airport near Washington at 8:20 A.M.[184] Its last routine radio communication was made at 8:50:51, and then it failed to respond to a routine instruction.[185] Within "a few minutes" after 8:48 A.M.,[186] and in all events by 8:56, at which time flight controllers repeatedly called Flight 77 over the radio and received no reply, "it was evident that Flight 77 was lost."[187]

253. NORAD's failure to intercept becomes increasingly egregious and indicative of "Stand Down" orders[188] intended to let the attacks proceed in proportion to the time available to it to mount an effective response. As we have seen, NORAD claims it learned of the hijacking of Flight 11 only at 8:40 A.M. whereas, if established procedures had been followed, it ought to

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[184] CNN, 09/17/2001.

[185] New York Times, 10/16/2001.

[186] New York Times, 09/15/2001.

[187] New York Times, 10/16/2001.

[188] Again, such orders may have been — indeed it is more likely that they were — implicit, rather than express, or in the alternative that the *effect* of a "Stand Down" order was engineered by fashioning a set of circumstances in which all of the most senior officials were furnished with "plausible deniability" concerning their inaction, delays, and omissions in failing to stop the attacks.

have learned of this by 8:25 A.M. at the latest. In the case of Flight 77, whereas sometime between 8:48 A.M. and 8:56 A.M. air traffic controllers determined that it Flight 77 had been hijacked sometime between 8:48 A.M. and 8:56 A.M., yet NORAD claims it received word from the FAA only at 9:24 or 9:25 A.M., and even then only that it "may" have been hijacked.[189]

254. This half-hour gap was disputed by the FAA in proceedings before the Commission. Jane Garvey, FAA Administrator on 9-11, in a statement released following her testimony, claimed that while formal notification was logged in by NORAD only at 9:24 A.M., "information about [Flight 77] was conveyed continuously during the phone bridges [among the FAA, NORAD, the Secret Service and other agencies] before the formal notification."[190]

255. A few days after 9-11, the New York Times reported, "During the hour or so that American Airlines Flight 77 was under the control of hijackers, up to the moment it struck the west side of the Pentagon, military officials in a command center on the east side of the building were urgently talking to law enforcement and air traffic control officials about what to do."[191] This seems more consistent with the FAA's recent claim that NORAD and other agencies knew about the hijacking of Flight 77 long before 9:24 A.M.

256. If Ms. Garvey is correct, then NORAD, in the more than two years since 9-11, has still not managed — nor, apparently, in what can only be explained as utter contempt for the public and absolute confidence in its own impunity — perceived any need, to adopt a single, plausible, and coherent story and stick to it. If, hypothetically, NORAD had learned that Flight 77 had been hijacked, say, at 8:51 A.M., given that the Pentagon impact occurred at 9:38 A.M., NORAD would then have had about 47 minutes to get a fighter plane over Washington, D.C.

[189] NORAD, 09/18/2001, AP, 08/19/2002, The Guardian, 10/17/2002.

[190] FAA, 05/22/2003.

[191] New York Times, 09/15/2001.

Leaving aside the implausibility or the scandal (especially in light of the abundant warnings of a possible terror attack using airplanes) of the Capitol not being defended by fighters at Andrews Air Force Base ten miles distant, and accepting for the moment the story that the nearest high-alert status fighters available were at Langley, 129 miles from Washington, Langley is closer to Washington, D.C. than Otis is to New York (about 188 miles).[192] At an average speed of 1200 MPH, which is 20 miles per minute, an F-16 fighter could have covered the 129 miles from Langley to Washington in about 6-1/2 minutes. But for the fact that the Commission has evidently accepted, without question, the dubious testimony from NORAD, and the major media (while persisting in reporting some facts not consistent with the Official Story) has not highlighted these facts or their implications, NORAD would have "a lot of explaining to do" concerning its failure to get a fighter plane over Washington (and nearby Arlington, Virginia) in the approximately 47 minutes it ought to have had for that task. Supposedly, at 9:09 A.M., NORAD ordered F-16s at Langley to battle stations alert.[193] However, one pilot, code-named "Honey," relates that he was in one of the first planes to take off from Langley, but that "battle stations alert" was not sounded until 9:24 A.M., a discrepancy of fifteen crucial minutes.[194] NORAD claims that three F-16s were scrambled (ordered aloft) at 9:27 A.M. to intercept Flight 77, and took off three minutes later, at 9:30 A.M.[195] Here again, the NORAD timeline is inconsistent with "Honey's" recollection. Without giving exact times, he describes a series of

[192] BBC, 08/29/2002.

[193] Aviation Week and Space Technology, 06/03/2002.

[194] Among the Heroes, by Jere Longman, pp. 64-65.

[195] NORAD, 09/18/2001.

events lasting much longer than six minutes, including waiting from "five to ten minutes" between two of these events.[196]

257. Even crediting NORAD's account, however implausible, that it learned of the hijacking only at 9:24 A.M. and, but had planes taking off from Langley at 9:30 A.M., at 1200 MPH the F-16s *still* could have arrived on time, albeit with only 1-2 minutes to spare. Presumably, the pilots were motivated to travel quickly; Maj. Dean Eckmann, who was one of them, said he was told before scrambling that a plane had hit the World Trade Center.[197] Yet, astoundingly, in their May 2003 testimony, NORAD officials said that the F-16s did not use their afterburners, and flew at about 660 MPH to Washington.[198] Using a calculator it can be determined that, if NORAD's timeline is to be believed, the F-16s were still 105 miles distant from Washington when Flight 77 crashed.[199] If so, that means the planes covered a distance of only about 24 miles in the eight minutes from takeoff (9:30 A.M.) to the time Flight 77 crashed (9:38 A.M.). Twenty-four miles in eight minutes means the F-16s flew at 3 miles per minute. Three miles a minute times sixty minutes indicates an average speed of only 180 MPH, far from the 660 MPH the NORAD witnesses claimed.

258. Indeed, NORAD and the pilots who supposedly scrambled from Langley cannot even agree on where they were headed. "Honey," claimed that the F-16s were flying toward New York City, not Washington. They were 30-40 miles to the east of Washington, not south of

[196] Among the Heroes, by Jere Longman, pp. 64-65.

[197] AP, 08/19/2002.

[198] NORAD testimony, 05/23/2003.

[199] Newsday, 09/23/2001, NORAD, 09/18/2001.

it, when they saw a black column of smoke coming from the city. They then changed course and headed to Washington instead.[200]

259. At the May 2003 hearing, NORAD claimed the fighters from Langley were sent to fly *over the Atlantic Ocean* instead of heading directly toward Washington[201] and the Commission astonishingly, accepted this account. The account is consistent with "Honey's" account of the fighters being too far east. NORAD officials admitted that, had the fighters traveled faster and headed directly toward Washington, D.C., they were capable of arriving there before Flight 77. NORAD's excuse was that hijacked airliners taking off within the United States were a "law enforcement issue," and that NORAD'S mission "was to protect [against] things coming towards the United States" from without.[202]

260. Supposedly, then, we are to believe that F-16s were scrambled from Langley to pursue and intercept hijacked Flight 77, which had made a U-turn roughly where West Virginia borders Kentucky, and was headed toward Washington, D.C. It was known that two planes had been flown into the World Trade Center in New York City during the preceding 45 minutes; yet the U.S. government, which admits to spending $40 billion annually on intelligence, was unable to figure out: (1) that Flight 77 was not headed in the opposite direction from its scheduled route to Los Angeles due to pilot error; (2) that whoever was in control of Flight 77 probably intended to fly it into a landmark building; and (3) that Washington, D.C. -- the nation's capital and site of numerous landmark buildings, toward which Flight 77 was headed -- was the likely site of the intended attack.

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[200] Among the Heroes, by Jere Longman, p. 76.

[201] NORAD Testimony, 05/23/2003.

[202] AP, 05/23/2003, NORAD Testimony, 05/23/2003.

261. To cover what plaintiff alleges was the functional equivalent of a "Stand Down" order[203], (i.e. that NORAD was caused to allow Flight 77 to continue until the impact with the Pentagon), NORAD offers the feeblest of fictions: that it had no jurisdiction over land; and that it was the responsibility of law enforcement, not NORAD, to deal with aircraft headed toward Washington from the interior, NORAD'S task being limited to stopping hostile planes coming in from *outside* the U.S., presumably from over the Atlantic. This story makes no sense. First, the planes scrambled from Otis reportedly flew over land to reach New York City. Second, few "law enforcement" agencies have fighter aircraft, or any effective means (unaided by the military and/or the Air National Guard) to contest attacks by jet aircraft originating from within the U.S., and about to be flown into buildings. Third, if NORAD can protect Washington, D.C. only from air attacks originating outside the U.S., it would make no sense to have the closest and (but for far-off Otis AFB on Cape Cod) the *only* available fighter aircraft at Langley, which is to say well inland, rather than at Andrews (or some other base closer to the coastline).[204] The failure to stop the strike on the Pentagon becomes all the more suspicious if one considers that, as calls poured in from fighter units volunteering assistance, it was not necessary to limit possible responses to Langley or Otis. Within minutes of the second crash at the World Trade Center, it was obvious

[203] Plaintiff reiterates that — especially in the confusion of multiple war games and training exercises which, we are supposed to believe by sheer coincidence, were in progress on the morning of 9-11 — it would have been entirely possible for senior conspirators to effectively prevent, hinder or delay an effective response to the real attacks without having to issue direct orders that unambiguously would signal their design and intent that the attacks not be thwarted. It is remarkable, too, that such negligible attention as the Commission gave to the response to the attacks in public hearings on June 16, 2004 avoided altogether addressing what effect, if any, the simultaneous carrying out of the war games and training exercises had on the supposed efforts made to stop the attacks.

[204] Finally, if the Langley F-16s were tasked with intercepting Flight 77, it seems incredible to suppose that the "terrorist hijackers" — relatively inept pilots in control of an unwieldy, unarmed passenger airliner would — out of respect for NORAD'S jurisdictional scruple – join the F-16s out over the Atlantic.

to everyone that the nation was under attack. Calls started "pouring into NORAD and sector operations centers, asking 'What can we do to help?'" The Air National Guard commander in Syracuse, New York, told Col. Robert Marr, in charge of NORAD's Northeastern US sector, "Give me 10 minutes and I can give you hot guns. Give me 30 minutes and I'll have heat-seeker [missiles]. Give me an hour and I can give you slammers [Amraamsza]." Marr replied, "I want it all."[205]

262. Reportedly, Col. Marr said, "Get to the phones. Call every Air National Guard unit in the land. Prepare to put jets in the air. The nation is under attack."[206] Another NORAD commander, Maj. Gen. Eric Findley, claims he had his staff immediately order as many fighters in the air as possible.[207] Yet, however sincere Col. Marr and Gen. Findley might be, the performance did not live up to the rhetoric**.** Col. Marr's response to Syracuse ANG — suggesting that he "wanted it all" -may- may well have been interpreted as ordering that only fully-armed planes be dispatched, thus actually delaying planes from taking off, whereas ostensibly Syracuse ANG could have had planes with some weapons heading toward Washington by 9:20 A.M., which could have reached Washington before Flight 77 did.

263. Another account says, "By 10:01 A.M., the command center began calling several bases across the country for help."[208] A base in Toledo, Ohio, was one of those called at that time, and Toledo appears to have been the first base other than Otis, Langley, or Andrews to send up any fighters, which Toledo did at 10:16 A.M. Syracuse may have been next, finally

[205] Aviation Week and Space Technology, 06/03/2002.

[206] Newhouse News, 01/25/2002.

[207] Ottawa Citizen, 09/11/2002.

[208] Toledo Blade, 12/09/2001.

putting fighters in the air at 10:44 A.M., *one hour and fifty-eight minutes after the impact at the North Tower*.[209]

4. AN UNPRECEDENTED NATIONWIDE "GROUND STOP" ORDER, WHICH MUST HAVE HAD WHITE HOUSE APPROVAL, PREVENTED EVEN THE MILITARY FROM FLYING AND ALLOWED AND MAY HAVE BEEN THE FUNCTIONAL EQUIVALENT OF AN ORDER FOR THE MILITARY TO "STAND DOWN" AND ALLOW THE ATTACKS TO PROCEED.

264. FAA Administrator Jane Garvey, "almost certainly after getting an okay from the White House, initiated a national ground stop" at 9:26 A.M. That measure forbade takeoffs, and required planes in the air to get down as soon as reasonable. The order – never implemented since the Wright Brothers first flew – "applied to virtually every single kind of machine that can take off – civilian, military, or law enforcement."[210] *Note the inclusion of military planes.* Military and law enforcement flights were allowed to resume takeoffs at 10:31 A.M. A limited number of military flights were allowed to fly during the nationwide ground stop from 9:26 A.M. until 10:31, but the FAA has refused to reveal details.[211]

265. Later, USA Today claimed that Ben Sliney, FAA National Operations Manager, made the ground-stop decision. If true, this was indeed an audacious judgment call to have been made by Mr. Sliney *on his very first day on the job* as the "chess master of the air traffic system."[212] The obvious queries, which so far as known to plaintiff have been assiduously

[209] Toledo Blade, 12/09/2001.

[210] Time, 09/14/2001.

[211] Time, 09/14/2001.

[212] USA Today, 08/13/2002. The question, obviously, is whether knowingly or unknowingly, Mr. Sliney was inserted by the Enterprise into a position from which he could effectively order

avoided by the Commission and the media, are these. First, is it true that Mr. Sliney made that judgment call on 9-11? If he did, did he have any orders or instructions, whether on 9-11 or at any time before 9-11, concerning any order of that momentous kind? Who caused Mr. Sliney to be inserted into this position? Does Mr. Sliney have connections to any of the defendants, or to FEMA, the CIA, or any intelligence or "black budget" agencies of the U.S. government?

266. A further point of interest concerns Chairman of the Joint Chiefs of Staff Instruction CJCSI 3610.01A dated June 1, 2001. Reportedly, this document was issued by Vice Admiral S. A. Fry, USN, was issued ostensibly for the purpose of providing "guidance to the Deputy Director for Operations (DDO), National Military Command Center (NMCC), and operational commanders in the event of an aircraft piracy (hijacking) or request for destruction of derelict airborne objects."[213]

267. The Joint Chiefs of Staff Instruction CJCSI 3610.01A, superseding a prior instruction that dated back to July 1997, states in part that "[I]n the event of a hijacking, the [National Military Command Center] will be notified by the most expeditious means by the FAA. The NMCC will, with the exception of immediate responses as authorized by reference "D", forward requests for DOD assistance to the Secretary of Defense for approval." Reference "D" mentioned in the foregoing cross-references a 1997 Defense Department directive that allows for commanders in the field to provide assistance to save lives in an emergency situation. However, "potentially lethal support," presumably inclusive of authorization to shoot down a hijacked civilian airliner, requires approval of the Secretary of Defense. Two critical questions concerning the June 2001 directive are whether field commanders were bureaucratically, but

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the mighty U.S. military to "stand down" in the face of attacks, and thus shield senior officials from responsibility.

[213] *See* Jerry Russell, "Found: The 911 'Stand Down Order?'", www.inforwars.com, 3/31/2004.

effectively, prevented from reacting to the 9-11 hijackings in a timely fashion, and what testimony or statements the Commission elicited from Vice Admiral Fry and Secretary of Defense Rumsfeld concerning the promulgation of CJCSI 3610.01A and the reasoning behind it, and what effect, if any, the requirements of CJCSI 3610.01A had in delaying or inhibiting an effective reaction to the diversions of aircraft on 9-11.[214]

268. It appears NORAD was unwilling to use fighters from any but the two bases in the Northeast sector that they directly controlled, even if there were other bases or fighters already in the air that were closer. There was no legitimate reason for this. In 1999, it was widely reported that when golfer Payne Stewart's Learjet went off course, NORAD used fighters from a number of bases outside of NORAD's "official" seven bases to follow the aircraft as it crossed over several states before crashing.[215] But on 9-11, NORAD appears to have been adamantly unwilling to use fighters from bases such as Andrews, even though Andrews is just ten miles from Washington, D.C. Andrews personnel learned about the national emergency *through news coverage*, and then a pilot called a friend in the Secret Service for more information. Shortly after the second crash at 9:03 A.M. (actually 9:02:56), it was the Secret Service – not NORAD –

[214] Until the day following 9-11, Andrews Air Force Base boasted (on its internet website) of "combat ready" fighters "in the highest state of readiness." One would expect no less, as Andrews is the airport customarily used by Air Force One and foreign dignitaries when flying to or from Washington, D.C. At the time of the first World Trade Center crash, three F-16 fighters assigned to Andrews were flying a training mission in North Carolina, 207 miles from Washington, D.C. Yet it took about an hour after the North Tower impact before these fighters were recalled. They landed at Andrews only after Flight 77 had crashed into the Pentagon at 9:38 A.M. One of the fighters, piloted by Maj. Billy Hutchison, still had enough fuel to take off again without refueling, but the other two needed to refuel. By one report, Hutchinson took off with no weapons. "Hutchison was probably airborne shortly after the alert F-16s from Langley arrive over Washington, although 121st FS pilots admit their timeline-recall is fuzzy."[214] If NORAD's timeline for the Langley F-16s is correct, Hutchinson did not depart Andrews until after 9:49 A.M. It has not been explained (1) why these planes from Andrews were not recalled earlier to protect Washington, D.C.; and (2) why Hutchinson – who did not need to land for refueling – was not ordered directly to the skies over Washington, D.C., which were still unprotected.

[215] ABC News, 10/25/1999.

that called Andrews, asking that they get fighters ready. Again, a few minutes after the Pentagon crash at 9:38, it was the Secret Service that called Andrews, and said the fighters needed to "Get in the air now!"[216]

269. Yet, despite Andrews' website claim to have "combat ready" fighters "in the highest possible state of readiness" when the command came to "get in the air," the fighters were not fully ready to take off. They had ammunition for "hot" guns, but AIM-9 missiles were located in a bunker on the other side of the base, and even though base commanders began the process of loading them shortly after 9:00 A.M., they still had not finished until about 40 minutes later. The next two fighters to take off from Andrews after Major Billy Hutchison were armed only with "hot" guns and non-explosive training rounds.[217] Even though the Secret Service and NORAD had been sharing a conference call since shortly after the first, North Tower impact at 8:46 A.M., NORAD claims it was unaware that the Secret Service ordered any planes into the air from Andrews.[218]

270. Lack of communication among Administration and military personnel on 9-11 would be comical, were the consequences not so tragic. In May 2003 testimony, Transportation Secretary Mineta claimed that at about 9:25 or 9:26 A.M., a few minutes after his arrival at the bunker beneath the White House, he overheard an aide tell Vice President Cheney that a hijacked plane headed toward Washington was 50 miles away, then 30 miles away.[219] When the plane was announced as being ten miles away, the aide asked the Vice President, "Do the orders still

[216] Aviation Week and Space Technology, 09/09/2002.

[217] Aviation Week and Space Technology, 09/09/2002.

[218] NORAD Testimony, 05/23/2003.

[219] Norman Mineta Testimony, 05/23/2003, Washington Post, 01/27/2002, ABC News, 09/11/2002.

stand?" Cheney replied, "Of course the orders still stand. Have you heard anything to the contrary?" Mineta inferred that the order was an order to shoot down the plane.[220]

271. Strange to say, if the President or the Vice President ordered incoming Flight 77 to be shot down before it reached Washington, *none of the pilots from Langley or Andrews appear to have been aware of any such orders!* One article pointed out, "If the airliner had approached much nearer to the White House it might have been shot down by the Secret Service, who are believed to have a battery of ground-to-air Stinger missiles ready to protect the President's home."[221] Given that the Pentagon is only two miles from the White House,[222] the failure to use Stinger missiles to shoot down Flight 77 suggests that the Enterprise was quite certain that the White House was not the intended target. 278. Reports indicate that Washington, D.C. air traffic controllers were also kept in the dark concerning Flight 77, and did not learn of its approach until the last minute. One flight controller claimed she was the first to notice Flight 77 when it was about 12 to 14 miles away, and that Vice President Cheney learned of it only after that.[223] The head Washington flight controller claimed the Secret Service first alerted his tower of a hijacked plane coming his way when it was only five miles away.[224] According to another account, flight controllers detected Flight 77 just before 9:30 A.M., and told the Secret Service.[225] Another account stated radar detected Flight 77 when it was 30 miles away at 9:30 A.M., and still another

[220] Norman Mineta Testimony, 05/23/2003. Vice President Cheney stated in a "Meet the Press" interview with his neighbor, Tim Russert, on September 16, 2001 that the President had given an order that planes could, as a last resort, be "taken out."

[221] Telegraph, 09/16/2001.

[222] CBS News, 09/21/2001

[223] ABC, 10/24/2001.

[224] USA Today, 08/12/2002.

[225] USA Today, 08/13/2002.

account claimed detection at 9:33 A.M.[226] An unanswered question is that, if Washington, D.C. flight control's radar did not detect Flight 77's approach from 9:24 A.M. and before, then whose radar did?

272. NORAD admits official notice that Flight 77 was headed toward Washington at 9:24 A.M., and FAA Administrator Jane Garvey claimed a conference call discussed Flight 77 well before that time. It was not, however, until well after the Pentagon was hit, at 9:38 A.M., that orders were given to evacuate additional likely Washington targets such as the White House, the Capitol Building, the State Department and, indeed, the Pentagon itself.[227] Had Flight 77 struck the Capitol instead of the Pentagon, most of the legislators would still have been inside.[228] It is claimed that Defense Secretary Rumsfeld and his top aides in their Pentagon offices remained unaware of any danger until after the Pentagon was actually hit. This claim is belied by the fact that *the conference call discussing Flight 77 was being run out of the National Military Command Center inside the Pentagon itself.*[229] Vice President Cheney (according to Transportation Secretary Mineta) knew, and Defense Secretary Rumsfeld certainly ought to have known, of the approach of Flight 77. Why were no evacuation orders given for other Washington landmarks until after 9:38 A.M.? This remains unexplained. Had orders been given to begin evacuating the Pentagon at the time of the exchange between Vice President Cheney and the aide reported by Secretary Mineta, perhaps many of the 125 people who died inside the Pentagon on 9-11 would be alive today.

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[226] CBS News, 09/21/2001, New York Times, 10/16/2001.

[227] CNN, 09/16/2001.

[228] AP, 08/19/2002.

[229] Newsday, 09/23/2001, Aviation Week and Space Technology, 06/03/2002, CNN, 09/04/2002, ABC News, 09/11/2002.

273. In addition to the foregoing, there is an impressive body of research that, while again not unanimous in every detail, concurs generally that what struck the Pentagon could not have been a Boeing 757, and was therefore not Flight 77. [230] 281. Just six items ought to suffice to imbue the moderately critical student of 9-11 with enormous skepticism concerning the Official Story. That the Commission never deviated from the "established truth" (that it was Flight 77, piloted by Arabs, that struck the Pentagon, after departing from Dulles Airport and then flying west to roughly, the West Virginia-Kentucky border before circling back to attack Washington) or saw any need to address the following facts is a further indication of a coverup. The six items are these: Additional facts casting doubt on the Official Story and indicating a coverup are:

> a. Given even that supposed terror pilot Hanjour by all reports was, at best, a marginal pilot, and was supposedly on a suicide mission, it is simply not believable astounding that he found both the skill and the *sang froid* to execute a 270-degree turn, while descending some 7000 feet in an unwieldy Boeing 757, at a speed of 270 knots or more.
>
> b. Just as the WTC hijackers were "good" enough to hit the Twin Towers just as most occupants were arriving for work (rather than in mid-morning, when the death toll would have been higher) It is equally unbelievable that the "terrorist" flying Flight 77 would take took the trouble, in his life's last moments, to execute an impossibly acrobatic maneuver, a professional courtesy as it were, to avoid striking the section of the Pentagon where Secretary of Defense Rumsfeld has his office, preferring instead to strike precisely that section of the structure which, having been recently remodeled, was thinly populated. Similarly, the WTC hijackers were "good" enough

[230] *See, e.g.*, 911research.wtc7.net/mirrors/guardian/Pentagon/what-hit-it.htm (overview); "Flight 77 and the Pentagon Crash: What Really Happened Here?" (www.freedomfiles.org/war/pentagon.htm); A. K. Dewdney and Jerry Longspaugh, "The Missing Wings," and Gerard Holmgren, "Physical and Mathematical Analysis of the Pentagon Crash," both available at physics911.org/net/index.php; a former USAF pilot's analysis of supposed Flight 77's flight path on approach to the Pentagon at www.thepowerhour.com/911_analysis/pentagon-911.htm and the book *Pentagate* by Thierry Meyssan, whose French-language website was perhaps the first to draw attention to the incongruities concerning the photos showing the damage to the Pentagon structure after the strike (but prior to the building's partial collapse).

to hit the Twin Towers just as most occupants were arriving for work (rather than in mid-morning, when the death toll would have been higher).

c. Supposedly, Flight 77 departed Dulles Airport *near Washington*, flew west to near, roughly, the West Virginia-Kentucky border, then described a loop to amble back eastward to attack the Pentagon. Why would "terrorists" with sufficient skill to divert four aircraft in rapid succession, and a pilot in Flight 77 capable of the exploits just described, virtually beg thus *beg* to be intercepted, by remaining aloft for so long? Why would they not circle back not long after takeoff, and crash the plane into the Pentagon? In addition to the improbably extended flight pattern, there are further difficulties with Flight 77's timeline. The plane was reportedly seriously off-course by 8:46 A.M., 26 minutes after takeoff. The erratic course flown over West Virginia is suggestive of the diversion having occurred within a few minutes thereafter (the last radio communication was reportedly at 8:50 A.M. and the plane's transponder was turned off at 8:56 A.M.). Why did it take the plane roughly 45 to 55 minutes (depending on when the impact really occurred, sometime between 9:37 A.M. and 9:48 A.M.) to circle back and fly into the Pentagon?

d. If one looks at photographs of the "entrance wound" inflicted on the Pentagon, plainly it is unbelievably small, if what hit the Building was a Boeing 757; and

e. As in the case of the World Trade Center, the evidence at the crime scene was removed, under cover and with amazing rapidity, precluding any accurate and transparent investigation.

5. THE CRASH OF FLIGHT 93 IN SOMERSET COUNTY, PENNSYLVANIA, RAISES SERIOUS UNANSWERED QUESTIONS.

274. There are also many unanswered questions concerning Flight 93, the last of the four planes to be hijacked on 9-11. Flight 93's takeoff was delayed about 40 minutes, until 8:42 A.M.[231] The FAA told NORAD at 9:16 A.M. that Flight 93 had been hijacked.[232] The basis of

[231] Newsweek, 09/22/2001, USA Today, 08/12/2002.

[232] CNN, 09/17/2001, NORAD Testimony, 05/23/2003.

that report is uncertain, as the transponder turned off only about 9:30[233] or 9:40 A.M.[234], and Flight 93 did not go off course until much later.[235]

275. The "timeline" for Flight 93 is the subject of concealment, secrecy and dispute. NORAD maintains that this plane crashed at 10:03 A.M.,[236] notwithstanding a seismic study, commissioned by the Army that determined the time of the crash to be 10:06:05.[237]

276. Even murkier is when, or if, fighters were flown toward Flight 93 charged with intercepting it. NORAD'S first timeline said only that a fighter was 100 miles, or 11 minutes, away when Flight 93 crashed near Shanksville, in Somerset County, Pennsylvania.[238] That means the fighter was traveling about 545 MPH – again, inexplicably slow. NORAD's initial timeline also implies that the fighter allegedly in pursuit of Flight 93 had only traveled about 80 miles from Washington when Flight 93 crashed. If we assume the 545 MPH as a correct average, that means the fighter left Washington about nine minutes before the crash, or 9:57 A.M. Consider the implications: before Flight 93 was reported hijacked at 9:15 A.M., two planes had been steered into the World Trade Center, the nation's defenses were in an uproar, and base commanders all around the country were phoning in, asking what they could do to help. Yet – if NORAD is to be believed – about 41 minutes elapsed before anyone got a plane into the air, heading in the direction of hijacked Flight 93.

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[233] MSNBC, 09/03/2002.

[234] CNN, 09/17/2001.

[235] New York Times, 10/16/2001. Partial – which is to say, expurgated – transcripts of cockpit voice recordings have been released for the other flights, but not Flight 93.

[236] NORAD, 09/18/2001, NORAD Testimony, 05/23/2003.

[237] US Army Authorized Seismic Study, Philadelphia Daily News, 09/16/2002.

[238] NORAD, 09/18/2001.

277. Secretary Mineta's impression that Cheney had given a shoot down order for Flight 77 at about 9:26 A.M. has been mentioned. It has also been claimed that, sometime after Flight 77 crashed, someone from the White House spoke directly with pilots over Washington, and declared the Washington area a "free-fire zone."[239] In another account, the Secret Service told the pilots, "I want you to protect the White House at all costs."[240] Yet, it has been reported also that it was not until President Bush took off from Sarasota, Florida, at about 9:56 A.M., that he had a short discussion with Vice President Cheney, and it was then that the President authorized the military to shoot down any plane under the control of hijackers.[241] Strange to say, none of the pilots over Washington claim to have heard any such order. "Honey," the lead pilot, claimed to have heard a garbled message about Flight 93 that the other pilots did not hear. He said, "The message seemed to convey that the White House was an important asset to protect . . . something like, 'Be aware of where [Flight 93] is, and it could be a target.'"[242] Both "Honey" and another pilot code-named "Lou" stated they were never given orders to shoot down any plane that day.[243]

278. All six of the first pilots to arrive over Washington were quoted in the press, and none of them indicated that he flew in pursuit of Flight 93. One article does say that Billy Hutchison's fighter from Andrews AFB "was to do ID that unknown [aircraft] that everybody was so excited about." But the article containing that quote goes on to describe how Hutchison began patrolling over Washington in low-flying loops instead.[244]

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[239] Aviation Week and Space Technology, 09/09/2002.

[240] New York Times, 10/16/2001.

[241] Washington Post, 01/27/02, CBS, 09/11/2002.

[242] Longman, Among the Heroes, p. 76.

[243] Longman, Among the Heroes, p. 222.

[244] Aviation Week and Space Technology, 09/09/2002.

279. Furthermore, Hutchison's was the only fighter of the six that claimed to have been unarmed, but NORAD's most recent claim is that two unarmed fighters from Washington were sent after Flight 93.[245] NORAD previously claimed that, at some point after Flight 77 crashed at 9:38 A.M., two unarmed fighters in Michigan were ordered after Flight 93.[246] These last-mentioned fighters are claimed to have been in the air since the time of the first attack at 8:46 A.M., raising the obvious question of why they were not recalled to be armed an hour earlier.[247] NORAD seems to have forgotten these two fighters in its most recent timeline.[248] Major General Paul Weaver, director of the Air National Guard, claimed that *no fighters were sent after Flight 93 at all.*[249]

280. Contradicting Gen. Weaver's claim of no fighters having been sent in pursuit of Flight 93, the day following 9-11, a New Hampshire flight controller claimed "that an F-16 fighter closely pursued Flight 93 . . . the F-16 made 360-degree turns to remain close to the commercial jet the employee said, 'He must've seen the whole thing,' the employee said of the F-16 pilot's view of Flight 93's crash."[250] Details have been reported, too, of how Vice President Cheney was given notice when a fighter was 80 miles from Flight 93, when it was within 60 miles, and at least one additional notice. The Vice President reportedly confirmed his order to shoot down Flight 93 after every update.[251]

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[245] NORAD Testimony, 5/23/2003, UPI, 05/23/2003.

[246] AP, 08/30/2002, ABC News, 08/30/2002, ABC News, 09/11/2002.

[247] AP, 8/30/2002.

[248] NORAD Testimony, 5.23.2003.

[249] Seattle Times, 9/16/2001.

[250] AP, 9/13/2001, Nashua Telegraph, 9/13/2001.

[251] Washington Post, 1/27/2002.

281. Plaintiff submits that, where a purported investigation is being carried out at taxpayer expense of events that caused the deaths of 2,993 persons, it is conclusive proof that the proceedings are a farce, a cover-up and a public-relations sham that *any* significant proof is received without the witnesses being sworn to testify truly, and under the penalties of perjury. Such laxity has been the practice of the Commission, generally and particularly with respect to the NORAD commanders who testified (and to President Bush and Vice President Cheney). NORAD representatives lied so brazenly, their accounts were so internally inconsistent and patently unbelievable, that the only reasonable conclusion is that they recognized the Commission for what it is -- a "disinfotainment" comedy produced for C-Span, a bone tossed contemptuously in the direction of activist groups of victims' families, and a means to forestall any true investigation, if not forever then at least until after the 2004 presidential election. Judging by their conduct, the NORAD commanders were well aware that the Commissioners — or a majority of them at least — had no expectation of being told even a plausible, roughly consistent set of lies, much less the truth.

282. Late in 2001, for example, defendant Maj. Gen. Larry Arnold wrote how NORAD's response on 9-11 was "immediate" and "impressive." Gen. Arnold claimed, "we were able to identify, track and escort suspected hijacked aircraft after the initial attacks," "our reaction time outpaced the process in some instances," "our well-practiced rapid response capability may very well have prevented additional surprise attacks on the American homeland saving countless lives." [252] Apart from the absurdity of such claims in light of such facts as are known and, of course, the outcome of the attacks, Gen. Arnold was flatly contradicted by current NORAD Commander Maj. Gen. Craig McKinley who, testifying to the Commission in May 2003 *with*

[252] American Defender, 2001.

Gen. Arnold seated at his side, admitted "We had not positioned prior to September 11, 2001, for the scenario that took place that day."[253] "McKinley admitted," another report stated, "that NORAD was utterly unprepared for the attack."[254] Gen. McKinley called NORAD's 9-11 stance "a Cold War vestige."[255]

283. Not only did Gen. McKinley squarely contradict Gen. Arnold's referenced article that had boasted of NORAD's response, but Gen. Arnold himself testified lamely before the Commission that he did not think Flight 77 would be shot down on its approach to Washington, because even at that point, it was only "through hindsight that we are certain that this was a coordinated attack on the United States."

284. Gen. Arnold's last-quoted statement is astonishing. At the time in question, roughly 9:26 A.M., about 40 minutes had elapsed since a hijacked plane had crashed into the WTC North Tower. Nearly half an hour had passed since the second impact at the South Tower. Flight 77, having made a "U" turn from its projected flight path, had been out of radio contact with controllers for about 35 minutes, and was bearing down on the nation's Capitol. Yet, Gen. Arnold is suggesting that he (and perhaps other military and civilian leaders, as he employs the pronoun "we") was unsure that a "coordinated attack on the United States" was in progress. Plaintiff submits that either the General has engaged in massive perjury, or his acuity is so feeble that he should have been dismissed from service in the wake of the attacks.

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[253] New Jersey Star-Ledger, 05/24/2003.

[254] UPI, 05/23/2003.

[255] New Jersey Star-Ledger, 05/24/2003. The Commission, consistent with its overall approach of not hurting anyone's feelings over their failure to prevent or to respond appropriately to the attacks, was too polite to point out that Gen. Arnold and Gen. McKinley could not both be telling the truth.

285. Drawing inspiration, perhaps, from the memory of how Lt. Col. Oliver North used brazen perjury to cover up massive illegal sales of weapons (and drugs) and the creation and use of an extra-Constitutional parallel government to thwart laws passed by Congress, parlaying this perjury into wealth and a lucrative career as a pro-Enterprise commentator and profiteer, NORAD witnesses appearing before the Commission evidently did not feel the need even to avoid lies that could readily be refuted – stating, for example, that CNN first began showing images of the North Tower of the World Trade Center on fire at 8:57 A.M., when it is easily verifiable that CNN began doing so at 8:48 A.M.[256] . Regardless of whether NORAD'S story of convenience at a given moment entails fighters flying toward Flight 93 from Michigan on the one hand, or Washington on the other, its account cannot withstand scrutiny. Three fully-armed fighters reached Washington before the one unarmed or the two partially-armed fighters did. So why was not one of the first three, fully-armed fighters sent after Flight 93? It is an affront to every American with moderate analytical powers to propose, as NORAD has, that Surely, an hour and a half after NORAD was first notified of the diversion of Flight 11, it had not the capacity to overtake Flight 93 with an armed fighter!

286. In light of the inspiring (albeit improbable) story that passengers on Flight 93 fought the hijackers and may have recaptured control of the aircraft,[257] Enterprise spinmeisters have sought to keep armed aircraft far, far away from Flight 93 in their accounts of the moments preceding its crash. However, there is significant evidence that Flight 93 was shot down. The

[256] NORAD Testimony, 5/23/2003, CNN, 9/11/2001.

[257] Nothing alleged by Rodriguez in this complaint bears the slightest intent to impugn any of the victims of 9-11. We know many were heroes. We can surmise that others might have displayed great bravery, but were incapacitated or killed before having the opportunity to do so. *Every* life lost was singularly precious, and as we can neither restore our lost family members, friends, and fellowmen and women to life, nor (in most cases) reliably reconstruct their last moments, Rodriguez submits we can and must seek to honor them by finding the truth of how, why, and by whom they were murdered.

Enterprise, NORAD, and the Bush II Administration cannot have it both ways. Either the brave passengers who allegedly exclaimed, "Let's roll!" were blown out of the sky by military (or CIA or other Enterprise) fire, or Flight 93 flew for fifty minutes, uncontested, after two planes had struck the WTC, and the government knew it had been hijacked. Small wonder, then, that NORAD continues to hide behind lies and vague stories of unarmed fighters, with the timeline kept as fuzzy as possible. NORAD Commander Craig McKinley newly claimed at the May 2003 hearings that NORAD was unaware of any shoot down order until five minutes after Flight 93 had crashed.[258]

287. There is evidence that Flight 93, and that it was tailed by a private jet owned by an enormously wealthy businessman, involved also in the development of pilotless aircraft, who happened to be hosting a charity event at the secure Air Force facility in Nebraska to which President Bush was flown on 9-11. (The coincidences just keep coming.) According to one report, which while (unconfirmed but is alleged by plaintiff upon information and belief), is that fighter pilots of the 119th Fighter Wing of the North Dakota Air National Guard, a unit temporarily assigned to Langley AFB in Virginia, were scrambled at 9:38 A.M. on 9-11, and directed to pursue Flight 93.[259] The squadron, comprising Major Rick Gibney, Maj. Brad Derrig, Maj. Dean Eckman, and Capt. Craig Borgstrom, overtook the diverted plane and one of them, reportedly Major Gibney, was ordered to and did shoot the plane down. Reportedly, the members of this squadron, from a unit nicknamed the "Happy Hooligans," were later awarded medals (and several pilots of the squadron were promoted) for meritorious service in carrying out the tragic orders to shoot down Flight 93.

[258] UPI, 05/23/2003.

[259] Fargo Forum, 9/12/2002.

288. Further reports of anomalies worthy of investigation, but which to plaintiff's best knowledge have not been investigated, are these. One is that while military and government sources have persistently denied the presence of military aircraft within range of Flight 93 on 9-11, a sonic boom — indicative of a military aircraft, as passenger aircraft generally do not "break the sound barrier" — was recorded at 9:22 A.M., at an earthquake monitoring station in southern Pennsylvania, approximately 60 miles from the crash site of Flight 93.

289. An article by Robb Magley suggests that this sonic boom is consistent with fighters from the 112th Fighter Squadron, part of the 180th Fighter Wing (a/k/a the "Stingers"), known to have been scrambled from the Toledo Express Airport in Ohio, doubling back after being initially ordered to New York, causing the sonic boom over the southern Pennsylvania seismic station at 9:22 A.M., and intercepting (and possibly shooting down) Flight 93 at about 10:06 A.M.

290. Rodriguez does not endorse or reject Magley's theory, but finds it remarkable that it appears not to have interested the Commission in the slightest. Certainly, the sonic boom, certainly, recorded only about 60 miles from Flight 93's crash site, appears to belie claims by Maj. Gen. Paul A. Weaver, Jr., Director of the Air National guard, that National Guard aircraft "weren't even close" to Flight 93.[260]

291. Another matter worthy of explanation is the possibility that Flight 93 was brought down not by rebellious passengers, nor by suicidal Arabs, but by ultra high-tech United States weaponry, namely microwave weapons emitted from a C-130 aircraft.[261] Especially in light of

[260] Robb Magley, "The Final Moments of Flight 93," archived at www.thepowerhour.com.

[261] *See* Robb Magley, "Flight 93: the Improbable Truth" (update of 6/27/2004). A copy is annexed as Exhibit C. Again, Rodriguez does not propose Magley's microwave-weapon shootdown as gospel truth, but considers it easily creditable enough that a true investigation —

the inspiring (albeit improbable) story that passengers on Flight 93 fought the hijackers and may have recaptured control of the aircraft,[262] Enterprise spinmeisters have sought to keep armed aircraft far, far away from Flight 93 in their accounts of the moments preceding its crash.

292. If the facts are viewed critically, however, the Enterprise, NORAD, and the Bush II Administration cannot have it both ways. Either the brave passengers who allegedly exclaimed, "Let's roll!" were blown out of the sky by military (or CIA or other Enterprise) fire, or Flight 93 flew for fifty minutes, uncontested, after two planes had struck the WTC, and the government knew it had been hijacked. Small wonder, then, that NORAD continues to hide behind lies and vague stories of unarmed fighters, with the timeline kept as fuzzy as possible. NORAD Commander Craig McKinley newly claimed at the May 2003 hearings that NORAD was unaware of any shoot down order until five minutes after Flight 93 had crashed.[263]

293. Additional questions are raised by the failure to escort Air Force One when, at last, President Bush tore himself away from the schoolchildren's "goat story," and left the Sarasota airport about 9:56 A.M. Interestingly, one of the President's security detail at the elementary school saw the second WTC crash at 9:03 A.M. and immediately exclaimed, "We're out of here. Can you get everyone ready?"[264] Two air bases in Florida (Homestead and Tyndall) were among the seven in NORAD'S system. One would think that, during the approximately 32-minute

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not to be confused with the political farce played out by the Commission — would test it on the merits.

[262] Nothing alleged by Rodriguez in this complaint bears the slightest intent to impugn any of the victims of 9-11. We know many were heroes. We can surmise that others might have displayed great bravery, but were incapacitated or killed before having the opportunity to do so. *Every* life lost was singularly precious, and as we can neither restore our lost family members, friends, and fellowmen and women to life, nor (in most cases) reliably reconstruct their last moments, Rodriguez submits we can and must seek to honor them by finding the truth of how, why, and by whom they were murdered.

[263] UPI, 05/23/2003.

[264] Sarasota Herald-Tribune, 09/10/2002.

delay between the second WTC impact, and the time that the Commander-in-Chief (his indispensable "briefing" regarding the pet goat having been completed) left with his motorcade about 9:35 A.M., the President's security would have arranged for an armed fighter escort to accompany Air Force One. It appears, however, that no fighters reached Air Force One until sometime between 11:00 A.M. and 11:30 A.M. (NORAD has not released full details).[265] Reportedly, the first fighters to reach Air Force One came from Ellington, near Houston, Texas, long after Air Force One left Florida.[266] If, somehow, the 9-11 attacks were not an "inside job," carried out with the secret blessing of high officials in the Bush II Administration and the military and "national security" agencies, the President's initial conduct following word of the attacks was bizarre, and those responsible for his safety were remarkably casual, unless the .9-11 attacks were an "inside job" carried out with the secret blessing of high officials in the Bush II Administration and the military and "national security" agencies.

6. SOME ADDITIONAL REASONS TO DOUBT THE OFFICIAL STORY OF 9-11.

294. One columnist wrote in May 2003, "The great majority of people, sickened and overwhelmed by the horror of the attacks, unquestioningly accepts the White House version [of what happened on 9-11]. Many thousands, however, are patiently stitching together the documented evidence and noting the holes in the fabric of that official story."[267] A Florida columnist called the "restrained – even failed – standard US military air defense protocols while the attacks were occurring" a "real mystery" deserving a serious investigation.[268] But whether

[265] Code One Magazine, 01/2002, Sarasota Magazine, 09/19/2001, Washington Post, 01/27/2002.

[266] CBS, 09/11/2002, American Defender, 2001.

[267] Toronto Star, 05/18/2003.

[268] Sarasota Herald-Tribune, 05/20/2003.

through fear or collusion, few major media organizations have had the temerity to challenge the Official Story or even acknowledge the discrepancies.

295. There are a myriad of other facts, reported by mainstream media but not as a coherent whole, which suggest that the Official Story is a falsehood, and that failure to carry out a complete criminal investigation addressed not to "intelligence failures" but the actual events of 9-11 and criminal responsibility therefore, attests eloquently to Enterprise and U.S. government complicity. Besides those listed above, here are just a few additional examples:

> (a) The alleged hijackers were identified implausibly early after the attacks. No Arab names – let alone those of the accused hijackers – appear on the public passenger manifests. A supposedly definitive technical study concerning the collapses of World Trade Center 1 and 2 (the North Tower and South Tower) appeared just two days after 9-11, but the actual evidence (the rubble from the destroyed buildings, especially the structural steel) was kept under the exclusive control of FEMA, removed form the site, and shipped overseas with haste that dismayed engineers, and astonished everyone. Called by its right name, this was the destruction of evidence, and an obstruction of justice, brazenly carried out in plain view.
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> (b.) Most purported "evidence" that hijackers were on any of the four airplanes, and that they may have been Arabs, is attributed to purported cell phone conversations between flight attendants and passengers and persons on the ground.[269] Given the state of cell phone facilities and technology as of September 2001, it is highly unlikely that most of these communications would have gotten through to the ground.[270] In some cases – e.g., the conflicting and timeline-inconsistent conversations involving attendants on Flight 11 -- the conversations are implausible, or at best inconclusive, when their content is compared with other facts and allegations. Most of the communications are doubtful, also, in that technically it is unlikely that, given the state of cell phone facilities and

[269] *See generally,* John Kaminski, "the Fatal Flaw in the 911 Coverup: Why Can No One Name the Hijackers or Prove They Flew the Planes?," www.rense.com, 4/17/2004; Thomas R. Olmsted, M.D. (a "former Naval line officer and psychiatrist in private practice in New Orleans, a Christian and homeschool dad"), "Autopsy: No Arabs on Flight 77," Sierra Times, 3/7/2002.

[270] *See,* Michel Chossudovsky, "The 9/11 Commission Report — More Holes in the Official Story: the 9/11 Cell Phone Calls,: www.globalresearch.ca/articles/CHO408B.html, 8/10/2004. *See also,* A.K. Dewdney, "Project Achilles" Report (2003); "Mobiles in Aircraft Edge Closer" (predicting cell phones useable on aircraft in flight *by 2006*).

technology as of September 2001, passengers on the airplanes would have been able to communicate with the ground via cell phones.[271]

(c.) Astonishingly, although from the very day of 9-11 (*e.g.*, remarks by Sen. Orrin Hatch) to the present, government and Commission officials have claimed to have firm evidence of membership in al-Qaeda of the nineteen accused hijackers, and to have reconstructed their movements and their activities in furtherance of the plot, more than seven months after the attacks FBI Director Robert S. Mueller III stated flatly:

> In our investigation, we have not uncovered a single piece of paper — either here in the United States or in the treasure trove of information that has turned up in Afghanistan and elsewhere — that mentioned any aspect of the September 11 plot.[272]

296. Based on these and a great many other contradictions, impossibilities and implausibilities concerning the Official Story, to be presented at the trial, Rodriguez alleges upon information and belief that the Principal Defendants and each of them had express foreknowledge of the 9-11 attacks, and that the same would involve the hijacking or diversion of commercial aircraft and attempts to steer commandeered aircraft into landmark buildings in New York City and Washington, D.C. or environs.

297. Upon information and belief, the Principal Defendants and each of them engaged and/or collaborated with military, paramilitary, intelligence and/or secret service personnel of one or more of Pakistan, Saudi Arabia, Israel, and/or other nations, which personnel participated in the recruitment, training, instruction, entry into the United States, financing and protection of the persons who actually carried out the attacks of 9-11.

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[271] *See*, Michel Chossudovsky, "The 9/11 Commission Report — More Holes in the Official Story: the 9/11 Cell Phone Calls,: www.globalresearch.ca/articles/CHO408B.html, 8/10/2004. *See also*, A.K. Dewdney, "Project Achilles" Report (2003); "Mobiles in Aircraft Edge Closer" (predicting cell phones useable on aircraft in flight *by 2006*).

[272] Speech by Mr. Mueller at the Commonwealth Club in San Francisco, CA, 4/19/2002.

298. From and after the time that each of them first learned that the 9-11 diversions of aircraft and attacks on the World Trade Center and the Pentagon had occurred or were in progress, each of the Principal Defendants knew, or became aware not later than the day following the attacks, that (1) the same had been permitted to occur as the same would furnish a pretext to justify military attacks against the Taliban in Afghanistan, and the Saddam Hussein regime in Iraq; (2) the Enterprise demanded of each of them adherence to the "Official Story," essentially that the attacks were planned and executed solely by foreign terrorists, Islamist extremists under the direct or indirect control of Osama bin Laden; (3) the Enterprise demanded that each of the Principal Defendants conceal and continue to conceal the truth concerning Bush II Administration and U.S. military and government complicity in the attacks, and that they commit any such act(s), including perjury, the destruction and/or falsification of records, and the concealment of evidence under the pretext of "national security," as might be or become necessary or convenient to prevent or delay the truth from becoming known to the public at large; and (4) the Enterprise demanded that each of the Principal Defendants do whatever might be asked of them, including but not limited to the commission of crimes including wire fraud, perjury, the giving of knowingly false testimony to Congress, in order to falsify, obscure and conceal the relationship between the 9-11 attacks, the complicity of Enterprise actors in carrying out the attacks and/or permitting the same to occur, and the objectives of the Enterprise enumerated in this complaint.

299. Upon information and belief, each and every one of the Principal Defendants, if any there were, who may be shown not to have been, prior to the 9-11 attacks, active co-conspirators with the persons who carried them out, became aware at or shortly following the attacks of their true character, and that they had been planned or permitted to occur by the Enterprise, and

knowingly and actively participated in the concealment of the truth from Congress and the American public concerning (a) Bush II Administration and U.S. military and government complicity in the attacks; (b) the agenda that the Enterprise intended to promote and to further (and in fact has promoted and furthered with considerable success, and with attendant monetary and political gain to the Enterprise, the Principal Defendants, and their allies), and (c) the relationship between the 9-11 attacks and such agenda.

300. In the cover-up and concealment of the true character of the 9-11 attacks, complicity in the same on the part of Enterprise, Bush II Administration, and U.S. military and government personnel, and the relationship of the attacks to the Enterprise Agenda, each of the Principal Defendants has committed, or conspired to commit, one or more crimes including but not limited to mail fraud, wire fraud, perjury and/or the subornation of perjury, the destruction and/or the concealment of evidence, the killing, threatening, harassment, and/or otherwise tampering with witnesses, and obstruction of justice.

301. By carrying out the 9-11 attacks; causing the diversion of four commercial airline flights on 9-11 and the murder of all or many of the persons on board; by causing the planes or other aircraft, missiles or projectiles into the Pentagon and the World Trade Center; causing the demolition of WTC-7; and causing anthrax to be mailed to not fewer than five persons in October 2001, the Enterprise and its members are guilty of multiple crimes constituting "domestic terrorism," within the meaning of 18 U.S.C. § 2331.

302. By causing the diversion of Flight 11, Flight 175, Flight 77 and Flight 93 on 9-11, the persons on board said flights being willfully transported in interstate commerce, and such acts being committed within the special aircraft jurisdiction of the United States (as defined in 49

U.S.C. § 46501), the Enterprise and its members are guilty of kidnapping, in violation of 18 U.S.C. § 1201.

303. By reason of having taken control of, diverted, and destroyed the aircraft involved in the 9-11 attacks, the Enterprise and its members are guilty of the willful destruction of aircraft or aircraft facilities, in violation of 18 U.S.C. § 32.

304. In connection with the diversion of four aircraft on 9-11, the Enterprise and its members are guilty of the crime of interference with commerce by threats or violence, in violation of 18 U.S.C. § 1951.

305. The Enterprise and each of its members is guilty, by reason of having supplied currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation and other physical assets (except medicine or religious materials) to persons who carried out the 9-11 attacks, of violating 18 U.S.C. § 2339A, which prohibits providing material support to terrorists.

306. Defendants and each of them, by kidnapping and/or murdering approximately 2,993 persons in the attacks of 9-11 (including all of the persons on the four diverted aircraft, and persons killed when the aircraft, or other aircraft, missiles or projectiles, were flown into the Twin Towers and the Pentagon, and when explosives in the Twin Towers were detonated) and maiming additional persons injured in the attacks, did so in consideration for the receipt of, or as consideration for a promise or agreement to pay something of pecuniary value from an enterprise engaged in racketing activity, or for the purpose of gaining entrance to or maintaining or increasing position in such an enterprise, are therefore guilty of violating 18 U.S.C. § 1959, which prohibits violent crimes in aid of racketeering activity.

307. In connection with the acts aforementioned in the last preceding paragraph, the Enterprise and its members are guilty of using interstate commerce facilities in the commission for murder for hire, in violation of 18 U.S.C. § 1958;

308. By supplying funds that were used, in full or in part, to carry out the 9-11 attacks, the Enterprise and its members violated 18 U.S.C. § 2339(C), which prohibits the financing of terrorism (including *inter alia* acts "intended to cause death or serious bodily injury to a civilian . . . when the purpose of such act . . . is to intimidate a population . . .")

309. If and to the extent that the Enterprise and its members may have, in the course of carrying out, enabling, or aiding and abetting the 9-11 attacks, provided any funds (or other material support or resources) to any organization designated a "terrorist organization" under 8 U.S.C. § 1189, they are guilty of violating 18 U.S.C. § 2339B, which prohibits providing material support or resources to designated terrorist organizations;

310. The Enterprise and each of its members are guilty, by reason of the anthrax attacks on Senators Daschle and Leahy, of violating 18 U.S.C. § 372, Conspiracy to impede or injure [an] officer;

311. The Enterprise and each of its members are guilty, by reason of sending anthrax bacteria via the U.S. Postal Service to not fewer than five individuals in October 2001, of violating 18 U.S.C. § 1716, which prohibits mailing "injurious articles" including " all kinds of poison, and . . . all disease germs or scabs;"

312. The Enterprise and each of its members are guilty, by reason of abducting and/or aiding in and facilitating the abduction of minor children and young women, and providing them (by "sale" or otherwise) to government officials, members of the CIA and U.S. security organizations, and citizens of foreign nations including but not limited to the Kingdom of Saudi

Arabia, of violating one or more of the following statutes: Title 18 U.S. Code §§ 2251, 2251A, 2252 and 2260 (relating to the sexual exploitation of children; 18 U.S.C. §§ 1581 through 1588 (relating to peonage and slavery); and/or 18 U.S.C. §§ 2421 through 2424 (relating to white slave traffic);

313. The Enterprise and each of its members are guilty, in connection with their extensive, worldwide and prolonged involvement with trafficking in cocaine, heroin, marihuana, and other drugs, of multiple acts of money laundering, in violation of 18 U.S.C. §§ 1956 and 1957;

314. The Enterprise and each of its members, and the Special Riot Defendants and each of them, by reason of having traveled to Florida in interstate commerce to commit riot (as defined in Fla. Stat. 836.05) in order to stop the recount of votes in the 2000 presidential election, are guilty of the federal crime of riot, as proscribed under 18 U.S.C. § 2101.

315. In the alternative, as to any of the Defendants who may not be guilty of themselves carrying out the felonies enumerated in this Count, such Defendants are guilty of conspiring to commit such acts, in violation of 18 U.S.C. § 371, or as accessories after the fact who by reason thereof are guilty as if they were principals, *see* United States v. Patriarca, 912 F.Supp. 596, 627 (D. Mass. 1995).

316. By their acts described in foregoing paragraphs 257 through 277, the Principal Defendants, and others of the Defendants, knowing that multiple offenses against the United States had been committed, received, relieved, comforted, and/or assisted the offenders in order to hinder or prevent their apprehension, trial or punishment, and by so doing became accessories after the fact to multiple crimes including, but not limited to, kidnapping, arson, and murder, domestic terrorism, the willful destruction of aircraft or aircraft facilities, interference with

commerce by threats or violence, violent crimes in aid of racketeering activity, using interstate commerce facilities in the commission for murder for hire, the financing of terrorism, and riot in connection with the forcible stopping of the recount of ballots in Florida following the 2000 presidential election. Insofar as the crimes enumerated are crimes within the jurisdiction of the United States, every defendant who was or became an accessory after the fact to such crime by so doing violated 18 U.S.C. § 3.

E. THE ENTERPRISE HAS ENGAGED IN A CONSPIRACY TO COMMIT ELECTION FRAUD.

317. The American patriot Tom Paine wrote, "The right of voting for representatives is the primary right by which all other rights are protected. To take away this right is to reduce a man to slavery." Soviet dictator Josef Stalin supposedly said, "Those who cast the votes decide nothing. Those who count the votes decide everything." In large and increasing part, "those who count the votes" in the United States are corporations owned by far-right Republicans, which corporations are beholden to (mostly) Republican politicians and appointed officeholders, who select the manufacturers of computerized voting machines, and favor them with lucrative contracts.

318. Following the debacle of "hanging" and "pregnant" chads in the 2000 presidential election in Florida, it was thought desirable to "modernize" voting by funding the replacement of old and, in some cases, unreliable equipment with more modern means to record and tabulate votes. However, the Enterprise – as a primary means of advancing its goal of *de facto* one-party (Republican) rule, while deceiving the broad public into believing that genuine electoral democracy continues to exist in the United States -- has energetically seized upon this movement toward "modernization" to promote the adoption of so-called "black box" voting machines,

which may be described, generally, as computerized (in many instances, touch-screen) devices, as have been in use for years in automated teller machines in banks. Such devices can be "hacked" from without, which is to say the results tampered with, e.g., by modem, with such tampering being difficult or impossible to detect.

319. As always, the Enterprise has not let pass any opportunity to promote its criminal agenda at public expense. Accordingly, the 2002 Help America Vote Act ("HAVA") was pushed through Congress and, as a result, nearly $4 billion in federal funds have been invested to purchase electronic voting machines. It is estimated that, in the 2004 national elections, between 25% and 30% of the overall vote will be recorded using the new machines.[273]

320. Under HAVA, there was to have been an oversight committee, headed by two Democrats and two Republicans, as well as a technical panel to determine standards for new voting machinery. These panels were not constituted in time, and thus tens of thousands of new machines have gone into use or been contracted for without the vetting that HAVA provided for.

321. Indeed, one member of the Republican Party's slender majority in the United States Senate, defendant Chuck Hagel of Nebraska, gained his office in 1996, and was re-elected in a purported landslide in 2002, in elections in which roughly eighty percent of the vote statewide *was tabulated by his own company.*[274] The company in question, Election Systems & Software, is owned by the McCarthy Group, founded in the 1990s by Michael McCarthy, campaign

[273] The results promise to be catastrophic, although the Republicans no doubt will again by intimidation or thanks to their control of the courts turn the chaos to their advantage, which is the point of having voting machines that cannot be audited. *See* Rachel Konrad, "Activist: E-Voting to be a 'Train Wreck'", Associated Press, 6/7/2004.

[274] The indispensable work on the threat posed by computer touch-screen voting is Black Box Voting: Ballot Tampering in the 21st Century, by Bev Harris (2003). Hagel's connections to the company that counted the votes in his Senate election, and his indiscretions in failing to disclose his connections on his Federal Elections Committee Personal Disclosure statements, have excited little attention in corporate-owned mainstream media.

director to Sen. Hagel during the 1996 and 2002 elections. Hagel, even after his re-election in 2002, owned up to $5 million in the McCarthy Group, as well as shares in AIS Investors, Inc., a group of investors in ES&S itself. Hagel's election as the first Nebraska Republican to win a senate seat in 24 years was hailed by the Omaha World-Herald newspaper, which happens also to be a large investor in ES&S.

322. Hagel did not disclose owning or selling shares in AIS Investors Inc. to the Senate Ethics Committee, not did he disclose that ES&S is an underlying asset of the McCarthy Group. Following disclosures due to investigation by *Black Box Voting* author Bev Harris and Alexander Bolton, a reporter from The Hill. Senate Ethics Committee counsel, Victor Baird, resigned after meeting with Hagel's staff on the subject in January 2002. Baird's successor, Robert Walker, obligingly provided a looser interpretation regarding what Hagel ought to have disclosed. When Hagel's defeated opponent in the 2002 Senate race, Charlie Matulka, wrote to Walker in October 2002 to request an investigation into Hagel's ownership and non-disclosure of his interest in ES&S, Walker peremptorily dismissed Matulka's complaint as lacking merit.

323. The second biggest company in the electronic voting machine market is Sequoia. In 1999, the Justice Department filed federal charges against Sequoia, alleging that employees paid out more than $8 million in bribes. In 2001, election officials in Pinella County, Florida, cancelled a $15.5 million contract for voting equipment after discovering that Phil Foster, a Sequoia executive, faced indictment in Louisiana for money-laundering and corruption.

324. Diebold is probably the best known of the three major manufacturers, owing to its unsuccessful attempts to thwart the release of thousands of inter-office memos over the Internet. Those memos showed that Diebold executives were aware of bugs in the company's software, and warned that the network is poorly protected against hackers. Diebold also garnered negative

publicity because of voting irregularities associated with its machines in the 2000 election in Florida. As a consequence of such bad publicity, and following an award of a contract to Diebold to supply machines statewide in Maryland, Science Applications International Corporation (SAIC) of San Diego, California was hired to review the Diebold Election Systems software. Following the debacle of "hanging" and "pregnant" chads in the 2000 presidential election in Florida, it was thought desirable to "modernize" voting by funding the replacement of old and, in some cases, unreliable equipment with more modern means to record and tabulate votes. However, the Enterprise – as a primary means of advancing its goal of *de facto* one-party (Republican) rule, while deceiving the broad public into believing that genuine electoral democracy continues to exist in the United States, has energetically seized upon this movement toward "modernization" to promote the adoption of so-called "black box" voting machines, which may be described, generally, as computerized (in many instances, touch-screen) devices, as have been in use for years in automated teller machines in banks. Such devices can be "hacked" from without, which is to say the results tampered with, e.g., by modem, with such tampering being difficult or impossible to detect.

325. As always, the Enterprise has not let pass any opportunity to promote its criminal agenda at public expense. Accordingly, the 2002 Help America Vote Act ("HAVA") was pushed through Congress and, as a result, nearly $4 billion in federal funds have been invested to purchase electronic voting machines. It is estimated that, in the 2004 national elections, between 25% and 30% of the overall vote will be recorded using the new machines.[275]

[275] The results promise to be catastrophic, although the Republicans no doubt will again by intimidation or thanks to their control of the courts turn the chaos to their advantage, which is the point of having voting machines that cannot be audited. *See* Rachel Konrad, "Activist: E-Voting to be a 'Train Wreck'", Associated Press, 6/7/2004.

326. Under HAVA, there was to have been an oversight committee, headed by two Democrats and two Republicans, as well as a technical panel to determine standards for new voting machinery. These panels were not constituted in time, and thus tens of thousands of new machines have gone into use or been contracted for without the vetting that HAVA provided for.

327. Certainly, SAIC is an ominous choice to insure the integrity of the voting software or, in light of its own history, the integrity of anything. SAIC is a large *military defense contractor* with a checkered history, and strong ties to the Enterprise.

328. A former president, chief operating officer and vice chairman of SAIC is Admiral Bill Owens. Owens served as vice chairman of the Joint Chiefs of Staff, and was a senior military assistant to Secretaries of Defense Frank C. Carlucci and Dick Cheney. Mr. Carlucci is a managing director of the Carlyle Group; Mr. Cheney of course is the Vice President.

329. Another former SAIC board member is Robert Gates, former CIA director and veteran of the Iran-Contra scandal.

330. In a July 26, 2003 article, AP correspondent Elliott Spagat wrote of SAIC that "The federal government, its main customer, often doesn't want the public to know what the company is doing and, as one of the nation's largest employee-owned corporations, it escapes investor scrutiny."

a. In 1990, SAIC was indicted by the Justice Department on 10 felony counts for fraud in its management of a Superfund toxic cleanup site. SAIC pleaded guilty.

b. In 1993, the Justice Department sued SAIC, accusing it of civil fraud on an F-15 fighter contract.

c. In May 1995, the same month SAIC purchased Network Solutions, Inc. ("NSA"), the company settled a suit that charged it had lied about security system tests it conducted for a Treasury Department currency plant in Fort Worth, Texas.

d. In 1992, one of SAIC's government projects blew up in the firm's face when it was charged with fabricating environmental testing from toxic waste dumps. SAIC eventually conceded to false claims, and paid $1.3 million in penalties, a small sum compared to the estimated $1.5 billion the firm was expected to earn in 1994.[276]

e. The Los Angeles Times cited local officials declaring SAIC to be guilty of the "largest environmental fraud...we've had here" and an example of "corporate greed."

f. On November 15, 2000, a joint venture between SAIC and Bechtel was awarded the contract from the Department of Energy to manage and operate the Yucca Mountain program and support extensive DOE studies of Yucca Mountain's geology, hydrology, and climate.

g. In a November 24, 2002 article the Associated Press reported, "Some workers at the Yucca Mountain Project said there were flaws in the process scientists used to determine whether the site was suitable for disposing of the nation's nuclear waste. At least two workers claim they were either fired or transferred after raising concerns about the project's safety."

h. It is also disquieting to many internet users that SAIC, a secretive military-related company with strong ties to the CIA and covert agencies, purchased NSI, which had received the no-bid, no-compete monopoly contract to privatize the government agency that registered domain names on the internet. Thus the "shadow government" controls domain names on the internet.419. SAIC has a recent contract to assist other corporations, including Northrop Grumman, in training the post-Saddam Hussein Iraqi army. Currently on SAIC's board is ex-CIA director Bobby Ray Inman, whose tenure under President Reagan was marked by the prolongation of wars in Central America and Iran-Contra.

331. SAIC proudly lists DARPA as one of its prime clients. DARPA is a controversial subsidiary of the Department of Defense, which employed Admiral John Poindexter of Iran-Contra fame and a leading proponent of governing through a parallel or shadow government. Poindexter proposed a massive program of electronic spying on American citizens that, although not adopted outright due to the furor raised by civil libertarians, is believed to be ongoing in significant part through funds discreetly provided to other government agencies.

[276] Crypt Newsletter, January 1994.

332. A lesson the Enterprise learned from the Bush-Gore 2000 presidential contest in Florida is that a true count delayed will probably be a true count denied. Thus, if "black box" machines can be made to yield initially-favorable results, ensuring Republican control of legislative majorities and key executive offices, the later detection of software designed to tabulate, as Republican votes, votes that the persons casting them intended for Democratic or other opponents, or the "hacking" of the results by modem or otherwise, will rarely if ever affect the outcome. By and large, the public wants speedy results. The threat of protracted court proceedings, which moreover involve arcane and technically dense issues, plus a highly-financed personal attack, whereby the Democratic candidate is attacked as a "sore loser" who is "trying to steal the election," will deter effective protests to the theft of elections by "black box" voting.[277]

333. Another, not-inconceivable weapon in the quiver of the Bush II Administration's arsenal to stave off electoral defeat in November 2004 is the possibility of exploiting, or even engineering, a new "terror attack" (real or threatened) and call of the election altogether. A "trial balloon" to measure public reaction to such a possibility was sent aloft by Tom Ridge, Director of Homeland Security, in a recent press conference in which he solemnly intoned that, although DHS had no specific intelligence providing a target, date or location for the attack, the United States allegedly has "credible" information that al-Qaeda "is preparing a large-scale attack in the United States aimed at disrupting this year's electoral process."[278] Such possibility is not to be

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[277] *See also* "E-Voting Oversight Overwhelms Agency; Tiny U.S. Commission Says It's Woefully Underfunded," Associated Press, 5/3/2004; Heather Gray, "Georgia's 'Faith-Based' Electronic Voting System: Something's Rotten in the State," www.CommonDreams.org, 2/12/2004; Hope Yen, "Expert Says E-voting Is 'Terrible'", Associated Press, 5/5/2004; Denis Wright, "Meet Cathy Diebold," American Politics Journal, 5/23/2004.

[278] William Branigin, "Intelligence Suggests that Al Qaeda May Try to Disrupt Elections," Washington Post, 7/8/2004; Mike Ruppert, "Postponement of the November [2004] Election," www.fromthewinderness.com, 7/13/2004; "U.S. Mulling How to Delay Nov. Vote in Case of Attack," Reuters 7/11/2004; Michael Isikoff, "Election Day Worries," Newsweek, 7/19/2004

discounted, especially in light of the President's poor, even alarming performance in the first debate with Senator Kerry on September 30, 2004.

334. Among other problems encountered with electronic machines, as described in Bev Harris's seminal work *Black Box Voting*, are that:

a. In the Alabama 2002 general election, machines made by ES&S flipped the governor's race. Six thousand three hundred Baldwin County electronic votes mysteriously disappeared after the polls had closed, and everyone had gone home. Democrat Don Siegelman's victory was handed to Republican Bob Riley. The recount Siegelman suggested was denied. "Something happened," Mark Kelley of ES&S said. "I don't have enough intelligence to say exactly what."

b. In the November 2002 general election in Scurry County, Texas, poll workers became suspicious about a landslide victory for two Republican candidates for commissioner. Told that a "bad chip" was to blame, they had a new computer chip flown in, and also counted the votes by hand. They found that the Democrats had, in fact, won by substantial margins.

c. In 1986, Democrat Donn Peevy was running in Georgia for state senator in District 48. Electronic voting machines said he lost the election. After an investigation revealed that a Republican elections official had kept uncounted ballots in the trunk of his car, officials admitted that a computerized voting program had miscounted. Peevy insisted on a recount. His defeat was overturned.

d. Harris quotes the *Wall Street Journal* as reporting that in the 2000 general election in Allamakee County, Iowa, an optical-scan machine was fed three hundred (300) ballots, and reported four million (4,000,000) votes. The equipment in that instance was made by ES&S.

e. In the 1996 McLennan County, Texas, Republican primary runoff, one precinct tallied about 800 votes, although only 500 ballots had been ordered. With the insouciance that is all too typical when problems with electronic voting arise, the local Elections Administrator, Linda Lewis, said, "It's a mystery." The county Republican Party Chairman, M.A. Taylor, said, "We don't think it's serious enough to throw out the election." Executives of black box voting machine manufacturers make

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issue. Other cynics pointed out that this "threat" was announced simultaneously with the announcement that Kenneth Lay, a close political ally of the Bush I and Bush II Administrations, had been indicted in connection with the collapse of Enron Corporation. The charge against the Bush II Administration of abusing vague terror threats has been leveled also by former anti-terror "czar" Richard Clarke. *See* "Terror Threat Political Game," www.news24.com, 6/6/2004.

claims of 99.99% accuracy (or better) for their machines; election officials dismiss as trivial, as in this case in Texas, margins of error of 60%.

f. In the 1994 general election in one precinct near Tucson, Arizona, 826 votes – roughly two-thirds of the votes cast – disappeared. No recount was done. Election officials blamed a "faulty computer program."

g. Tom Eschberger became a vice president of ES&S not long after he accepted an immunity deal for cooperating with prosecutors in a case against Arkansas Secretary of State Bill McCuen, who pleaded guilty to taking kickbacks and bribes in a scheme related to computerized voting systems.

h. Dallas County, Texas employed a new, $4.8 million high-tech ballot system in the November 1998 election. It missed 41,015 votes, refusing to count votes from 98 precincts, telling itself that those votes had already been counted. Operators and election officials didn't realize they had a problem until after they had released "final" totals that omitted one in eight votes. ES&S, apparently intending to assure everyone that things were not all that bad, claimed that the votes were never "lost," but merely "uncounted."

i. In recent months, it has been in the news that Enterprise/U.S. government officials are seeking to undermine the left-leaning Chavez government in Venezuela. Not surprisingly, American "black box voting" manufacturers are plying their wares there. In May 2000, Venezuela's highest court suspended elections because of problems with the tabulation, sending an air force jet to Omaha to fetch ES&S technicians to attempt to fix the problem.

j. In the 1998 general election, computerized voting machines recorded no votes for 24 precincts in Pima County, Arizona, although voter rolls showed thousands had voted at those polling places. Pima used Global Election Systems machines, which now are sold under the Diebold Company name.

k. Officials in Broward County, Florida, the largely Democratic Ft. Lauderdale area in Jeb Bush's Florida, used new, unauditable ES&S machines in the November 5, 2002 election (in which Gov. Bush defeated his Democratic opponent). Officials said all precincts were included, and that the touch-screen machines had counted the vote without a major hitch. The next day, the County Elections Office discovered that 103,222 votes had not been counted.

l. In the 2000 general election, a single missing ballot box found in a Dade County, Florida church daycare center excited considerable media attention. 103,222 uncounted votes represent the rough equivalent of a

thousand ballot boxes. Broward Deputy Elections Supervisor Joe Cotter called the mistake "a minor software thing."

m. ES&S machines were used in an election in Lake County, Illinois election held on April 1, 2003. Democrat Rafael Rivera sensed that something was awry when his own precinct showed *zero* votes for him. Having voted for himself, Rivera felt certain that the ES&S vote tally had to be in error.

n. Ten days after the November 2002 election, Richard Romero, a Bernalillo County, New Mexico, Democrat, noticed that 48,000 people had voted early on unauditable Sequoia touch-screen computers, but only 36,000 votes had been tallied. Sequoia vice president Howard Cramer apologized for not mentioning that the same problem had happened before in Clark County, Nevada. A "software patch" was installed, and Sequoia technicians in Denver e-mailed what they claimed were the correct results.

o. In a July 1998 election between Sharon Cooper, a moderate Republican, and more conservative Republican Richard Daniel, a "software programming error" caused some votes for Cooper to go unrecorded. According to news reports, the problem required "on-the-spot reprogramming." As Harris observes, "on-the-spot reprogramming" is no answer at all, because it can be used to alter vote totals.

p. In November 2002, in Comal County, Texas, in an election using ES&S machines three winning Republican candidates in a row tallied exactly 18,181 votes. No one thought this was sufficient grounds for an audit.

q. In November 2000, in Allegheny County, Pennsylvania, machines in Pittsburgh's 12th and 13th wards and other predominantly black neighborhoods malfunctioned in Election Day. They began emitting smoke and spitting out jammed and crumbled paper. Poll workers waited hours for repairs; voters unable to spend most of the day waiting for the machines to be repaired were effectively disenfranchised.

The foregoing are but a sample of the difficulties encountered with electronic scanners and touch-screen voting machines. Literally hundreds of problems have been reported, with the anomalies, in an overwhelming number of cases, favoring Republicans.[279]

[279] See, in addition to additional examples cited in Harris's book, Black Box Voting, and on her website, www.blackboxvoting.org: John Wildermuth, "'Touch' voting a Worry; Hazards Haunt New High-Tech Machines," San Francisco Chronicle, 4/26/2004; Ian Hoffman, "Diebold Apologizes for Device Flaws," Tri-Valley Herald, 4/22/2004; Kim Zetter, "Did E-Vote Firm Patch Election?" www.wired.com/news, 10/13/2003; Schuyler Ebbets, "The 2004 Election Has Already Been Rigged," Scoop (www.scoop.co.nz) 9/16/2003; Thom Hartmann, "If You Want to

335. Bev Harris, probably America's leading advocate for fair, verifiable voting, reports that the U.S. Secret Service is openly harassing her. According to Harris, a bogus "Vote Here" organization, its board laden with "defense industry types" such as former CIA Director Robert Gates and Admiral Bill Owens of the Defense Policy Board" has claimed that its website was "hacked," this hacking being blamed on activists who are protesting against unauditable computer voting and in favor of verifiable voting. These claims, according to Harris, have triggered repeated visits to Harris by the Secret Service, who display little interest in the supposed "hack" but a great deal of interest in internal memos, highly damning to Diebold, that appeared on the internet after being leaked.

336. Now, Harris claims, the federal agents are threatening to subpoena the logs from her website, including all forum messages and IP addresses – in other words, the identities of everyone whose interest in the voting issue has led them to log onto www.blackboxvoting.org. It is still unlawful, of course, for nosy federal agents to simply demand a list of all of the members of a group. What Harris alleges the government is trying to do is to misuse the "Patriot Act" to circumvent the law in that respect, to obtain the membership list and all of the correspondence from Harris's organization. This is an unvarnished attempt, worthy of a frankly fascist government, to intimidate Harris and others who are active or might become active in efforts to ensure that the counting of votes in U.S. elections does not become the sole prerogative of right-wing corporations linked to the Republican Party and to the Enterprise, with the methodology of voting rigged to effectively foreclose recounts and verification.

337. Although "black box" voting machines are too subject to tampering to be trusted, the touchstone of the Enterprise's efforts is its opposition, as a condition to the use of the black-box

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Win an Election, Just Control the Voting Machines," www.ejfi.org, originally published by Common Dreams (January 2003).

voting machines in elections, to the requirement that the machines produce a "paper trail" that can be audited in the event of a dispute. Certainly, the touch-screen and other electronic machines can be made more difficult to tamper with, by requiring that they be built to generate two paper receipts immediately following the casting of each elector's vote. The voter would retain one such receipt, the other inserted into a locked box at the polling place, for a count by hand if necessary. Subject, obviously, to the condition that the voter have a sufficiently understandable receipt, and the effective opportunity to register a protest if the receipt does not match his or her intended vote, the "paper trail" would make the computerized devices more reliable.

338. The need for a "paper trail" as well as major media complicity with the Enterprise is underlined by the fact that exit polls, for years done through the joint efforts of major news organizations, have quietly been retired. When major news organizations, employing statistically-validated sampling techniques, questioned voters as they exited the polls, major discrepancies between the news consortia's exit poll results and actual voting results as tabulated by rigged "black box" voting machines would raise alarms. As a consequence, the major media – all or most of which are controlled by corporations that wish for consolidations and privileges that are within the power of the Republican Party to bestow – have virtually abandoned exit polling, and have greatly under-reported the enormous scandal represented by the numerous problems encountered with electronic vote-scanners and touch-screen machines.

339. Diebold, of course, is best known to the public as the manufacturer of ATM machines, all of which offer a paper record to the user. It is impossible to assert that Diebold and the other principal "black box" manufacturers *are not able* to design their machines to yield a paper trail. Rather, as two at least of the three principal manufacturers -- Diebold and ES&S –

are integral components of the Enterprise, the truth is that *these manufacturers don't want a paper trail. What they want is sales of equipment, and voting tabulated by computers that are little understood by the broad public and that can be discreetly tampered with, while maintaining a façade of being "up-to-date" and more reliable than paper ballots or other means of recording votes.*

340. Two additional circumstances are important to mention in respect of electronic voting, and the plans of the Enterprise to rig all future elections. One is that Northrop-Grumman, Lockheed-Martin, and Accenture (formerly known as Andersen Consulting, a part of Arthur Anderson) were major promoters of HAVA and are supporting an "alliance" to "deliver comprehensive election solutions to governments worldwide." "Solutions," in the lexicon of the military-industrial complex, global corporations, and the CIA, apparently means to maintain the *appearance* of electoral democracy, while eliminating the unseemly possibility that *the "wrong people might win."*

341. On February 25, 2004, there appeared in the Free Press of Columbus, Ohio, an article by Bob Fitrakis entitled "Diebold, Electronic Voting and the Vast Right-Wing Conspiracy." That article praised Athan Gibbs, an accountant who had devised a "TruVote" machine that Fitrakis described as follows:

> After voters touch the screen, a paper ballot prints out under Plexiglas and once the voter compares it to his actual vote and approves it, the ballot drops into a lockbox and is issued a numbered receipt. The voter's receipt allows the track of his particular vote to make sure that it was transferred from the polling place to the election tabulation center.[280]

342. Gibbs was quoted as saying the following about electronic voting machines that do not provide any paper trail:

[280] Bob Fitrakis, "Death of a patriot: no more," The Free Press, 03/17/2004.

> I've been an accountant, an auditor, for more than thirty years. Electronic voting machines that don't supply a paper trail go against every principle of accounting and auditing that's being taught in American business schools...No business in America would buy a machine that didn't provide a paper trail to audit and verify its transaction. Now, they want the people to purchase machines that you can't audit? It's absurd.

343. TruVote inventor Athan Gibbs, whom Fitrakis described as "the man asking the obvious question, and demonstrating an obvious tangible solution," was killed when an 18-wheeler struck his auto on March 12, 2004. 433. The issue of paper receipts continues to be a divisive one. Officials are dismissing demands for paper receipts as limited to a "tiny, vocal minority" and claiming that retrofitting electronic machines with paper receipts in time for the 2004 election would cause "chaos." Los Angeles election chief Conny B. McCormack said that "touch screens have a proven track record of doing the best job." This is both untrue and ignores that it is impossible to measure honestly the performance of voting machines that *are designed so as to be impossible to audit.*[281]

F. ADDITIONAL PREDICATE ACTS UNDER THE RICO ANTI-RACKETEERING STATUTE: THE ENTERPRISE'S FLORIDA RECOUNT RIOT

344. In July 2002, hundreds of pages of Bush-Cheney 2000 campaign and/or recount committee documents were released to the Internal Revenue Service. These records showed expenditures of about $13.8 million by the Bush committee(s) to stop the recount of votes in Florida.[282]

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[281] Dan Keating, "Paper Receipts Opposed for Voting Machines," Washington Post, 05/06/2004.

[282] Most of the facts in this section are from Kate Randall, "Bush campaign organized Republican riot to halt Miami-Dade recount," www.wsws.org (11/29/2000) which is based in part on reporting in the Wall Street Journal of 11/17/2000, and/or Robert Parry, "Bush's Conspiracy to Riot," www.consortiumnews.com, 08/05/2002, which quotes (among other sources), *Down and Dirty,* Jake Tapper's book about the recount battle.

345. According to the records, during the 36-day recount battle that culminated in the Supreme Court decision that gave the presidency to George W. Bush, his campaign (or his recount committee) put about 250 staffers on payroll, spent about $1.2 million to fly operatives to Florida (and elsewhere) and paid hotel bills adding up to about $1 million. A fleet of corporate jets was assembled – including planes supplied by Enron and Halliburton – to add flexibility to travel arrangements.

346. On November 22, 2000, a violent crowd of about 150 Bush supporters rampaged through Miami's County Hall, after the canvassing board decided to concentrate its recount on the approximately 10,000 "undervotes." The Republican demonstrators banged and kicked on the doors and windows of the 19th floor office where the board had moved the count, and assaulted a number of Democratic Party representatives who were present.

347. Shortly after this disturbance, the canvassing board stopped its manual recount, which had been authorized the previous day by the Florida Supreme Court. Thus, the "Brooks Brothers Riot" succeeded in its purpose of stopping the lawful recount of votes.

348. After the "Brooks Brothers Riot," following a lavish dinner given for the Republican operatives at the Hyatt Hotel in Ft. Lauderdale, a conference call from George W. Bush and Cheney, including joking references approving of the previous day's incident in Miami, was broadcast to the rioters and others. IRS records show that the "stop the recount" celebration cost the Bush recount committee $35,501.52.

349. Upon information and belief, the Republican operatives sent to Florida were recruited by Republican Congressional Whip Tom DeLay, offering free travel, accommodations and food in Florida, all paid for by the Bush campaign. Reportedly, New York Republican Congressman John Sweeney issued a specific directive for Republican thugs to "shut it down"

(referring to the Miami-Dade recount) and this was transmitted to the "troops" by Brendan Quinn, executive director of the Republican Party from New York.

350. In addition to stopping the recount on November 22, 2000, the "Brooks Brothers Riot" and other violent and menacing conduct likely affected the vote of Justice Anthony M. Kennedy, who reportedly, like many commentators, considered that Republicans posed such a threat of widespread violence were the election outcome to be unfavorable, that it was in the national interest to award the election to Bush, notwithstanding the thinness of the legal arguments in favor of so doing.

351. Whether they affected the outcome or not, the rioters' conduct constituted the crime of extortion under the law of Florida, where the riot occurred. Plaintiff asks the Court to take judicial notice of Fla. Stat. 836.05, "Threats, extortion," which in relevant part provides that:

> a. Whoever . . . verbally . . . maliciously threatens...an injury to the person . . . of another . . . with an intent to compel the person so threatened, or any other person, to do any act or refrain from doing any act against his or her will, shall be guilty of a felony of the second degree.

352. Upon information and belief, each of defendants Schlapp, Pyle, Murphy, Malphrus, Royal, and Smith were present at the canvassing board office, and took part in the "Brooks Brothers Riot" of November 22, 2000.

353. Upon information and belief, each of defendants Schlapp, Pyle, Murphy, Malphrus, Royal, and Smith traveled to Florida from out of state, which is to say that each of them crossed state lines using facilities in interstate commerce, upon the direct or indirect orders of persons including defendants DeLay and Sweeney, to take part in the "Brooks Brothers Riot" and other, similar coercive activities, with the specific intent of stopping the recount of votes in areas thought likely to produce additional votes for Vice President Gore.

354. Upon information, at or immediately prior to their travels to Florida to take part in the "Brooks Brothers Riot" and other "dirty tricks" and unlawful, intimidating and coercive activities for the Bush-Cheney 2000 ticket, all of defendants Schlapp, Pyle, Murphy, Malphrus, Royal and Smith were employed by Republican politicians, or other Party-affiliated agencies. Schlapp was a Bush campaign staffer based in Austin. Pyle was a staff aide to House Majority White Tom DeLay. Murphy was a fund-raiser for Rep. DeLay. Malphrus was majority chief counsel to the House Judiciary subcommittee on criminal justice. Royal was a legislative aide to Rep. Jim DeMint (R-SC). Smith was a former Republican House staffer.

355. Each of said Defendants received payment of monies from the Bush-Cheney campaign committee in connection with his activities in Florida during the election recount controversy.

356. Defendant Schapp was further rewarded for his unlawful actions with a job in the White House, as a special assistant to the President. Malphrus was likewise awarded with a job as Deputy Director of the President's Domestic Policy Council.

G. ADDITIONAL ALLEGATIONS AS TO INDIVIDUAL DEFENDANTS, PREDICATE ACTS OF RACKETEERING COMMITTED BY THEM, AND THEIR ROLES IN THE RICO ENTERPRISE

357. The Department of Homeland Security is not a defendant under the RICO-based counts of this complaint, but it deserves mention that it is patterned very much after "Operation Phoenix," a Vietnam-war era program headed up by William Colby and the CIA that was responsible for an estimated 60,000 extrajudicial killings (political assassinations) in Vietnam. Upon information and belief, Tom Ridge, now the Director of Homeland Security, participated in Operation Phoenix while in military service. Upon information and belief, Enterprise plans

for the Department of Homeland Security, in the medium term, include the kind of domestic spying and "neutralization" of internal dissent as new wars in the Middle East, other oil-rich countries and elsewhere stir greater U.S. domestic opposition.[283]

358. Defendant Armitage, together with Richard Secord and others, has been part of a core group of military and intelligence operatives (originally known as the "Secret Team") that has carried out a number of crimes and illegal operations since at least 1959. Among other things, Armitage was a key player in funneling illegal drug profits from Laos and Thailand into assassination programs in Vietnam and Iran. Armitage was also involved in the multiple crimes referred to as "Iran-Contra;" while he denied knowledge of the Reagan Administration's secret sales of arms to Iran until November 1986, extensive evidence reported in Special Prosecutor Lawrence Walsh's report suggests that Armitage had lied, and was aware of the deals a year earlier. Armitage attended in August 1986, but later "could not recall" a meeting at which Col. Oliver North outlined the covert activities in support of the Contras supervised by North through the National Security Council. Upon information and belief, Armitage is particularly valuable to the Enterprise in three additional respects. One, in an administration of "chicken hawks" Armitage is a soldier, physically fearless, and boasts of having killed people. Second, reportedly Armitage is the Enterprise's No. 1 point man in its vast global narcotics trafficking.[284] Third, Secretary of State Powell (although his counsel is rarely followed within Enterprise circles) is

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[283] *See* Douglas Valentine, "the Department of Homeland Security: when the Phoenix Comes Home to Roost," www.douglasvelentine.com, March 2003; Mary Louise, "A Closer Look at Tom Ridge," www.prisonplanet.com. One telling sign that both "Homeland Security" and the anthrax attacks are largely, if not wholly, Enterprise scams is that President George W. Bush has asked Congress to cut the modest $8.2 allocated in the federal budget for a research program on how to decontaminate buildings attacked by toxins. One supposes there is no need for such programs, as the anthrax attacks were carried out by Enterprise-controlled actors . . . *See* "Bush Asks to Cut Decontamination Research," CNN, 2/6/2004.

[284] *See* "Richard Armitage: Foreign Narcotics Control Office," Conspiracy Planet, 5/27/2004.

crucial as he is widely-respected, liked by many who detest other key figures of the Bush II Administration, and as an African-American Powell has credibility with many Americans who are difficult to reach through figures such as Bush and Cheney, as well as to many foreigners. Upon information and belief, Armitage (whom Powell calls his "white brother") for years has engaged Powell in, and enriched Powell from the proceeds of, Enterprise drug-dealing. This involvement, and the attendant opportunities to blackmail Secretary Powell, in effect erects a barrier within which Powell, as a frequent dissenter from Bush II Administration policy, will not transgress.

359. Although defendants Halliburton and its subsidiary Brown & Root are celebrated for their brazen profiteering, their exploitation of their connections to Vice President Cheney and other high officials to win lucrative "no-bid" contracts and accusations of price-gouging and fraud, they are named herein as defendants not only for those misdeeds, but because they have long been active around the world in fomenting war and facilitating the gun-running and drug-trafficking activities of the Enterprise. *See, e.g.*, Michael C. Ruppert, "Halliburton Corporation's Brown and Root Is One of the Major Components of the Bush-Cheney Drug Empire," Wilderness Publications, 10/24/2000.

360. Upon information and belief, defendants Chambliss and Hagel hold their seats in the United States Senate, and they were elevated to their positions by defendants Racicot, the Republican National Committee, and other members of the Enterprise, by the dishonest and corrupt use of vote recording and tabulating devices made by Diebold, ES&S and/or Sequoia which machines, in the case of Hagel, were made by a company in which Hagel held (and wrongfully failed to disclose) his significant ownership interest. Upon information and belief, the machines used in recording, reporting and tabulating votes cast in the election of Mr.

Chambliss, in both elections in which Mr. Hagel was elected and re-elected to the Senate, and in others of the touch-screen "snafus" mentioned in this complaint, were used by defendants Chambliss, Hagel, Diebold, ES&S, Sequoia and others to send false and fraudulent data across state lines, in interstate transit, by modem or by telephone lines, in violation of the wire fraud statute, 18 U.S.C. § 1343 and 1346. Upon information and belief, both Mr. Hagel and Mr. Chambliss knew that, with the aid of the Republican National Committee and its local affiliated Republican Party organizations, and the manufacturers of the touch-screen voting machines used in their respective elections, wire fraud would be and was, in fact, committed to ensure not only their election and but *a Republican majority* in the United States Senate. Each of them — as well as each of the paperless voting machine manufacturers named herein as defendants (Diebold, ES&S and Sequoia) and the additional Vote-Rigging Defendants — is therefore chargeable with wire fraud, conspiracy to commit wire fraud, participation in the RICO Enterprise, and predicate acts under the RICO statute.

a Commission members Kean, Gorelick, Lehman, and Fielding, and the Commission's Executive Director, Zelikow, are knowing participants in a cover-up and an obstruction of justice. Upon information and belief, each of them has been aware from a date prior to their accepting to "serve" on the Commission all of the following facts enumerated in Paragraph 7 hereinabove. There is no reliable evidence that places any Arabs, or persons with Arab names, on any of the four diverted aircraft of 9-11;

b All of the planes, excepting possibly Flight 11, could and ought to have been intercepted before striking their putative targets;

c The missile that struck the Pentagon was not Flight 77;

d President Bush and other senior officials had multiple, actionable warnings of the attacks (if, indeed, they did not sponsor and schedule the attacks);

e The "insider trading" on United, American Airlines and other 9-11-affected stocks was the subject of an ongoing cover-up, to conceal the identities of persons who had advance notice of the 9-11 attacks;

f The Twin Towers at the World Trade Center were demolished; there were large explosive charges in the sub-basements of both buildings as well as smaller charges used to bring the buildings down in an orderly fashion, and neither tower collapsed due solely to the aircraft impacts, and heat generated by the burning of jet fuel on the aircraft;

g Flight 93 was shot down, and did not crash due to a struggle between hijackers and passengers;

h WTC Building 7 was "pulled" (demolished) by agreement between the FDNY and Larry Silverstein shortly after 5:00 P.M. on 9-11;

i FDNY employees were — and they continue to be — under a "gag order" imposed by senior FDNY officials on instructions of ex-CIA director James Woolsey and others, and forbidden to talk about (among other things) multiple explosions at the WTC on 9-11;

j The Enterprise, and American oil, gas, weapons, private security (mercenary) and other Enterprise-affiliated and Enterprise-friendly financial interests have profited, and continue to profit, from the "war on terror" within the United States, the military actions taken in Afghanistan and Iraq, and the extreme right-wing view of "national security" and economic advantage favors the continuation and expansion of those efforts; and

k The Official Story of 9-11, in all or most of its material details, is a propaganda exercise and untrue, which untruth the Enterprise and the Bush II Administration dearly wish to be maintained in the minds of the majority of the American people.

361. Upon information and belief, each of the Commission Defendants has accepted salary, wages, money, or other things of value to participate in a knowingly fraudulent and misleading "investigation," to maintain widespread belief in the "Official Story," and to aid the Enterprise and the Bush II Administration in concealing that the Enterprise and the Bush II Administration approved, sponsored, carried out, or aided in the carrying out of the attacks; or at the very least had foreknowledge of the attacks and knowingly, deliberately, and within intent to cause or to allow to occur a "new Pearl Harbor" caused American defenses to be let down thereby permitting to occur attacks that would give, and have in fact given, members and associates of the Enterprise enormous tremendous political and monetary benefits (including, but

not limited to, approval by Congress and the public to launch wars of aggression in Afghanistan; corrupt, no-bid contracts for "reconstruction," troop support, and the construction of permanent U.S. military bases in Iraq from which to launch or to threaten additional attacks against other Middle Eastern nations; access to Iraqi "reconstruction" funds, some $20 billion of which have reportedly vanished on the watch of U.S. proconsul L. Paul Bremer in Iraq; seizure of a right-of-way for a long-hoped-for natural gas pipeline across Afghan territory; the revival of the opium trade in Afghanistan, which profits American "black ops" agencies, banks, and financial institutions; the riddance of Saddam Hussein for the benefit of the Sharon regime in Israel; control of the second-largest proved reserves of petroleum on the planet, those of Iraq; plus passage of the "Patriot Act," and license for repression and increased surveillance of the public at home).

362. Upon information and belief, each of the Commission Defendants has known at all times since accepting to "serve" on the commission that the foregoing was accompanied by the diversion of the aircraft of 9-11, the murder of all those on board, and multiple crimes including at least those mentioned in paragraphs 261 through 277 of this Complaint. The Coverup Defendants have known that the Bush Family Defendants, the Principal Defendants, and others of the Defendants are guilty of these acts, as principals, co-conspirators, aiders and abettors, and accessories after the fact, but have willfully sought to conceal such facts from the public.

363. By reason of the foregoing, each of the Coverup Defendants is guilty of being an accessory after the fact to all or some of the crimes mentioned in paragraphs 257 through 277 of this complaint, whether by the definition of 18 U.S.C. § 3 (as to those crimes cognizable under federal law) or the laws of the several states (as to murder and other crimes indictable under state laws). And, as to each of those crimes as to which the Commission Defendants or any of them

are "accessories after the fact" that are predicate acts under the RICO statute, they are chargeable as principals, and guilty of participating in the affairs of the Enterprise through a pattern of racketeering activity.

364. In addition to helping to organize the "Brooks Brothers Riot" and being instrumental in corruptly affecting the outcome of the 2000 vote count in Florida, Jeb Bush for many years has been heavily involved in illegal activities on behalf of the Bush Family Defendants and the Enterprise in Florida. Upon information and belief, Jeb Bush and his Colombian-born wife have long been engaged in massive drug trafficking and money laundering through banks including but not limited to the Banco Exterior de España de Malaga (Spain). At times prior to his arrest in 2000, Jeb Bush and the Bush Family Defendants were aided in their endeavors by reputed "money laundering wizard" Giorgio Pelossi. Upon information and belief, for years, and with increased intensity since the arrest of money-launderer *par excellence* Pelossi, Jeb Bush, in close consultation with George H. W. Bush and Alan Greenspan, has been the "point man" for the Enterprise, generally, and the Bush Family in particular, overseeing as many as two dozen bank accounts in several countries which have been used for a multiplicity of unlawful purposes, including but not limited to the deposit of funds looted (in some instances with the knowledge and assistance of Greenspan) from federal trust funds and the U.S. Treasury; the "laundering" of funds from the massive worldwide drug trade operated by the Enterprise and its associates; as a source of funds for the payment of bribes or other illegal payments to political figures and office holders both within and without the United States; to pay for "black ops," (including but not limited to the overthrow of governments,; the influencing or rigging of elections; the purchase (usually covert and indirect) and operation of means of mass communication in most of the countries of the world; assassination of political, labor union, religious and other figures, the

recruitment, retention, and supplying of weapons and means of transport, supply, and communications to fighting forces serving Enterprise objectives, of which the Nicaraguan "Contras" are the most famous prototype; the distribution of rewards to members, collaborators, and associates of the Enterprise; and , last but not least, the support of a lavish lifestyle, replete with multiple residences, mistresses, (in some cases) underage prostitutes or sex "slaves," drugs, boats, private planes, and other luxury items for principals of the Enterprise, and members of the Bush family itself.

365. Upon information and belief, throughout the 1980s, George H. W. Bush and his then-business partner, Saddam Hussein, the President and dictator of Iraq, derived huge profits from extortion and kickbacks extracted from the smaller oil sheikdoms of the Persian Gulf, some of the proceeds of which passed through accounts at the Chicago branch of the Banca Nazionale del Lavoro.

366. Upon information and belief, while he was vice president, George H. W. Bush was instrumental in unlawful transfers of PROMIS money-tracking software to foreign espionage agencies. These transfers, in violation both of copyright laws and U.S. laws against the transfer of sensitive computer technology to foreign governments, reportedly served three purposes. First, upon information and belief George H. W. Bush and other Reagan Administration officials derived direct profit from the theft and sale of the software. Second, the software was sold with "back doors" which allowed American intelligence agencies to spy on intelligence agencies, friend and foe alike. Third, George H. W. Bush was able to, and did, spy on domestic political adversaries, and to blackmail them, Vincent Foster reportedly being one of them.

H. THE FOREGOING FACTS SUPPORT CLAIMS AGAINST THE DEFENDANTS FOR MULTIPLE ACTS OF CONSPIRACY, RACKETEERING, DOMESTIC TERRORISM AND OTHER CRIMES.

367. Based on the foregoing and on other evidence to be produced at trial, plaintiff alleges on information and belief that each and every one of the Principal Defendants, including each of them who was an active co-conspirator in planning and effecting the 9-11 attacks and each of them (if any) who was not, knowingly participated in the cover-up and concealment of the true character of the 9-11 attacks — that they were planned or permitted to occur by the Enterprise, and with the criminal complicity of the Bush II Administration and U.S. military and government personnel; and that they were intended to be used, and in fact are being used with very considerable success, to promote the criminal Enterprise agenda described in paragraphs 86 to 89 of this complaint.

368. In the cover-up and concealment of the true character of the 9-11 attacks, complicity in the same on the part of Enterprise, Bush II Administration, and U.S. military and government personnel, and the relationship of the attacks to the Enterprise Agenda, each of the Principal Defendants has committed, or conspired to commit, one or more crimes including but not limited to mail fraud, wire fraud, perjury and/or the subornation of perjury, the destruction and/or the concealment of evidence, the killing, threatening, harassment, and/or otherwise tampering with witnesses, and obstruction of justice.

369. By carrying out the 9-11 attacks; causing the diversion of four commercial airline flights on 9-11 and the murder of all or many of the persons on board; by causing the planes or other aircraft, missiles or projectiles into the Pentagon and the World Trade Center; causing the demolition of WTC-7; and causing anthrax to be mailed to not fewer than five persons in October 2001, the Enterprise and its members are guilty of multiple crimes constituting "domestic terrorism," within the meaning of 18 U.S.C. § 2331.

370. By causing the diversion of Flight 11, Flight 175, Flight 77 and Flight 93 on 9-11, the persons on board said flights being willfully transported in interstate commerce, and such acts being committed within the special aircraft jurisdiction of the United States (as defined in 49 U.S.C. § 46501), the Enterprise and its members are guilty of kidnapping, in violation of 18 U.S.C. § 1201.

371. By reason of having taken control of, diverted, and destroyed the aircraft involved in the 9-11 attacks, the Enterprise and its members are guilty of the willful destruction of aircraft or aircraft facilities, in violation of 18 U.S.C. § 32.

372. In connection with the diversion of four aircraft on 9-11, the Enterprise and its members are guilty of the crime of interference with commerce by threats or violence, in violation of 18 U.S.C. § 1951.

373. The Enterprise and each of its members is guilty, by reason of having supplied currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation and other physical assets (except medicine or religious materials) to persons who carried out the 9-11 attacks, of violating 18 U.S.C. § 2339A, which prohibits providing material support to terrorists.

374. Defendants and each of them, by kidnapping and/or murdering approximately 2,993 persons in the attacks of 9-11 (including all of the persons on the four diverted aircraft, and persons killed when the aircraft, or other aircraft, missiles or projectiles, were flown into the Twin Towers and the Pentagon, and when explosives in the Twin Towers were detonated) and maiming additional persons injured in the attacks, did so in consideration for the receipt of, or as consideration for a promise or agreement to pay something of pecuniary value from an enterprise

engaged in racketing activity, or for the purpose of gaining entrance to or maintaining or increasing position in such an enterprise, are therefore guilty of violating 18 U.S.C. § 1959, which prohibits violent crimes in aid of racketeering activity.

375. In connection with the acts aforementioned in the last preceding paragraph, the Enterprise and its members are guilty of using interstate commerce facilities in the commission for murder for hire, in violation of 18 U.S.C. § 1958;

376. By supplying funds that were used, in full or in part, to carry out the 9-11 attacks, the Enterprise and its members violated 18 U.S.C. § 2339(C), which prohibits the financing of terrorism (including *inter alia* acts "intended to cause death or serious bodily injury to a civilian . . . when the purpose of such act . . . is to intimidate a population . . .")

377. If and to the extent that the Enterprise and its members may have, in the course of carrying out, enabling, or aiding and abetting the 9-11 attacks, provided any funds (or other material support or resources) to any organization designated a "terrorist organization" under 8 U.S.C. § 1189, they are guilty of violating 18 U.S.C. § 2339B, which prohibits providing material support or resources to designated terrorist organizations;

378. The Enterprise and each of its members are guilty, by reason of the anthrax attacks on Senators Daschle and Leahy, of violating 18 U.S.C. § 372, Conspiracy to impede or injure [an] officer;

379. The Enterprise and each of its members are guilty, by reason of sending anthrax bacteria via the U.S. Postal Service to not fewer than five individuals in October 2001, of violating 18 U.S.C. § 1716, which prohibits mailing "injurious articles" including " all kinds of poison, and . . . all disease germs or scabs;"

380. The Enterprise and each of its members are guilty, by reason of abducting and/or aiding in and facilitating the abduction of minor children and young women, and providing them (by "sale" or otherwise) to government officials, members of the CIA and U.S. security organizations, and citizens of foreign nations including but not limited to the Kingdom of Saudi Arabia, of violating one or more of the following statutes: Title 18 U.S. Code §§ 2251, 2251A, 2252 and 2260 (relating to the sexual exploitation of children; 18 U.S.C. §§ 1581 through 1588 (relating to peonage and slavery); and/or 18 U.S.C. §§ 2421 through 2424 (relating to white slave traffic);

381. The Enterprise and each of its members are guilty, in connection with their extensive, worldwide and prolonged involvement with trafficking in cocaine, heroin, marijuana, and other drugs, of multiple acts of money laundering, in violation of 18 U.S.C. §§ 1956 and 1957;

382. The Enterprise and each of its members, and the Special Riot Defendants and each of them, by reason of having traveled to Florida in interstate commerce to commit riot (as defined in Fla. Stat. 836.05) in order to stop the recount of votes in the 2000 presidential election, are guilty of the federal crime of riot, as proscribed under 18 U.S.C. § 2101.

383. In the alternative, as to any of the Defendants who may not be guilty of themselves carrying out the felonies enumerated in this Count, such Defendants are guilty of conspiring to commit such acts, in violation of 18 U.S.C. § 371, or as accessories after the fact who by reason thereof are guilty as if they were principals, *see* United States v. Patriarca, 912 F.Supp. 596, 627 (D. Mass. 1995).

384. By their acts described in foregoing paragraphs, the Principal Defendants, and others of the Defendants, knowing that multiple offenses against the United States had been committed,

received, relieved, comforted, and/or assisted the offenders in order to hinder or prevent their apprehension, trial or punishment, and by so doing became accessories after the fact to multiple crimes including, but not limited to, kidnapping, arson, and murder, domestic terrorism, the willful destruction of aircraft or aircraft facilities, interference with commerce by threats or violence, violent crimes in aid of racketeering activity, using interstate commerce facilities in the commission for murder for hire, the financing of terrorism, and riot in connection with the forcible stopping of the recount of ballots in Florida following the 2000 presidential election. Insofar as the crimes enumerated are crimes within the jurisdiction of the United States, every defendant who was or became an accessory after the fact to such crime by so doing violated 18 U.S.C. § 3.

COUNT ONE: MISPRISION OF A FELONY (18 U.S.C. SECTION 4)

385. Plaintiff incorporates and re-alleges paragraphs 1 through 384 as if set forth at length herein.

386. The federal crime reporting statute, also known as the "misprision of felony statute" (18 U.S.C. § 4), provides as follows:

> Whoever, having knowledge of the actual commission of a felony cognizable by the courts of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, is guilty of the federal crime of misprision of felony. (Emphasis added).

387. In light of (1) the obvious futility of referring to the Attorney General of the United States Plaintiff's reports of felonies committed by Defendants herein described, and (2) the obvious Constitutional crisis presented if the allegations of this Complaint should prove to be true even in significant part, Plaintiff respectfully submits that it is within the inherent power of this Court, and indeed the Court's duty as a "person in authority" referred to in 18 U.S.C. § 4 to

address a formal communication to the Speaker of the U.S. House of Representatives, Mr. Hastert of Illinois; the Minority Leader, Ms. Pelosi of California; the Majority Leader of the Senate, Dr. Frist of Tennessee; the Minority Leader of the Senate, Mr. Daschle of South Dakota; the Chairman of the House of Representatives on the Judiciary, Mr. Sensenbrenner of Wisconsin; the ranking minority member of said committee, Mr. Conyers of Michigan, and to the Chief Justice of the Supreme Court of the United States, Mr. Rehnquist, that this Court has received information of a serious nature which, although as yet unproved, is nevertheless demanding of immediate and unbiased investigation, suggesting that all or some of the Defendants herein named may be guilty of all or some of the crimes enumerated in this Count, and elsewhere in this Complaint; declaring that the Court recognizes the inappropriateness of referring the matters alleged herein to the Federal Bureau of Investigation, the Attorney General of the United States, or to other officers of the Executive Branch, as they may be themselves implicated in, or subject to the direction and control of superior officers who are implicated in, the matters alleged in this Complaint; and requesting that the officials to whom such communication from the Court may be addressed consider, and take such actions as after deliberation they deem necessary and appropriate, consistent with their responsibilities and prerogatives under the Constitution of the United States, to investigate, prosecute, and try -- whether by impeachment or otherwise -- the Defendants.

COUNT TWO: MISPRISION OF TREASON (18 U.S.C. SECTION 2382)

388. Plaintiff repeats and re-alleges paragraphs 1 through 387 as if set forth at length herein.

389. Title 18 United States Code, Section 2382, "Misprision of treason" provides that:

> Whoever, owing allegiance to the United States and having knowledge of the commission of any treason against them, conceals and does not, as soon as may be practicable, disclose and make known the same to the President or to some judge of the United States, or to the governor or to some judge or justice in a particular State, is guilty of misprision of treason and shall be fined under this title or imprisoned not more than seven years, or both.

390. By the same reasoning set forth *supra* in paragraph 478, plaintiff submits that this Court should address to those persons named in paragraph 478 a formal communication that this Court has received information of a serious nature which, although as yet unproved, is nevertheless demanding of immediate and unbiased investigation, suggesting that all or some of the Defendants herein named may be guilty of the crime of treason in carrying out, or permitting to be carried out, the attacks of 9-11, and in launching wars of aggression against Afghanistan and Iraq; declaring that the Court recognizes the inappropriateness of referring the matters alleged herein to the Federal Bureau of Investigation, the Attorney General of the United States, or to other officers of the Executive Branch, as they may be themselves implicated in, or subject to the direction and control of superior officers who are implicated in, the matters alleged in this Complaint; and requesting that the officials to whom such communication from the Court may be addressed consider, and take such actions as after deliberation they deem necessary and appropriate, consistent with their responsibilities and prerogatives under the Constitution of the United States, to investigate, prosecute, and try -- whether by impeachment or otherwise -- the Defendants.

COUNT THREE: PATTERN OF RACKETEERING ACTIVITY (18 U.S.C. SECTION 1962C)

391. Plaintiff repeats and re-alleges paragraphs 1 through 390 as if set forth at length herein.

392. The Plaintiff is a "person" within the meaning of 18 U.S.C. § 1964(c).

393. At all times relevant hereto, Defendants and each of them are "persons" within the meaning of 18 U.S.C. § 1961(3).

394. Defendants and each of them – those of the Defendants who were at times relevant hereto officers or employees of the federal government, security agencies, or the armed forces acting in their individual capacities but under color of their authority as such – comprised, together with persons unknown to Plaintiff and not named in this complaint, an "enterprise" within the meaning of 18 U.S.C. § 1961(4), *viz.* a "union or group of individuals associated in fact although not a legal entity."

395. In the alternative, the National Security Council of the United States, consisting of a consensual hierarchy of co-executives, co-secretaries, co-officers, and/or co-representatives that formulate and implement policies, among other things relating to the interdiction and quelling of trafficking in cocaine, opiates, and other illegal drugs, and combating terrorism, by and through various agencies and instrumentalities including, but not limited to, the CIA, the FBI, the Defense Intelligence Agency, the Drug Enforcement Agency, FEMA, and other intelligence-gathering and ostensibly counter-terrorism agencies, operating throughout the United States and indeed throughout most parts of the world.

396. The Enterprise alleged herein has an ascertainable structure, separate and apart from the pattern of racketeering activity in which the Defendants engage.

397. Said RICO enterprise, by and through its agents, representatives, designees, nominees, deputies, secretaries, and/or officers, willfully caused to be carried out, or facilitated and/or suffered to be carried out, the attacks of 9-11, with knowledge that the results would be, among other things, loss of life and destruction of property on a large scale, as indeed transpired on 9-11.

398. Such conduct included, but was not limited to, the planning, authorization, direction, aiding, abetting, furthering, facilitating, and permitting to be carried out the acts of hijacking of aircraft, kidnapping, and murder of Americans and others; arson, money laundering, and conspiracy to commit all of the foregoing, and all of the additional crimes related to the 9-11 attacks mentioned in this complaint.

399. Such conduct further involved various of the individual defendants acting as accessories after the fact to the various RICO predicate crimes herein alleged, whether under federal law (18 U.S.C. § 3) or local (state) laws, including Article 20 of the Penal Law of New York. Each and every defendant who shall not have actually committed, or conspired to commit, the several predicate crimes alleged in this complaint, but who shall be shown to have been an accessory after the fact to such crime, is guilty of a predicate act no less than the person(s) who actually committed it, United States v. Patriarca, 912 F.Supp. 596, 627 (D. Mass. 1995).

400. The numerous predicate acts of murder, kidnapping, arson, extortion, dealing in controlled substances, fraud in connection with identification documents, wire fraud, misuse of visas, permits and other documents, peonage and slavery, interference with commerce, racketeering, laundering of monetary instruments, engaging in monetary transactions in property derived from unlawful activity, use of interstate commerce facilities in the commission of murder for hire, sexual exploitation of children, and white slave traffic are part of an elaborate web of schemes designed by Defendants, and by additional persons not known to Plaintiff and not named as Defendants in this Complaint, to carry out the purposes described hereinabove in paragraphs 89 and 91 of this Complaint.

401. In carrying out the overt acts herein alleged, including but not limited to those enumerated in paragraphs 257 through 277, defendants and each of them engaged in a pattern of racketeering activity, in violation of 18 U.S.C. § 1962(c).

402. By reason of the foregoing, Plaintiff is entitled to recover, pursuant to 18 U.S.C. § 1964(c), threefold damages, in such amount as shall be determined by offer of proof at the time of trial.

403. In addition, Plaintiff is entitled to recover his attorneys' fees and costs of this litigation, as well as his damages attributable to the activities engaged in by the Defendants in violation of the RICO statute.

COUNT FOUR: RACKETEERING ACTIVITY (18 U.S.C. SECTION 1961(1))

404. Plaintiff incorporates and re-alleges paragraphs 1 through 403 as if set forth at length herein.

405. Section 1962(b) of RICO provides that "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."

406. Under all theories of enterprise alleged by the Plaintiff, the enterprises have an ascertainable structure, separate and apart from the pattern of racketeering activity in which the Defendants engage.

407. With respect to the allegations contained herein, the Defendants and each of them have engaged in a "pattern of racketeering activity," as defined in Section 1961(5) of RICO, by committing and/or conspiring to commit or aiding and abetting a scheme for at least two such acts of racketeering activity, as described above, within the past ten years.

408. The multiple acts of racketeering activity committed and/or conspired to or aided and abetted by the Defendants, were related to each other, and amount to and pose a threat of continued racketeering activity, and therefore, constitute a "pattern of racketeering activity" as defined in 18 U.S.C. § 1961(5).

409. Defendants' acts amount to an overt and extortionate scheme to acquire or maintain an interest in or control of an enterprise(s) that affect interstate commerce.

410. In carrying out the overt acts and fraudulent extortionate scheme describe above, Defendants have engaged in violation of federal and state laws and predicate acts under RICO, including at least those described *supra* in paragraphs 257 through 277 of this Complaint.

411. Therefore, Defendants have each engaged in racketeering activity, as defined in 18 U.S.C. § 1961(1) of the RICO statute.

412. As a proximate result of Defendants' unlawful pattern of illegal extortionate conduct as described above, Plaintiff has been injured in his person, business and/or property.

413. By reason of the foregoing, Plaintiff is entitled to recover, pursuant to 18 U.S.C. § 1964(c), threefold damages, in such amount as shall be determined by offer of proof at the time of trial.

414. In addition, Plaintiff is entitled to recover his attorneys' fees and costs of this litigation, as well as his damages attributable to the activities engaged in by the Defendants in violation of the RICO statute.

COUNT FIVE: CONSPIRACY TO COMMIT RICO VIOLATIONS (18 U.S. C. SECTION 1962(B, C))

415. Plaintiff incorporates and re-alleges paragraphs 1 through 414 as if set forth at length herein.

416. At all times material herein, Defendants mutually agreed to engage in the aforementioned predicate acts and racketeering activities, giving rise to the RICO claims under §§ 1962(b) and 1962(c) set forth above.

417. Defendants are therefore liable as co-conspirators, under application of the doctrine of Pinkerton v. United States, 328 U.S. 640 (1946) and Salinas v. United States, 522 U.S. 52 (1997) for the substantive §§ 1962(b) and 1962(c) violations committed by Defendants, inasmuch as:

a. Defendants and each of them engaged in unlawful activities constituting a RICO pattern of racketeering activity;

b. Defendants are members of a RICO conspiracy, designed and intended to contravene RICO §§ 1962(b) and 1962(c);

c. Defendants engaged in activities intended to advance and promote the RICO conspiracy in violating RICO §§ 1962(b) and 1962(c);

d. All Defendants are and were members of the RICO conspiracy, at and throughout the time frame that the unlawful predicate acts were committed that constitute the pattern of racketeering activity; and

e. The offenses fell within the scope of the unlawful agreement, and could reasonably have been foreseen to be a necessary or natural consequence of the unlawful agreement.

419. The overall objectives of the RICO conspiracy are generally as described in this Complaint *supra* in paragraph 86. The motives of the Enterprise in carrying out or permitting to be carried out the attacks of 9-11 are generally as described in paragraph 89.

420. As a proximate result of Defendants' conspiring to violate RICO §§ 1962(b) and 1962(c) as described above, Plaintiff has been injured in his business or property.

421. By reason of the foregoing, Plaintiff is entitled to recover, pursuant to 18 U.S.C. § 1964(d), threefold damages, in such amount as shall be determined by offer of proof at the time of trial.

422. In addition, Plaintiff is entitled to recover his attorneys' fees and costs of this litigation, as well as his damages attributable to the activities engaged in by the Defendants in violation of the RICO statute.

COUNT SIX: INJUNJUNCTIVE AND DECLARATORY RELIEF (18 U.S.C. SECTION 1964C)

423. Plaintiff repeats and re-alleges paragraphs 1 through 422 as if set forth at length herein.

424. This claim for relief arises under 18 U.S.C. § 1964(C) of RICO providing for injunctive and declaratory relief for Defendants' violations of 18 U.S.C. § 2 by seeking to aid and abet and aiding and abetting a scheme to violate 18 U.S.C. §§ 1962(b) and (c).

425. With respect to Defendants' violation of 18 U.S.C. § 2, each Defendant has sought to, and has aided and abetted, each other respectively, and other persons not named as Defendants in this Complaint, in the commission of those violations of 18 U.S.C. § 2 by seeking to and aiding and abetting a scheme to violate 18 U.S.C. §§ 1962(b) and (c).

426. Each of the Defendants has aided and abetted, and has a shared intent to aid and abet each other in attempting to derive, and in actually deriving substantial income and proceeds through the above-described pattern of racketeering activity.

427. Each of the Defendants has aided and abetted, and has a shared intent to aid and abet each other in acquiring and maintaining an interest or control of the RICO § 1962(b) racketeering enterprise, through a pattern of racketeering activity, in violation of 18 U.S.C. § 2 and 18 U.S.C. § 1962(b).

428. Each of the Defendants has aided and abetted, and has a shared intent to aid and abet each other in conducting or participating in the conduct of the affairs of the § 1962(c) racketeering activity, in violation of 18 U.S.C. § 2 and 18 U.S.C. § 1962(c).

429. By reason of the foregoing, Plaintiff has been injured in his business and/or property, and is entitled to bring this action to obtain injunctive and declaratory relief, as well as his costs of suit and attorneys' fees.

430. Upon information and belief, Defendants have attempted to and have aided and abetted and they have committed and continue to commit the unlawful racketeering predicate acts including, but not limited to, those described hereinabove, and they have attempted to generate, and have continued to generate, income or proceeds therefrom.

431. Defendants' violations of the above federal and state laws, and the effects thereof detailed above, are continuing, and will continue, unless injunctive relief prohibiting the Defendants' illegal acts, constituting a pattern of racketeering activity, is fashioned and imposed by this Court.

432. By reason of the foregoing, Plaintiff is entitled to injunctive and declaratory relief, pursuant to 18 U.S.C. § 1964(c).

COUNT SEVEN: INJUNCTIVE RELIEF (18 U.S. C. SECTION 1964C)

433. Plaintiff incorporates and re-alleges paragraphs 1 through 432 as if set forth at length herein.

434. Pursuant to 18 U.S.C. § 1964(c), Plaintiff demands all such injunctive relief as shall be necessary to divest the Defendants and each of them from further involvement in the Enterprise, and from being or remaining in a position to continue or to repeat the acts comprising a pattern of racketeering activity herein complained of.

435. Such injunctive relief should include, but not be limited to, a permanent injunction against each and every one of the Defendants, prohibiting and enjoining them from occupying or

continuing to occupy any office, employment, or position of trust in the government of the United States, or the Armed Forces of the United States.

436. Such injunctive relief should include, but not be limited to, a permanent injunction against each and every one of the Defendants, prohibiting and enjoining them from engaging or participating, directly or indirectly, in any capacity, whether as proprietor, member, officer, shareholder, partner, investor, employee, agent, representative, or independent contractor:

a. In any business or enterprise whose business activities include the exploration, extraction, sale, storage, transportation, or contracting relating to any activities related to the production of oil, natural gas, coal, or fossil fuels, or the provision of ancillary services (including by way of illustration only, trucking, the construction of oil rigs or the manufacture, distribution or sale of pipe used in oil fields, etc;

b. In any business or enterprise whose business activities include the design, research, development, testing, manufacture, or sale of armaments or weapons of any description, including component or replacement parts therefore, or lobbying or contracting in any way related to any of the foregoing;

c. In any business or enterprise whose business activities include the ownership, operation, leasing, maintenance, of aircraft or ocean-going marine vessels of any description, or the production, harvesting, packaging, storage, transportation or sale of heroin, opium and its derivatives, cocaine, marihuana, hashish, or any other "controlled substances" as that term is used under the laws of the United States;

d. In any business or enterprise, whether carried on for profit or not for profit, the activities of which place any of the Defendants in a position of access to persons, other than their own children, under the age of eighteen years;

e. In the transport of minor children, citizens or lawful permanent residents of the United States, from being transported by any means or conveyance, including but not limited to boat, ship, commercial or private aircraft, train, or motor vehicle, from any place within or subject to the control of the United States, directly or indirectly to the Kingdom of Saudi Arabia, without the express consent of such minor person's lawful parent or guardian, in any circumstances giving rise to the suspicion or belief that such minor person is intended to be exploited sexually by, or married to, any citizen or resident of the Kingdom of Saudi Arabia other than a citizen of the United States;

f. In any business or enterprise, affording such Defendant the opportunity to "launder" or to conceal the unlawful origins of monies generated by unlawful activities of any of the kinds described in this Complaint;

g. In any business or enterprise, whether carried on for profit or not for profit, the activities of which involve the conducting of public elections, or the design, manufacture, leasing, or sale of any systems, machines and/or devices of any description intended for use in the recording, tabulation or counting of votes cast in any public elections to be held at any place within or subject to the control of the United States, or from acting as a sales representative, lobbyist, or person participating in any capacity in any decision by a county, state, or other governmental entity in any place within or subject to the control of the United States, concerning the purchase, leasing, employment, or use of any systems, machines, or devices in connection with the carrying out of public elections and/or determining the results thereof.

437. In addition to the foregoing, the Court should fashion a permanent injunction containing such other, further or different provisions as it deems necessary or appropriate to prevent, deter and prohibit Defendants for continuing to engage in, or repeating, any of the crimes herein complained of.

COUNT EIGHT: COMMON LAW INJUNCTIVE RELIEF

438. Plaintiff incorporates and re-alleges paragraphs 1 through 437 as if set forth at length herein

439. In the alternative, if the Court shall deem that it is unlawful or inappropriate to grant pursuant to the RICO statute, 18 U.S.C. § 1964(c), injunctive relief, of the kinds or any of the kinds described in Count Seven of this Complaint, Plaintiff prays for common-law injunctive relief, enjoining and prohibiting the Defendants and each of them from doing those things described in the several requests for injunctive relief in Count Seven of this Complaint.

COUNT NINE: DECLARATORY JUDGMENT (28 U.S.C. SECTION 2201 ET SEQ.)

440. Plaintiff repeats and re-alleges paragraphs 1 through 439 as if set forth at length herein.

441. This claim for relief arises under the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*

442. Plaintiff demands a declaratory judgment declaring that the United States, FEMA and USDHS have acted, and are continuing to act, contrary to the Constitution and the laws of the United States, *inter alia* in that they:

a. have received and continue to receive funds from tax revenues collected by the federal government, without disclosure to Congress of the amount of monies appropriated to, or expended by, FEMA from year to year;

b. have knowingly received and expended, and continue to receive and to expend funds that are, directly or indirectly, the proceeds ("laundered" or otherwise) of extortion or blackmail, assassinations or murder, trafficking in narcotics, unlawful drugs or controlled substances; piracy; the smuggling of aliens not authorized for entry to the United States into this country; the abduction, kidnapping, transport and/or unlawful confinement of persons for forced labor or "white slavery;" and other crimes;

c. have engaged in and continue to engage in the planning, preparation, design, construction, equipping, staffing and/or operation of prisons or concentration camps, detention centers, or places of confinement (under whatever guise or name) for the confinement, anywhere in the world, of United States citizens or persons lawfully admitted to residence or otherwise lawfully in the United States, which have not been duly convicted of crime as expressly authorized by act of Congress;

d. have engaged in and continue to engage in planning and preparations for the overthrow of the Bill of Rights and for the imposition of fiat rule or martial law, the seizure of property, confinement of persons, confiscation of firearms, the suspension of the Bill of Rights and/or other provisions of the Constitution of the United States, under color of any law of Executive Order or otherwise;

e. have engaged in and continue to engage in the unauthorized surveillance and the compiling, maintenance or sharing of any records concerning citizens of the United States or persons lawfully residing in the United States, their religious or political affiliations, sympathies or activities; their membership in any societies or organizations; their business, financial and/or credit status or histories; their sexual relations or histories; their

> ownership of any firearms; their travels, or any information concerning their use of the internet or electronic mail, websites visited, persons or organizations contacted by electronic means, or goods purchased via "e-commerce;" or information obtained by the interception of any mail, telephone (including cellular or wireless telephones) or other unauthorized surveillance by any means whatsoever.

443. Plaintiff requests a declaration addressing these acts having the force of a judgment, together with such other, further and different relief as may be just and proper.

COUNT TEN: INJUNCTIVE RELIEF

444. Plaintiff incorporates and re-alleges paragraphs 1 through 443 as if set forth at length herein.

445. Plaintiff alleges that a framework for the effective abolition or suspension of republican government in the United States has been created, under color of law, primarily through the various Executive Orders creating FEMA and authorizing the abrogation of many rights guaranteed by the Constitution upon the declaration of a state of emergency, which act lies in the sole power of the executive branch, and is not reviewable by the courts or by Congress for a period of at least 6 months.

446. Plaintiff alleges that concrete preparations for the implementation of martial law have been made, and are continuing, mostly without the knowledge or the express approval of Congress and unknown to the American public. These preparations include detailed military planning, and provisions for the arrest and detention without due process of large numbers of American citizens and others, and for the establishment and improvement, likewise in secret, of "detention centers," "relocation centers," and what are – despite their euphemistic labels – concentration camps and, possibly, extermination camps.

447. Plaintiff further alleges that the Enterprise and associated elements of the United States government, through the actual crimes against the American people herein complained of

(including but not limited to the 9-11 attacks themselves) a clear and present danger of engineering yet another mass-casualty act of "terrorism," in order to create a pretext for the declaration of a state of emergency and the abrogation of Constitutional rights, up to and including the wholesale police-state scenario for which the foundations are in place. Indeed, General Franks has stated outright that, in the event of another major terrorist attack on American soil, he believes it likely that military rule will replace the U.S. Constitution.

448. Plaintiff has no adequate remedy at law.

449. Based on the foregoing, Plaintiff demands preliminary and permanent injunctive relief prohibiting and enjoining the Enterprise and the several Defendants from invoking any of the Executive Orders enumerated; requiring the full disclosure, and the demolition of, any and all concentration camps (under whatever name) built anywhere in the world for purposes of interning citizens or lawful residents of the United States in the event of any "state of emergency," declaration of martial law, or for any reason whatsoever, except for prisons to house persons duly convicted of crimes.

450. Based on the foregoing, Plaintiff demands preliminary and permanent injunctive relief requiring that FEMA, USDHS, and the United States disclose what provisions are in place or are contemplated by them to supplant duly-elected or duly-appointed officials of the executive branch with unelected officials holding parallel posts, in the event of a declaration of emergency or martial law; the identity of each and every person who now holds, or has held at any time within the past 10 years, any position or designation as an official or contingent officeholder under the "shadow government" or "continuity of government" programs of said defendants, and crafting appropriate remedies, consistent with the United States Constitution, to ensure that while it is of course licit for Defendants to provide for the safety of duly-elected or duly-appointed

officers against attack, it is prohibited to erect a shadow government, unelected and indeed unknown to the public and to members of the opposition party, who will supplant the lawful officers of the United States should the President or any other official determine to do so in the guise of a national emergency.

451. The Court should grant such other, further or different relief, by way of prohibitive and/or mandatory injunctive relief, to conform such measures as shall be shown to exist, ostensibly as provisions against large-scale natural disasters, civil unrest, or terrorist incidents, with the guarantees and requirements of the United States Constitution.

COUNT ELEVEN: RELIEF UNDER ANTI-TERRORISM ACT (18 U.S.C. SECTION 2333)

452. Plaintiff repeats and re-alleges paragraphs 1 through 451 as if set forth at length herein.

453. This claim for relief arises under the Anti-Terrorism Act of 1991, specifically 18 U.S.C. § 2333.

454. Plaintiff is a "national of the United States."

455. The attacks of 9-11 and in particular those on the WTC constituted "acts of international terrorism," within the meaning of 18 U.S.C. § 2333.

456. As the direct result of the Defendants' carrying out of, or complicity in, the terrorist attacks of 9-11, plaintiff has been "injured in . . . his person, property or business by reason of [acts] of international terrorism."

457. By reason of the foregoing, pursuant to 18 U.S.C. § 2333 Plaintiff is entitled to "sue . . . in any appropriate district court of the United States and shall recover threefold the damages...he sustains and the cost of the suit, including attorney's fees." Plaintiff accordingly

demands judgment, in threefold such amount as shall be sustained by proof at trial, plus attorney's fees.

COUNT TWELVE: DAMAGES AND OTHER RELIEF FOR AND FROM CRIMES AGAINST HUMANITY

458. Plaintiff repeats and re-alleges paragraphs 1 through 457 as if set forth at length herein.

459. Following World War II, the United States government took an active part in bringing to trial at Nuremberg, and condemning to terms of imprisonment and, in some cases, to execution, high government and military officials of the former Nazi regime of Germany.

460. In their day, the Nuremberg trials were controversial in part because they involved the victors sitting in judgment of the vanquished. As a young law graduate in 1952-53, William H. Rehnquist, who today is Chief Justice of the United States, was a law clerk to then-Associate Justice Robert H. Jackson, formerly the chief prosecutor at Nuremberg. As recently as May 17, 2004, Justice Rehnquist (at an annual meeting of the American Law Institute) praised Justice Jackson for his "intellectual integrity" in carrying out his assignment at the Nuremberg trials, which "certainly [have] some relevance today."[285]

461. Rebutting critics, including then-U.S. Chief Justice Harlan Stone, who characterized the Nuremberg tribunal as a "high-grade lynching party,"[286] Justice Jackson said in 1945 (and Plaintiff, agreeing with Chief Justice Rehnquist, submits that Justice Jackson's words are, resoundingly, relevant today):

> We must make clear to the Germans that the wrong for which their fallen leaders are on trial is not that they lost the war, but that they started it. And we must not allow ourselves to be drawn into a trial

[285] Hope Yen, "Rehnquist Praises Jackson on Nuremberg," Associated Press, 05/17/2004.

[286] Ibid.

> of the causes of the war, for our position is that no grievances or policies will justify resort to aggressive war. It is utterly renounced and condemned as an instrument of policy.[287]

462. Principles of law recognized in the Charter of the Nuremberg Tribunal and in the judgment of the Tribunal were formulated by the International Law Commission of the United Nations in 1950. As adopted, those principles deserve to be set forth at length herein, and Plaintiff respectfully asks the Court to take judicial notice of the same:

Principle I: Any person who commits an act which constitutes a crime under international law is responsible therefore and liable to punishment.

Principle II: The fact that internal law does not impose a penalty for an act that constitutes a crime under international law does not relieve the person who committed the act from responsibility under international law.

Principle III: The fact that a person who committed an act that constitutes a crime under international law acted as Head of State or responsible Government official does not relieve him from responsibility under international law.

Principle IV: The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law provided a moral choice was in fact possible to him.

Principle V: Any person charged with a crime under international law has the right to a fair trial on the facts and law.

Principle VI: The crimes hereinafter set out are punishable as crimes under international law:

a. Crimes against peace:

i. Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances;

1. Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under (i).

b. War crimes:

[287] *Quoted in,* Department of State Bulletin, August 12, 1945.

> Violations of the laws or customs of war which include, but are not limited to, murder, ill-treatment or deportation to slave-labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war, of persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity.

c. Crimes against humanity:

> Murder, extermination, enslavement, deportation and other inhuman acts done against any civilian population, or persecutions on political, racial or religious grounds, when such acts are done or such persecutions are carried on in execution of or in connection with any crime against peace of any war crime.

Principle VII: Complicity in the commission of a crime against peace, a war crime, or a crime against humanity as set forth in Principle VI is a crime under international law.

463. In October 2002, the Bush II Administration published, with the Seal of the President of the United States on its cover, a document entitled *The National Security Strategy of the United States of America* ("National Security Strategy"). Plaintiff alleges that all of the Principal Defendants, and others not named herein, have willfully and knowingly committed and/or have been (and continue to be) complicit in multiple "crimes against peace," "war crimes," and "crimes against humanity" in that they have, among other things:

a Planned, prepared, initiated and waged a war of aggression against Iraq;

b Planned, prepared, initiated and waged a war against Iraq in violation of international treaties, agreements or assurances, including but not limited to Article 24 of the Charter of the United Nations;

c Murdered and ill-treated (abused and tortured) as part of a deliberate policy known to, and approved by, persons at the highest level of civilian and military authority including but not limited to George W. Bush,

Richard B. Cheney, Donald H. Rumsfeld, Paul Wolfowitz, and Richard B. Meyers both prisoners of war and civilian internees in Iraq;[288]

d Murdered, exterminated, deported (e.g., by kidnapping for imprisonment in secret prisons operated by a "Special Access Program" under the control of Donald H. Rumsfeld and others of the Defendants) and committed other inhuman acts against civilian populations "in execution of or in connection with" the aforementioned crimes against peace and war crimes.

e Employed depleted uranium munitions against Iraqi forces, which weapons are known to cause greatly escalated rates of cancer and birth defects in persons (noncombatants and combatants alike) who come into contact with the airborne residuum of such weapons when used and their offspring. These weapons, widely used in the 1991 Gulf War as well as the Iraqi theater since March 2003, qualify as "weapons of mass destruction," and are widely condemned as such by the international community.[289]

f The culpability of each of the Principal Defendants, under the Principles of the Nuremberg Tribunal, which Tribunal was initiated with the participation and indeed the leadership of the United States, and which principles were later formulated as an integral part of international law by the United Nations for crimes against peace, war crimes, and crimes against humanity, can almost be determined based on the Bush II Administration's own statements in the National Security Policy. It is manifest that there has been and continues to be a war in Iraq, initiated by the United States (and the United Kingdom) with tens of thousands of civilian casualties, and the detention, abuse and torture of detainees on a scale which – in addition to being the subject, almost daily, of revelations affirmatively demonstrating approval of such inhumane and criminal measures up the chain of command to the Oval Office – manifestly has

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[288] *See* Julian Coman, "Rumsfeld Gave Go-Ahead for Abu Ghraib Tactics, Says General in Charge," Sunday Telegraph (U.K.), 7/4/2004. In this article, Brig. Gen. Janis Karpinski, who commanded the 800th Military Police Brigade, said that documents yet to be released by the Pentagon will show that Secretary Rumsfeld personally approved the introduction of harsher conditions of detention in Iraq. *See also* Leon Worder's interview with Brig. Gen. Karpinski in the Signal Newspaper of Santa Clara, California (7/4/2004).

[289] These weapons injure not only Iraqi civilians but also members of the U.S. and other armed forces who use them. Many American soldiers have exhibited a baffling array of serious, otherwise unexplained ailments years after their exposure to DU in the Gulf War, and heartlessly, inexcusably, the U.S. military is again exposing its troops to these hazards. *See, e.g.*, Juan Gonzales, "The War's Littlest Victim: He Was Exposed to Depleted Uranium; His Daughter May Be Paying the Price," New York Daily News, 9/29/2004.

> been too widespread not to have been known to the Principal Defendants.[290]

464. That the former Saddam Hussein regime may have harbored criminals (as it perhaps did) or possessed or aspired to possess "weapons of mass destruction" (none of which to date have been found) *is immaterial*, under the doctrine enunciated by Justice Robert Jackson, formerly the chief prosecutor at Nuremberg: "[N]o grievances or policies will justify resort to aggressive war. It is utterly renounced and condemned as an instrument of policy."

465. The foregoing "utter renunciation and condemnation of aggressive war as an instrument of policy" was renounced by the Bush II Administration, which for this purpose may fairly be deemed to have spoken on behalf of each and every one of the Principal Defendants (as each of them had "a moral choice possible to him," and thus is not relieved, pursuant to Principle IV quoted above, from responsibility under international law, for his participation in the planning, preparation, initiation and waging of a war of aggression and attendant war crimes and crimes against humanity in Iraq). Just months before launching their war of aggression in Iraq, the Principal Defendants stated in the *National Security Strategy*, a document largely written to present a rationale for the impending attack against Iraq, as follows:

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[290] *See, e.g.*, Neil A. Lewis, "Justice Memos Explained How to Skip Prisoner Rights," New York Times, 5/21/2004. According to Mr. Lewis, Justice Department memoranda written in late 2001 and the first few months of 2002 addressed how U.S. officials could avoid being charged with war crimes for the way prisoners were detained and interrogated. Lawyers including Alberto R. Gonzales, the White House Counsel, John C. Yoo, a University of California law professor, and Robert J. Delahunty of the DOJ wrote these memos. According to Lewis, these memos were "endorsed by top lawyers in the White House, the Pentagon and the vice president's office." It beggars credulity that top officials, having asked at the outset of the "War Against Terror" that their attorneys devise arguments to inoculate themselves from liability for the illegal detention, interrogation and torture of Afghan detainees (including liability under the War Crimes Act of 1996, which carries the death penalty) went to war in Iraq – which promised, and has produced, much sterner resistance – without the expectation, not to say the firm intention, that detainees there would be abused and tortured, as has occurred.

> While the United States will constantly strive to enlist the support of the international community, we will not hesitate to act alone, if necessary, to exercise our right of self defense by acting preemptively against such terrorists.[291]

466. Plaintiff submits that not only is this document a statement against penal interest, but that in it the Bush II Administration declares itself a law unto itself. As the distinguished essayist Wendell Berry stated in a full-page advertisement published in the New York Times, weeks before the Bush II Administration attacked Iraq:

> A democratic citizen must deal here first of all with the question, who is this "we" [*i.e.*, the "we" that "will not hesitate" to initiate a pre-emptive war]? It is not the "we" of the Declaration of Independence, which [stated] that "governments [derive] their just powers from the consent of the governed." And it not the "we" of the Constitution, which refers to "*the people* [my emphasis] of the United States.
>
> This "we" . . . can refer only to the president. It is a royal "we." A head of state, preparing to act along in starting a preemptive war, will need to justify his intention by secret information, and will need to plan in secret and execute his plan without forewarning. This idea of a government acting alone in preemptive war is inherently undemocratic, for it does not require or even permit the president to obtain the consent of the governed. As a policy, this new strategy depends on the acquiescence of a public kept fearful and ignorant, subject to manipulation by the executive power, and on the compliance of an intimidated and office dependent legislature. To the extent that a government is secret, it cannot be democratic or its

[291] National Security Strategy (at p. 6) (emphasis added). The principle quoted will sometimes be referred to hereinbelow as the "Bush Doctrine." As a matter of semantics, we view the Bush Doctrine's embrace of "pre-emptive" war to include attacks on foreign nations that do not necessarily have the means and the intent to launch military action, in the short term, against the territory of the United States or military forces of the United States. Thus, in our understanding — and certainly our understanding is corroborated by President Bush's actions against the Saddam Hussein regime — in President Bush's parlance, "pre-emptive" military action includes "preventive" military action, *i.e.*, a first strike against a power which may bear ill will toward the United States, aspire to gain the means for a possible attack on the United States, and possibly represent a "gathering" or medium-term threat to the United States, but cannot be said to have, at present, both the intent and the means to launch an aggressive attack of any military consequence.

> people free. By this new doctrine, the president alone may start a war against any nation and at any time . . . .[292] (Emphasis added).

467. As Berry points out, the National Security Strategy is dangerous and an insult to common sense, among other things as it presupposes, impossibly, that something "so large and multiple as a nation," namely our nation, is good. This is apparent from the National Security Strategy's quotation of President Bush's speech at the National Cathedral on September 14, 2001:

> [O]ur responsibility to history is already clear: to answer these attacks and rid the world of evil.

468. Berry argues, correctly, that "a government, committing its nation to rid the world of evil, is assuming necessarily that it and its nation are good," and by doing so, ignores "an agenda of domestic evils," and "precludes any attempt at self criticism or self-correction."[293] The Bush Doctrine, that the United States may with impunity launch a pre-emptive war against "terrorists," at any time, precludes public dialogue and "leads us far indeed from the traditions of religion and democracy that are intended to measure and so to sustain our efforts to be good." It also ignores, Berry points out, that the *National Security Strategy's* own definition of "terrorism," namely the "premeditated, politically motivated violence perpetrated against innocents" fits, with equal aptness, the work of extra-governmental "terrorists" and "rogue states" and "the 'legitimate' warfare of technologically advanced nations."

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[292] Wendell Berry, "A Citizen's Response to the National Security Strategy of the United States of America," published in lengthier form in the March/April 2003 Orion Magazine and in an abridged form, quoted herein, in the New York Times (2/9/2003).

[293] Often in his considerable, and admirable, body of essays, Berry has cautioned against the folly and the dishonesty of pretending to benefit ephemera — notably, a future over which we have but little control, to be exercised with humility — by destructive acts (notably, wars and the destruction of the environment and human communities) in the here-and-now in which we have some measure of true power.

469. Berry is correct, also, in arguing that a nation, any nation, that asserts the right to act alone in going to war for its own interests is accepting war as a permanent condition, and that:

> [I]t is cynical to invoke the ideas of cooperation, community, peace, freedom, justice, dignity, and the rule of law (as [the *National Security Strategy]* repeatedly does) and then proceed to assert one's intention to act alone in making war. One cannot reduce terror by holding over the world the threat of what it most fears.
>
> This is a contradiction not reconcilable except by a self-righteousness almost inconceivably naïve. The authors of the strategy seem now and then to be glimmeringly conscious of the difficulty. Their implicit definition of "rogue state," for example, is any national pursuing national greatness by advanced military capabilities that can threaten its neighbors – except our nation.
>
> If you think our displeasure with "rogue states" might have any underpinning in international law, then you will be disappointed to learn on page 31 [of the National Security Strategy] that
>
> We will take the actions necessary to ensure that our efforts to meet our global security commitments and protect Americans are not impaired by the potential for investigations, inquiry or prosecution by the International Criminal Court (ICC), whose jurisdiction does not extend to Americans and which we do not accept.

The rule of law in the world, then, is to be upheld by a national that has declared itself to be above the law. A childish hypocrisy here assumes the dignity of a nation's foreign policy. 560. James Madison aptly observed that "of all of the enemies to public liberty, war is, perhaps, the most to be dreaded, because it comprises and develops the germ of every other . . . No nation could preserve its freedom in the midst of continual warfare."[294] If, as the Founders (with their mistrust of standing armies) would have done, we consider the Cold War and large-scale war preparations as little different from active warfare, the United States has been at war, or carrying out large-scale war preparations, continuously since 1940. Following on more than half a century of more or less continual war, during which American rights and liberties have been

[294] *Quoted in* Robert Higgs, "Benefits and Costs of the U.S. Government's War Making," The Independent Institute, 10/7/2004.

greatly eroded, the new, endless "global war on terror" (defined and carried out by an imperial (and aggressive) executive that has, by means ranging from political bullying to literal blackmail and, possibly, murder[295]) may be the death knell of genuine democracy and Constitutional liberty in the United States.

470. What the Bush II Administration is embarked upon — an enormously costly, worldwide "hot" war against an enemy at best ill-defined, and probably in large measure fabricated to justify the effort, and the attendant "regime changes" and resource grabs — falls foursquare within what President Madison warned against. **No nation can preserve its freedom in the midst of continual warfare.** The so-called "war on terror" is revealed as, in great measure and plaintiff believes in its very intent, a war on freedom. If that statement seems hyperbolic, consider whether most Americans would countenance the most objectionable provisions of the "Patriot Act," the current proposals by Sens. McCain and Lieberman for a national identification card, or proposals being advanced by the Department of Transportation to use Global Positioning Satellite technology to track (and archive) the movements of all privately-owned motor vehicles in the United States within a few years from now, but for fears caused by the 9-11 attacks and exploited by the Bush II regime to justify more surveillance and the evisceration of the Fourth, Fifth, and Sixth Amendments to the United States Constitution.

471. The *National Security Strategy* declares an aspiration to have "terrorism" be seen by all the world "in the same light as slavery, piracy or genocide" (*National Security Policy* at 6). This is an Orwellian use of a laudable aspiration to underpin a war launched against Iraq that – to say nothing of the fabrication of claims concerning "weapons of mass destruction" – is clearly "premeditated, politically motivated violence perpetrated against innocents**."** The United States continues to kill, threaten, injure, detain arbitrarily, abuse and torture Iraqis. It continues to

[295] *E.g.*, the suspicious death of U.S. Sen. Paul Wellstone (D-MN) in a plane crash in 2002.

occupy a sovereign country, although it has feigned a profoundly cynical but otherwise meaningless "turnover" of "sovereignty" to a nearly impotent puppet government, chosen by Americans, and indeed headed by a onetime terrorist, Mr. Allawi, who worked for all of British Intelligence, the Ba'ath Party of Saddam Hussein, and the American CIA.

472. The Bush II Administration, on its own behalf and that of the Enterprise, has declared openly that, *alone of all the world's nations,* the United States has an uncontestable right to launch a war against anyone it chooses, at any time. Elsewhere, it has absurdly claimed that plans (or even aspirations) to acquire weapons of varieties that we possess will justify a pre-emptive American war. Scarcely more subtle is the pining, in the PNAC's 1997 manifesto, for the "catastrophic and catalyzing event," the "new Pearl Harbor," that would launch the new American imperial era, and that Rodriguez alleges the Enterprise brought about on 9-11.

473. While the Enterprise and its members have committed multiple crimes against peace, war crimes, and crimes against humanity in Afghanistan and in Iraq (within the definitions of the Nuremberg Principles), Rodriguez alleges that the 9-11 attacks likewise fall within the definition of war crimes ("murder...wanton destruction of cities, towns, or villages, or devastation not justified by military necessity) and crimes against humanity ("murder, extermination...and other inhuman acts done against any civilian population...when such acts are done...in execution of or in connection with any crime against peace or any war crime." (Emphasis added).

474. As the Enterprise carried out (or allowed to occur) the 9-11 attacks in furtherance of a plan to secure, among other "benefits," approval of contemplated military attacks against Afghanistan and Iraq, which were and are wars of aggression and thus crimes against peace, the attacks, and every act of murder that the same entailed, became an act "in execution of or in

connection with...crime[s] against peace." And, even if it be shown that Defendants or any of them did not plan, approve, direct, or participate directly in carrying out the 9-11 attacks, each of them who aided the attacks (such as by allowing them to occur, despite foreknowledge, or by causing the Air National Guard or others to "stand down" or to delay their response as the attacks unfolded) should be deemed to have been complicit in the commission of war crimes and/or crimes against humanity, and thus guilty of crimes under international law (*see* Principle VII of the Nuremberg Principles) as well as the War Crimes Act of 1996, 18 U.S.C. § 2441.

475. By reason of the foregoing, Plaintiff prays for all such relief as the Court may lawfully award in the premises, including but not limited to money damages, attorney's fees, and declaratory and injunctive relief.

COUNT THIRTEEN: RELIEF UNDER WAR CRIMES ACT (18 U.S.C. SECTION 2441)

476. Plaintiff repeats and re-alleges paragraphs 1 through 475 with the same force and effect as if set forth at length herein.

477. Rodriguez requests a judgment declaring the Bush Doctrine to be directly repugnant to the Constitution of the United States, including but not limited to Article I, Section 8.

478. Rodriguez further requests a judgment declaring that the Bush Doctrine is a declaration by the Bush II Administration that it may, lawfully and with impunity under both domestic and international law, commit crimes against peace, war crimes, and crimes against humanity, in clear derogation of law including but not limited to the War Crimes Act of 1996, 18 U.S.C. § 2441, the Nuremberg Principles, and treaty obligations of the United States under the Geneva Conventions; that the Bush Doctrine is contrary to law and void, insofar as it purports to provide a legal or quasi-legal justification for wars of aggression or pre-emptive wars, and/or to immunize or to furnish members of the Enterprise or others with any defense to liability and

punishment for planning, preparing, initiating and waging wars of aggression or pre-emptive wars.

479. Rodriguez requests a judgment declaring that because wars of aggression and pre-emptive wars are unconstitutional, criminal, inconsistent with international and domestic laws and undertakings of the United States under treaties and conventions, and but inconsistent with and indeed directly inimical to the national security of the United States, the books, papers, records, communications, documents, acts, activities, consultations produced by, or engaged in, by public servants – including but not limited to the President, members of his Cabinet and national security team, and officers of the armed forces and secret services such as the CIA and all "black budget" or ad hoc organizations funded in whole or in part by Congressional appropriations concerning or arising out of the planning, preparing, initiating and waging of such wars – are merely evidence of the commission of crimes and civil wrongs, and are entitled to no "state secret" or "national security" veil of secrecy, or exemption from disclosure to the public, except as a Court may reasonably determine that disclosure would, for reasons that are articulable and not merely based on a conclusory declaration by the persons or agencies opposing disclosure, pose a genuine risk to the lives and safety of Americans engaged at present in a theater of war overseas.

480. In other words, as pre-emptive war is a crime against humanity and, among other evils, increases rather than decreases the risk of "terrorism" against Americans as used in common parlance i.e. acts of indiscriminate and murderous violence (targeting mainly noncombatants) official (civilian and military) actors contemplating such a war should know that they do so at risk of their crimes being uncovered, as their deeds in furtherance of it are unlawful,

are done outside the domain of the performance of their official duties, and are not entitled to secrecy under the guise of protecting the national security interests of the United States.

481. Rodriguez alleges upon information and belief that the Bush II Administration has no interest and no intention in renouncing "pre-emptive" (or, more accurately, aggressive war, launched under the guise of preventive war against governments that pose no imminent threat to the population or the territory of the United States).

482. Rodriguez alleges further upon information and belief that the Enterprise, and the Bush II Administration, has effectively all but nullified the Congress as an effective curb on Executive power, through a series of measures, some of which may be legal (*e.g.*, threats to withdraw Republican Party support, and to fund challengers in future primary elections, to enforce a degree of party discipline believed to be without precedent) and others of which are illegal (such as bribery, as exemplified during the Republicans' efforts to secure sufficient votes to enact the Bush II Administration's prescription drug legislation, and outright blackmail, as plaintiff believes, and alleges on information and belief, that security and military agencies actively gather evidence of financial and sexual misdeeds on the part of members of Congress of both parties, and make liberal use of the same to promote the Enterprise's agenda.

483. By reason of the foregoing, if the federal judiciary in general, and this Court in particular, shrinks from the task of doing all that it may do to brake the headlong rush toward what, to call things by their right names, may become essentially a fascist government in the United States, the people will be left with no remedy, no recourse, save those which the Founders named as the last resort against tyranny. Respectfully, Rodriguez fervently hopes that this Court will not abdicate its responsibility before the nation, and before history in what — notwithstanding the studied inattention of the mass media — may prove to be the nation's most

critical moment since at least the darkest days of World War II and the Great Depression that preceded it.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, William Rodriguez, prays for judgment in his favor and against the Defendants as set forth in each claim for relief, as well as general and special relief as follows:

A. On Count One, granting such relief, and making such reference to those officers authorized and empowered to afford plaintiff complete relief and to satisfy all of the requirements and obligations of the Court, pursuant to 18 U.S.C. § 4;

B. On Count Two, granting such relief, and making such reference to those officers authorized and empowered to afford plaintiff complete relief and to satisfy all of the requirements and obligations of the Court pursuant to 18 U.S.C. § 2382;

C. On Count Three, awarding plaintiff threefold damages, costs and attorneys fees, in amounts to be proved at trial, based on the violation by defendants [excluding the Government Agency Defendants] of the RICO statute, 18 U.S.C. § 1962(c);

D. On Count Four, awarding plaintiff threefold damages, costs and attorneys fees, in amounts to be proved at trial, based on the violation by defendants [excluding the Government Agency Defendants] of the RICO statute, 18 U.S.C. § 1962(b);

E. On Count Five, awarding plaintiff threefold damages, costs and attorneys fees, in amounts to be proved at trial, based on the violation by defendants [excluding the Government Agency Defendants] of the anti-conspiracy provisions of the RICO statute, 18 U.S.C. § 1962(d);

F. On Count Six, awarding plaintiff declaratory and injunctive relief pursuant to the RICO statute;

G. On Count Seven, granting all such preliminary and/or permanent injunctive relief authorized under the RICO statute as the Court deems lawful, appropriate and necessary to divest the several defendants of their interests in the RICO Enterprise(s) alleged in the complaint, and to prevent them from continuing or repeating the acts of racketeering complained of, or other racketeering acts proscribed in the RICO statute, as described more particularly in paragraphs 433 and 434 of this complaint;

H. On Count Eight, decreeing all other, further and different preliminary and permanent injunctive relief (*i.e.*, as may be authorized by federal and/or local law, other than the RICO statute) as the Court deems lawful, appropriate and necessary to divest the several defendants of their interests in the RICO Enterprise(s) alleged in the complaint, to prevent them from continuing or repeating the criminal and unlawful acts complained of, and generally to accomplish those purposes mentioned in paragraphs 433 and 434 of this complaint;

I. On Count Nine, granting declaratory and injunctive relief against certain unconstitutional and unlawful acts of the United States, FEMA, and USDHS;

J. On Count Ten, granting preliminary and permanent injunctive relief as more particularly described in paragraphs 447 through 449 of this complaint.

K. On Count Eleven, awarding plaintiff threefold damages, his costs of suit and attorneys' fees under the Anti-Terrorism Act of 1991, 18 U.S.C. § 2333.

L. On Count Twelve, awarding plaintiff all such relief, including but not limited to money damages, attorneys' fees, declaratory and injunctive relief, to which he may be entitled in the premises;

M. On Count Thirteen, declaring and decreeing the "Bush Doctrine" to be unconstitutional, and declaring that defendants have not license to plan, carry out, conceal, or conspire to commit or to cause others to commit war crimes, crimes against peace, crimes against humanity, and violations of the War Crimes Act of 1996, 18 U.S.C. § 2441;

N. On each and every count of the complaint, awarding plaintiff pre-trial and post-trial interest, at the highest rate authorized or allowed by law, contract, or rule of court;

O. On each and every count of the complaint, awarding plaintiff his costs, disbursements, and expenses of suit, including his reasonable attorneys'

fees, to the fullest extent authorized pursuant to statute, contract, or rule of court;

P. On each and every count of the complaint, awarding plaintiff such other, further and different relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury of all issues so triable.

Dated: Lafayette Hill, Pennsylvania
October 21, 2004

Respectfully submitted,

_____

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William Rodriguez v. George H. W. Bush, et al.
Exhibit "A" to Complaint

Contingency planning Pentagon MASCAL exercise simulates scenarios in preparing for emergencies.

By Dennis Ryan, Military District of Washington News Service.

[Photographs omitted from this exhibit].

Washington, D.C., October 24-26, 2000 - The Fire and smoke from the downed passenger aircraft billows from the courtyard. Defense Protective Services Police seal the crash sight. Army medics, nurses and doctors scramble to organize aid. An Arlington Fire Department chief dispatches his equipment to the affected areas.

Don Abbott, of Command Emergency Response Training, walks over to the Pentagon and extinguishes the flames was a model and the "plane crash" was a simulated one.

The Pentagon Mass Casualty Exercise, as the crash was called, was just one of several scenarios that emergency teams were exposed to Oct. 24-26, 2000 in the Office of the Secretaries of Defense conference room.

On Oct. 24, [2000] there was also a mock terrorist incident at the Pentagon Metro stop and a construction accident to name just some of the scenarios that were practiced to better prepare local agencies for real incidents.

To conduct the exercise, emergency personnel held radios that were used to rush help to the proper places, while toy trucks representing rescue equipment were pushed around an exercise table.

Cards were then passed out to the various players designating the number of casualties and where they should be sent in a given scenario.

To conduct the exercise, a medic reported to Army nurse Maj. Lorie Brown a list of 28 casualties so far. Brown then contacts here superior on the radio, Dr. James Geiling, a doctor in the command room across the hall.

Geiling approves Brown's request for helicopters to evacuate the wounded. A policeman in the room recommends not moving bodies and Abbott, playing the role of referee, nods his head in agreement.

"If you have to move dead bodies to get to live bodies, that's okay," Abbott says as the situation unfolds.

Geiling remarked on the importance of such exercises.

"The most important thing is who are the players?" Geiling said. "And what is their modus operandi?"

Brown thought the exercise was excellent preparation for any potential disasters.

"This is important so that we're better prepared," Brown said. "This is to work out the bugs. Hopefully it will never happen, but this way we're prepared."

An Army medic found the practice realistic.

"You get to see the people that we'll be dealing with and to think about the scenarios and what you would do," Sgt. Kelly Brown said. "It's a real good scenario and one that could happen easily."

A major player in the exercise was the Arlington Fire Department.

"Our role is fire and rescue," Battalion Chief R.W. Cornwell said. "We get to see how each other operates and responsibilities of each. You have to plan for this. Look at all the air traffic around here."

Each participant was required to fill out an evaluation form after the training exercise.

"We go over scenarios that are germane to the Pentagon," Jake Burrell of the Pentagon Emergency Management Team said. "You play the way you practice. We want people to go back to their organizations and look at their S.O.P. (standard operating procedure) and see how they responded to any of the incidents."

Burrell has coordinated these exercises for four years and he remarked that his team gets better each year.

Abbott, in his after action critique, reminded the participants that the actual disaster is only one-fifth of the incident and that the whole emergency would run for seven to 20 days and might involve as many as 17 agencies.

"The emergency to a certain extent is the easiest part," Abbott said. He reminded the group of the personal side of a disaster. "Families wanting to come to the crash sight for closure."

In this particular crash there would have been 341 victims.

(Ryan is a staff writer with the Fort Myer Military Community's Pentagram).

William Rodriguez v. George H. W. Bush, et al.
Exhibit “B” to Complaint

Published in the Miami Herald for July 5, 1987:

REAGAN AIDES AND THE “SECRET' GOVERNMENT

By ALFONSO CHARDY, HERALD WASHINGTON BUREAU

WASHINGTON -- Some of President Reagan's top advisers have operated a virtual parallel government outside the traditional Cabinet departments and agencies almost from the day Reagan took office, congressional investigators and administration officials have concluded.

Investigators believe that the advisers' activities extended well beyond the secret arms sales to Iran and aid to the contras now under investigation.

Lt. Col. Oliver North, for example, helped draw up a controversial plan to suspend the Constitution in the event of a national crisis, such as nuclear war, violent and widespread internal dissent or national opposition to a U.S. military invasion abroad.

When the attorney general at the time, William French Smith, learned of the proposal, he protested in writing to North's boss, then-national security adviser Robert McFarlane.

The advisers conducted their activities through secret contacts throughout the government with persons who acted at their direction but did not officially report to them.

The activities of those contacts were coordinated by the National Security Council, the officials and investigators said.

There appears to have been no formal directive for the advisers' activities, which knowledgeable sources described as a parallel government.

In a secret assessment of the activities, the lead counsel for the Senate Iran-contra committee called it a "secret government-within-a-government."

The arrangement permitted Reagan administration officials to claim that they were not involved in controversial or illegal activities, the officials

said.

"It was the ultimate plausible deniability," said a well-briefed official who has served the Reagan administration since 1982 and who often collaborated on covert assistance to the Nicaraguan contras.

The roles of top-level officials and of Reagan himself are still not clear. But that is expected to be a primary topic when North appears before the Iran-contra committees beginning Tuesday. Special prosecutor Lawrence Walsh also is believed to be trying to prove in his investigation of the Iran-contra affair that government officials engaged in a criminal conspiracy.

ADVISERS FORMED SHADOW GOVERNMENT, PROBERS SAY

Much of the time, Cabinet secretaries and their aides were unaware of the advisers' activities. When they periodically detected operations, they complained or tried to derail them, interviews show.

But no one ever questioned the activities in a broad way, possibly out of a belief that the advisers were operating with presidential sanction, officials said.

Reagan did know of or approve at least some of the actions of the secret group, according to previous accounts by aides, friends and high-ranking foreign officials.

One such case is the 1985 visit to Libya by William Wilson, then-U.S. ambassador to the Vatican and a close Reagan friend, to meet with Libyan leader Col. Moammar Gadhafi, officials said last week. Secretary of State George Shultz rebuked Wilson, but the officials said Reagan knew of the trip in advance.

The heart of the secret structure from 1983 to 1986 was North’s office in the Old Executive Office Building adjacent to the White House, investigators believe.

North’s influence within the secret structure was so great, the sources said, that he was able to have the orbits of sophisticated surveillance satellites altered to follow Soviet ships around the world, call for the launching of high-flying spy aircraft on secret missions over Cuba and Nicaragua and become involved in sensitive domestic activities.

MANY INITIATIVES

Others in the structure included some of Reagan's closest friends and advisers, including former national security adviser William Clark, the late CIA Director William Casey and Attorney General Edwin Meese, officials

and investigators said.

Congressional investigators said the Iran deal was just one of the group's initiatives. They say exposure of the unusual arrangement may be the legacy of their inquiry.

"After we establish that a policy decision was made at the highest levels to transfer responsibility for contra support to the NSC..., we favor examining how that decision was implemented," wrote Arthur Liman, chief counsel of the Senate committee, in a secret memorandum to panel leaders Sens. Daniel Inouye, D-Hawaii, and Warren Rudman, R-N.H., before hearings began May 5.

"This is the part of the story that reveals the whole secret government-within-a-government, operated from the [Executive Office Building] by a Lt. Col., with its own army, air force, diplomatic agents, intelligence operatives and appropriations capacity," Limon wrote in the memo, parts of which were shared with The Herald.

A spokesman for Liman declined comment but did not dispute the memo's existence.

A White House official rejected the notion that any of Reagan's advisers were operating secretly.

"The president has constantly expressed his foreign policy positions to the public and has consulted with the Congress," the official said.

Began in 1980

Congressional investigators and current and former officials interviewed -- members of the CIA, State Department and Pentagon -- said they still do not have a full record of the impact of the advisers' activities.

But based on investigations and personal experience, they believe the secret governing arrangement traces its roots to the last weeks of Reagan's 1980 campaign.

Officials say the genesis may have been an October 1980 decision by Casey, Reagan's campaign manager and a former officer in the World War II precursor of the CIA, to create an October Surprise Group to monitor Jimmy Carter's feverish negotiations with Iran for the release of 52 American hostages.

The group, led by campaign foreign policy adviser Richard Allen, was founded out of concern Carter might pull off an "October surprise" such as a last-minute deal for the release of the hostages before the Nov. 4 election. One of the group's first acts was a meeting with a man claiming to

represent Iran who offered to release the hostages to Reagan.

Allen — Reagan's first national security adviser — and another campaign aide, Laurence Silberman, told The Herald in April of the meeting. They said McFarlane, then a Senate Armed Services Committee aide, arranged and attended it. McFarlane later became Reagan's national security adviser and played a key role in the Iran-contra affair. Allen and Silberman said they rejected the offer to release the hostages to Reagan.

Briefing book theft

Congressional aides now link another well-known campaign incident -- the theft of confidential briefing materials from Carter's campaign before the Oct. 28, 1980, Carter-Reagan debate -- to the same group of advisers.

They believe that Casey obtained the briefing materials and passed them to James Baker, another top Reagan campaign aide, who was White House chief of staff in Reagan's first term.

Once Reagan was sworn in, the group moved quickly to set itself up, officials said. Within months, the advisers were clashing with officials in the traditional agencies.

Six weeks after Reagan was sworn in, apparently over State Department objections, then-CIA director Casey submitted a proposal to Reagan calling for covert support of anti-Sandinista groups that had fled Nicaragua after the 1979 revolution.

NORTH HAD BIG ROLE IN INNER CIRCLE, INVESTIGATORS SAY

It is still unclear whether Casey cleared the plan with Reagan. But In November 1981 the CIA secretly flew an Argentine military leader, Gen. Leopoldo Galtieri, to Washington to devise a secret agreement under which Argentine military officers trained Nicaraguan rebels, according to an administration official familiar with the agreement.

About the same time, North completed his transfer to the NSC from the Marine Corps. Those who worked with North in 1981 remember his first assignments as routine, although not unimportant.

North, they recalled, was briefly assigned to carry the "football," the briefcase containing the secret contingency plans for fighting a nuclear war, which is taken everywhere the president goes. North later widened his assignment to cover national crisis contingency planning. In that capacity he became involved with the controversial national crisis plan drafted by the Federal Emergency Management Agency.

NATIONAL CRISIS PLAN

From 1982 to 1984, North assisted FEMA, the U.S. government's chief national crisis-management unit, in revising contingency plans for dealing with nuclear war, insurrection or massive military mobilization.

North's involvement with FEMA set off the first major clash between the official government and the advisers and led to the formal letter of protest in 1984 from then-Attorney General Smith.

Smith was in Europe last week and could not be reached for comment.

But a government official familiar with North's collaboration with FEMA said then-Director Louis O. Giuffrida, a close friend of Meese's, mentioned North in meetings during that time as FEMA's NSC contact.

Giuffrida could not be reached for comment, but FEMA spokesman Bill McAda confirmed the relationship.

"Officials of FEMA met with Col. North during 1982 to 1984," McAda said. "These meetings were appropriate to Col. North's duties with the National Security Council and FEMA's responsibilities in certain areas of national security."

FEMA's clash with Smith occurred over a secret contingency plan that called for suspension of the Constitution, turning control of the United States over to FEMA, appointment of military commanders to run state and local governments and declaration of martial law during a national crisis.

The plan did not define national crisis, but it was understood to be nuclear war, violent and widespread internal dissent or national opposition against a military invasion abroad.

PLAN WAS PROTESTED

The official said the contingency plan was written as part of an executive order or legislative package that Reagan would sign and hold within the NSC until a severe crisis arose.

The martial law portions of the plan were outlined in a June 30, 1982, memo by Giuffrida's deputy for national preparedness programs, John Brinkerhoff. A copy of the memo was obtained by The Herald.

The scenario outlined in the Brinkerhoff memo resembled

somewhat a paper Giuffrida had written in 1970 at the Army War College in Carlisle, Pa., in which he advocated martial law in case of a national uprising by black militants. The paper also advocated the roundup and transfer to "assembly centers or relocation camps" of at least 21 million "American Negroes."

When he saw the FEMA plans, Attorney General Smith became alarmed. He dispatched a letter to McFarlane Aug. 2, 1984 lodging his objections and urging a delay in signing the directive.

"I believe that the role assigned to the Federal Emergency Management Agency in the revised Executive Order exceeds its proper function as a coordinating agency for emergency preparedness," Smith said in the letter to McFarlane, which The Herald obtained. "This department and others have repeatedly raised serious policy and legal objections to the creation of an 'emergency czar' role for FEMA."

It is unclear whether the executive order was signed or whether it contained the martial law plans. Congressional sources familiar with national disaster procedures said they believe Reagan did sign an executive order in 1984 that revised national military mobilization measures to deal with civilians in case of nuclear war or other crisis.

ORCHESTRATED NEWS LEAKS

Around the time that issue was producing fireworks with the administration, McFarlane and Casey reassigned North from national crisis planning to international covert management of the contras. The transfer came after North took a personal interest, realizing that neither the State Department nor any other government agency wanted to handle the issue after it became clear early in 1984 that Congress was moving to bar official aid to the rebels.

The new assignment, plus North's natural organizational ability, creativity and the sheer energy he dedicated to the issue, gradually led to an expansion of his power and stature within the covert structure, officials and investigators believe.

Meese also was said to have played a role in the secret government, investigators now believe, but his role is less clear.

Meese sometimes referred private American citizens to the NSC so they could be screened and contacted for soliciting support for the

Nicaraguan contras.

One of those supporters, Philip Mabry of Fort Worth, told The Herald earlier this year that in 1983 he was told by fellow conservatives in Texas to contact Meese, then White House counselor, if he wanted to help the contras. After he contacted Meese's office, Mabry received a letter from Meese obtained by The Herald advising him that his name had been given to the "appropriate people."

Shortly thereafter, Mabry said, a woman who identified herself as Meese's secretary gave him the name and phone number of another NSC secretary who, in turn, gave him North and his secretary, Fawn Hall, as contacts.

Meese's Justice Department spokesman, Patrick Korten, denies that Meese was part of North's secret contra supply network and notes that Meese does not recall having referred anyone to North on contra-related matters.

In addition to North's role as contra commander and fund-raiser, North became secret overseer of the State Department's Office of Public Diplomacy, through which the Reagan administration disseminated information that cast Nicaragua as a threat to its neighbors and the United States.

An intelligence source familiar with North's relationship with that office said North was directly involved in many of the best-publicized news leaks, including the Nov. 4, 1984, Election Day announcement that Soviet-made MiG jet fighters were on their way to Nicaragua.

McFarlane is now believed to have been the senior administration official who told reporters that the Soviet cargo ship Bakuriani, en route to Nicaragua from a Soviet Black Sea port, was probably carrying MiGs.

The intelligence official said North apparently recommended that the information be leaked to the press on Election Day so it would reach millions of people watching election results. CBS and NBC broadcast the report that night.

CLARK HAD KEY ROLE

The leak led to a new clash between the regular bureaucracy and the president's advisers. The official State Department spokesman, John Hughes, tried hard to play down the report, pointing out that it was unproven that the Bakuriani was carrying MiGs. At the same time, employees of the Office of Public Diplomacy, acting under North's direction, insisted that the crates were inside the ship and that MiGs were still a possibility.

To take a closer look, the source said, North requested a high-flying SR-71 Blackbird spy aircraft be sent from Beale Air Force Base near Sacramento, Calif., to fly over the Nicaraguan port of Corinto while the Bakuriani unloaded its cargo. The pictures showed that the Bakuriani unloaded helicopters, not MiGs.

North was not the only adviser who operated outside traditional government channels, investigators have concluded.

Others were known as the RIGLET, a semi-official unit made up of North; Alan Fiers, a CIA Central American affairs officer; and Elliott Abrams, the current assistant secretary of state for inter-American affairs, according to Abrams' subordinate Richard Melton. Melton revealed the existence of the RIGLET in a deposition given to the Iran-Contra committees. The name is a diminutive for RIG, which stands for Restricted Interagency Group.

Among the Ringlet's actions was ordering the U.S. ambassador to Costa Rica, Lewis Tombs, to assist the contras in setting up a front in southern Nicaragua. Tombs, who resigned suddenly last year after his links to North were revealed, testified about the instructions to Iran-contra investigators.

But perhaps the key to the parallel government was the role played by Reagan's second national security adviser, William Clark. It was during Clark's tenure that North began to gain influence in the NSC.

Clark also recruited several midlevel officers from the Pentagon and the CIA to work on a special Central American task force in 1983 to push aid for EI Salvador, a task force member said.

"Judge Clark was the granddaddy of the system," he said. "I was working at the Pentagon on another issue when my boss said that because of special circumstances, I was to be reassigned to the task force."

A former administration official familiar with Clark's activities said Clark also had approved contacts between Vatican Ambassador Wilson and Libya before Wilson's November 1985 journey, which came after McFarlane replaced Clark at the NSC.

The former official said Wilson also had carried out secret missions for the Reagan administration in a Latin American country where Wilson reportedly maintained contacts with high-level officials. The source asked that the country not be identified because the system is still in place and had reduced tensions by circumventing the regular bureaucracies of both countries.

Calls to Wilson's and Clark's offices in California were not returned.

----END----

William Rodriguez v. George H. W. Bush, et al.
Exhibit “C” to Complaint

Flight 93: The Improbable truth

By Robb Marley

"That process starts upon the supposition that when you* have *eliminated* all *which* is *impossible, then whatever remains, however improbable,* must be *the truth."* - Sir *Arthur Conan Doyle's Sherlock Holmes

Three minutes, four possible coincidences, and one odd lack of evidence, have created a problem with the official story regarding the crash of United Airlines Flight 93.

It begins with the matter reported in the Philadelphia Daily News in September 2002 by William Bunch. Several seismologists, some commissioned by the Department of Defense to investigate the question, agree that Flight 93 struck the earth at 10:06. Yet family members allowed to hear the cockpit voice recording were repeatedly told the tape ended at 10:03, three minutes before impact.

The problem continues: shortly before striking the ground, Flight 93 made a dramatic course change. The doomed airliner suddenly turned nearly 90 degrees clockwise. The turn, according to aircraft tracking records at FlightExplorer.com, occurred at 10:03.

Three minutes before impact.

A third event took place when Flight 93's transponder signal, which had over the course of the hijacking been turned off, and then on again, ceased transmitting. When NBC's Tom Brokaw interviewed air traffic controller Stacey Taylor, she told him she had assumed the worst when the signal stopped — that Flight 93 had crashed.

The signal ended, Taylor said, at 10:03. Three minutes before impact.

Shanksville-Stonycreek Elementary school, two miles from Flight 93's impact site, was evacuated after the crash knocked out electrical power to the school. The Mayor of the nearby borough of Indian Lake called the utility company when power to his small town was disrupted by the crash. In the days to follow, photographs of the impact point showed a newly repaired power line stretching over the scene, leading to the reasonable conclusion that the airliner severed the wires as it hit the ground.

The time of the outage, however, remains strangely unverifiable.

Understanding the possible concurrence of these four events requires the understanding that time, when measured by those involved here, is a matter of fine precision. Flight recorders, seismologists, air traffic controllers, and utility companies all depend upon the

accuracy of their clocks tremendously, and even use tools such as satellites to keep errors to a minimum. These clocks, if not exactly synchronized, should at most be off by a matter of a few seconds.

> Damage assessment is perhaps the most difficult supporting technology of all to develop. Since HPM weapons usually depend on electronic kill or upset, there is no "smoking hole" as an observable. – Bacon/Rinehart, "A Brief Technology Survey of High-Power Microwave Sources", High Power Electromagnetics Department, Sandia National Laboratories, April 2001

The possibility is that United Flight 93 crashed as a result of being attacked by a high-powered microwave weapon, most likely fired from the *C-130* aircraft acknowledged by the Department of Defense to be present that morning.

This is an incredible thesis, and requires several points to be addressed in order to comprehend the idea, much less believe it. First, it must be shown that such a weapon not only exists, but is operational within U.S. Armed Forces. Second, it must be shown that evidence exists of an attack by this weapon on 9/11. In this article, I will present explanation in three parts:

1) The Case for the Existence of Deployable High Power Microwave (HPM) Weapons

2) The Case for the *C-130* as HPM Platform

3) The Case for an HPM Weapon Discharge on 9/11: Four Events at 10:03 A.M.

The Case for the Existence of Deployable HPM Weapons

In order to understand how a microwave weapon might have been used on 9/11, some historical context for the technology must be established. The implications of radio frequency (RF) warfare have been understood since the first significant electromagnetic pulse (EMP) was observed in 1962 following a nuclear test blast above Johnston Island in the Pacific. In a test code-named STARFISH PRIME, a 1.5 kiloton nuclear weapon was detonated above the island; 1500 kilometers away in Hawaii, streetlights blinked out, alarms were triggered, and power lines fused as a result of the blast's EMP.

The disruptive effect of EMP on electrical systems was not lost on military planners; but the use of nuclear weapons for the relatively small-scale effect was deemed less than pragmatic. Over time, technology was created which could produce EMP without a nuclear blast, but its effect was difficult to focus. It was also not immediately apparent to Western forces what operational use such a weapon would offer over conventional munitions.

But the Soviet Union recognized the advantages very quickly. Lagging behind the West in electronics, the USSR saw EMP as a critical technology; if they could not compete in the development of smaller and faster electronic weapons, they could exploit their inherent susceptibility to RF. The Soviets began to develop high-power microwaves (HPM), a technology which not only required no nuclear blast, but also could be focused and required a smaller apparatus to generate.

HPM disrupts electrical systems very briefly, for around a few hundred nanoseconds. But in the high-speed world of computer-driven defense technology, this is long enough to reset chips, record faulty data, and effectively neutralize any system dependent upon electrical impulses for its operation.

> NATO and former Soviet nations have developed HPM weapons. These weapons are designed to exploit this inadvertent vulnerability to RF power by concentrating as much power as possible into a controlled field. This has proven very effective, and anecdotal data suggest successful combat deployment. -A.E. Pevler, "Security Implications of High-Power Microwave Technology, lEE International Symposium on Technology and Society, 1997

On September 6, 1976, the West saw its most compelling evidence of how seriously the Soviet Union took the concepts of HPM weapons. Lt. Victor Belenko defected from the USSR, landing in Hakodate Airport in northern Japan in his state-of-the-art Soviet fighter, the MiG-25. As NATO scientists began to dissect the aircraft, they discovered its critical communications, target acquisition, and navigation systems were strangely designed with such antiquated parts as vacuum tubes where computer chips should be. Such a system appeared anachronistic until placed in the context of HPM weapons: this design was nearly impervious (or in the words of the trade, "hardened") to an HPM attack.

> Pulsers developed at Ioffe Physico-Technical Institute are based upon very fast (nanosecond and picosecond) solid state "on" and "off'" switches developed by ProfIgor Grekhov and Dr. Alexi Kardo-Syssoev. These switches have recently been used to generate 10 nanosecond, 10 KHz pulsesJammers based upon these switches can be made small enough to fit into a briefcase. A recent version is said to weigh 6.5 kg and to deliver fields of 30 kV per meter at 5 meters. This is comparable to high-altitude EMP (HEMP) field strength. - Dr. 1 W. Merritt, Chief, Concepts Identification and Applications Analysis Division, Advanced Technology Directorate, Missile Defense and Space Technology Center, Us. Army Space and

> Missile Defense Command, "Proliferation and Significance of Radio Frequency Weapons Technology", before the Joint Economic Committee, United States Congress, 25 February 1998

The origins of the U.S.-developed HPM are difficult to trace. The efforts gained support during the Reagan administration, when various directed-energy (DE) concepts were researched in connection with the Strategic Defense Initiative, or "Star Wars". But HPM's trail becomes more apparent by the early 1990's, as the technology begins to mature. As early as 1993, the United States Marine Corps was building such phrases as "...shielding against radio frequency (RF) and High Power Microwave Weapons effects is desired" into its operational requirements documents (ORDs) for assets such as its Technical Control and Analysis Center (TCAC), a hub for Marine signal intelligence and electronic warfare (SIGINT/EW) support for air-ground operations (24 November 1993, www.fas.org/irp/doddir/usmc/ord93109da.htm). It must be inferred that by this time, the Department of Defense did not think it unreasonable to defend against HPM weapons, and that such a threat must have existed, or been on the verge of deployment.

Useful documents in following HPM development include DoD Research, Development, Test, and Evaluation (RDT&E) budget item justification sheets. These are simply non-classified budget documents which indicate, for each funded project, the goals, what was done in the previous fiscal year, what is planned for the following fiscal year, and how much was and will be spent.

Of particular interest to the discussion of HPM is how the mission description and accomplishments have evolved from the quite specific to the very general as the technology improved, and the desire for public knowledge of the program diminished. In. FY 1994, for example, the mission includes the phrase:

> *Technologies* are *developed that support* a *wide range of* Air Force *missions such* as space *control*, *command* and *control warfare*, and *counter-air warfare.*

By FY 2001, the same project (with a new number):

> *Technologies that support* a *wide range of* Air Force *missions such* as *the potential disruption* and *degradation of an adversary's electronic infrastructure* and *military capability* are *developed.*

Specific missions such as counter-air warfare are replaced with the idea of a "potential" disruption of electronics. Of course the new mission statements do not reflect the growth of the technology; careful scrutiny of RDT&E documents from 1994 to 2001 show an increase in funding and technical sophistication, and a decrease in specificity that suggests a program becoming more secretive.

In FY 1994, a new pulse forming network created a 100% efficient ultra-wideband source. A new pyramidal horn antenna created 70 KV per meter at a 10 meter range. Solid-state gallium arsenite switches allowed *10,000* shots, 100 times better than the previous technology. And in FY 1994, a study on the HPM effects on the F-16 aircraft and Stinger

missile launch tubes was completed.

In FY 1996, advanced computer modeling which could predict HPM effects on various aircraft was developed, and subsequent shielding technologies to harden military assets to HPM created; specifically, specifications, standards, and maintenance technology for systems including the F-16, Hawk missile, and F-22 Raptor were developed. "Counterair effectiveness analyses" of HPM weapons were completed, and, most significantly, a contractor was chosen (but not named) to produce a wideband HPM source for aircraft self-protection.

By FY 1998, the documents state the ending *of* the Advanced Concepts Technology Demonstration, or ACTD, for HPM weaponry. An ACTD is a joint user/developer effort to demonstrate an operational capability that meets a military need; it is designed to accelerate application of mature technologies into the field, usually with the help *of* an active warfighting unit. Essentially this is the period where soldiers and contractors work *out* details of technical manuals and operating procedures, a time when a specific piece *of* equipment is hauled into the field and subjected to whatever hardships the soldiers deem necessary, while the contractor provides tech support and advice as the equipment is integrated into use.

> Ended the ACTD. Demonstrated the capability to neutralize specific targets in a realworld environment. Validated logistics, training, and maintenance assumptions applied to the operational use of this specific system. -PE 0603750D8Z, RDT&E Budget Item Justification Sheet

In FY 2000, a single-shot HPM device was field tested for control of enemy air defenses, and components for repetitively-pulsed narrowband HPM (power, sources, and antennae) were developed. FY 2001 saw the development of frequency-agile HPM sources, as well as increasingly sophisticated computer modeling and the "completed design of subscale breadboard multiple-shot HPM for airborne attack". Obviously HPM was by now considered serious weapons science.

Bits and pieces of information regarding HPM have surfaced in various official military documents, with the clear pattern that the technology is mature and deployable (and thus probably deployed):

> LFT&E [Live Fire Test and Evaluation] has supported the development of prototype high-power microwave (HPM) weapons and tests of these devices at DoD open-air ranges since FY97. - FYOI Annual Report, "Vulnerability Assessment to Radio Frequency Threats", The Director, Operational Test & Evaluation (DOT&E)

> Several high power microwave technologies have matured to the point where they are now ready for the transition from engineering and manufacturing development [EMD, the stage after ACTD] to deployment as operational weapons. - "High Power Microwaves: Strategic and Operational Implications for Warfare", Co/. E.M Walling, USAF, Occasional Paper 11, Center for Strategy and Technology (Air War College).

There is even, interestingly enough, a Directed Energy Professional Society, which has put *out* a newsletter since 2000:

> Past DEPS activities have focused mostly on lasers with minimal high power microwave representation. I believe that this was principally because of the greater funds being spent

on lasers and the greater informational release restrictions on high power microwaves. Future DEPS activities should provide a more balanced view of directed energy. The last issue of this newsletter featured the very popular high power microwave active denial system. It is currently the only HPM application that can be discussed publicly, but many other HPM applications can be discussed within the DEPS classified forums. - William L. Baker, "Wave Front: The Directed Energy Technical Newsletter", Winter 2002

The Case for the C-130 as HPM Platform

As one peruses the available literature regarding HPM, two aircraft continually gain mention: the F-16, and the C-130. The constant appearance of the F-16 is no great surprise; it is common knowledge that the F-16 and its LANTIRN pods underwent significant HPM testing and hardening in the mid-1990s.

> The Phillips Laboratory just completed a multiyear program to measure and understand the effects of HP M on an F-16 testbed aircraft . . . As part of this program, the susceptibility of the low-altitude navigation and targeting IR system for night (LANTIRN) to electromagnetic radiation was measured and hardening countermeasures developed and demonstrated. This technology was transitioned to the LANTIRN System Program Office (SPO) for implementation. - Dr. WL. Baker, AF Phillips Labs, "Air Force High-Power Microwave Technology Program," Aircraft Survivability Newsletter, Fall 1995

The greater mystery is the ubiquity of the C-130.

> At present we think of large aircraft as bombers, tankers, surveillance aircraft, or air launched cruise missile launch platforms. In the future, large aircraft will be the first to carry directed energy weapons. - New World Vistas: Air and Space Power for the 21st Century, Air Force Scientific Advisory Board, 1995

> The United States has supplied major weapons system to its allies for decades. In the case of technologies that are relevant to microwave weapons, a number of nations now own F-16 and C-130 aircraft - Col. E.M Walling, ibid.

There are a few obvious advantages to the C-130 when discussing HPM weaponry. The most obvious is its remarkable payload abilities; any HPM weapon that could produce a beam of enough power to do damage would of necessity be large and heavy, especially in its infancy. Less obvious are issues such as the C-130's quite capable electrical system, which without modification could run a hundred hairdryers simultaneously, and the fact that a C-130 can fly with even a total electrical failure. This latter could be useful in the field of unpredictable RF weapons. And the EC-130E variant already has acknowledged microwave-powered equipment which sends out high energy RF output for interference.

The USAF supports the feasibility of developing an RF gunship within the next decade that can target tanks and other ground vehicles much the way today's AC-130 Gunship performs its mission. - B. Hillaby, "Directed Energy Weapons Development and Potential", the Defence Associations National Network News, July 1997

The Case for an HPM Weapon Discharge on 9/11 @ 10:03 A.M.

Three, and likely four, interesting things occurred at the same time, 10:03 A.M., on the morning of 9/11 in and over Pennsylvania. Individually, each can be explained by a less outlandish theory than an HPM discharge, but taken as a group, another comprehensive explanation remains elusive.

First, the FBI has confirmed that aboard United Flight 93, the cockpit voice recording (CVR) ends at 10:03. This was reported as a significant event, primarily because the Army's own study of seismic data indicates that the plane's impact occurred three minutes later. Prosaic explanations for this included the effect of a total electrical failure aboard the airliner. In this discussion, however, such a failure becomes much more interesting.

Second, at *10:03*, Flight 93 makes a dramatic change in course. This is another confirmed event, thanks to Flight Explorer's accurate aircraft tracking software. Again, a change in heading is not in itself significant; it is the timing which bears investigation.

Third, the transponder signal from Flight 93, which had been turned off, then on again, ceases transmitting. This was confirmed by the NBC interview between Tom Brokaw and air traffic controller Stacey Taylor, and at the time the assumption was that at 10:03, the airliner had crashed. Since this has been determined not to be the case, again the timing of the event increases it's significance.

The fourth event to take place was a power outage on the ground.

> Students who attend the nearest elementary school, Shanksville Elementary, two miles from the crash site, were evacuated earlier after the midmorning crash knocked out power to the school. -"Officials, media swarm over site", Peirce/Erdley, Pittsburgh Tribune-Review, 9/12/01

> Barry Lichty, the mayor of Indian Lake Borough, said the ground shook and the town's electricity went out. He called the utility company to find out the cause. - "Crash rattles home, neighbors", *ibid.*

Early photographs released by the Pennsylvania Department of Environmental Protection (PDEP) show a newly repaired power line stretching over Flight 93's crash site. The conclusion could be that the airliner severed the electric wires as it hit the ground.

The question is whether the power outage began before the line could have been severed.

This was not an easy piece of information to obtain. I first tried to retrieve outage records

from Penelec, the First Energy Company which services Shanksville and its school (circuit *00017-12).* Interestingly, and to my customer service representative's amazement, there is no record of the outage on their overview screens. The rep also checked nearby accounts on Melva Rd, Lake Shore Rd, Marilyn Way, Main St., Stoney Creek Rd, and Lake Stoney Creek Rd. We were both startled to find that there was no record of an outage at any of these nearby accounts.

An electrical disruption onboard Flight 93 explains the why the CVR stopped recording. The same disruption explains the transponder signal going silent. It can also explain the sudden course change as the electric (such as AC fuel pumps) and electronic components of the aircraft (such as a flight control system, or an autopilot, were it engaged) fail. But it is the suggestion of the coincident electrical failure in the air, and that in the power grid on the ground, which speaks to a single source which could cause both disruptions: a high power microwave pointed at the aircraft, affecting both its avionics and electrical systems on the ground.

Some final thoughts

> The significance of the perturbation [caused by an HPM attack] is proportional to the importance of the system corrupted. A portable compact disc player may react by garbling music or changing the track it was playing. A similar amount of energy directed at a commercial aircraft could corrupt the plane's control and navigation systems enough to cause a crash. –A.E. Pevler, *ibid.*

HPM was "sold" early on as a desirable weapons system for several reasons. First, it is "nonlethal", in that it targets equipment, not people; it feels like the moral equivalent of the Lone Ranger shooting the gun out of the bad guy's hand. It is very stealthy, in that it leaves no evidence within its target of its attack. It is an easy technology to keep secret, since the development has been so vastly underreported; the idea sounds much like science fiction, a "death ray" only deadly to electronics.

> One early argument against a shoot-down scenario regarding Flight 93 was that it would be impossible to keep secret, and too risky to try; anyone on the ground could be holding a camcorder these days, and could inadvertently capture the image of a missile streaking towards the airliner. One point brought up early in HPM development, and reiterated after the "CNN-ization" of the Gulf War, was that no television camera could ever record an HPM attack, since its own electronics would be ruined by the wide swath of microwave energy.
>
> The history of classified weapons systems speaks to what the late Ben Rich, former head of Lockheed's Skunk Works (home of the

SR-71 Blackbird and the F-117A Stealth Fighter) called "silver bullet" systems. These are breakthrough technologies, applied to Defense, which are held in secret and not revealed until absolutely necessary. The advantaged to this is that any potential enemy cannot begin to defend against what they don't know you even have.

A good example comes from Rich's own company. The F-117A stealth was operational well before its "debut" in the Gulf war; in fact, planning was quite far along to use the aircraft to bomb Khaddafi. At the last minute, "conventional" aircraft were sent instead, Libya having been considered not a crucial enough target to jeopardize the secrecy of the stealth program.

This thinking is quite relevant to the events of 9/11. If an HPM weapon could have been deployed over Pennsylvania that morning, strategists were offered an easy choice. If this non-lethal weapon worked, they had the advantage of not having "really" fired upon U.S. citizens; they were shooting at the electronics. If it didn't work, there were still fighters over Washington, D.C., and more drastic measures could be taken as Flight 93 approached the nation's capitol. Either way, there was no chance of the weapon's secrecy being compromised, since no record of the attack could exist.

(This also, interestingly, suggests why the fighters themselves were not ordered towards the doomed airliner; hardening technology notwithstanding, the safer bet would be to keep the valuable aircraft and pilots away from the HPM weapon.)

Sadly, none of the above can constitute definitive proof that Flight 93 was brought down by HPM. The only thing that could would (sic) be a government or military source confirming events as outlined here, and given the nature and record of classified programs (and those involved in them) that seems quite unlikely.

However it is still possible that someone who took part in these events may eventually come forward. There are heroes possibly yet unsung, not only the passengers and crew of Flight 93, who gave their lives in defense of their country, but also those who risked their own safety and the exposure of a secret weapon whose implications are changing the fact of modern warfare — who risked all this to protect not only our nation's capitol, but also its sense of conscience.

-----END-----

William Rodriguez v. George H. W. Bush, et al.
Exhibit “D” to Complaint

TRANSCRIPT OF AFFIDAVIT OF EDWARD P. CUTOLO

I, Edward P. Cutolo, having been duly sworn, do state under oath;

1. I am currently the Commanding Officer of the 10th Special Forces Group (Airborne), 1st Special Forces, Fort Devens, Massachusetts.

2. I swear affirmation to the contents of this affidavit freely and without coercion or threat to my person.

3.In Dec., 1975, I spoke with Col. "Bo" Baker concerning a classified mission he commanded during that month, inside Colombia. The mission was known as Watch Tower.

4. Following a lengthy discussion with Col. Baker, I was introduced to Mr. Edwin Wilson and Mr. Frank Terpil. Both Wilson and Terpil were in the employ of the Central Intelligence Agency. Both Wilson and Terpil inquired if I was interested in working for short periods of time in Colombia and I acknowledged that I was.

5. In Feb., 1976, I commanded the second Watch Tower Mission into Columbia.

6. The purpose of Operation Watch Tower was to establish a series of three electronic beacon towers beginning outside of Bogota, Colombia and running northeast to the border of Panama. Once the Watch Tower teams (Special Action Teams) were in place, the beacon was activated to emit a signal that aircraft could fix on and fly undetected from Bogota into Panama, then land at Albrook Air Station.

7. During the Feb., 1976, Watch Tower Mission, 30 high performance aircraft landed safely at Albrook Air Station where the planes were met by Col. Tony Noriega, who is a Panama Defence Force Officer currently assigned to the Customs and Intelligence Section. Noriega normally was in the company of other PDF officers known to me as Major Diaz Herrera, Major Luis del Cid, Major Ramirez. Also present at most of the arrivals, was Edwin Wilson, and an unidentified male Israeli national.

8. The cargo flown from Colombia into Panama was cocaine.

9. The male Israeli national was identified and known to members of the 570th Military Intelligence Group in Panama who only specified that this individual had the authority from the U.S. Army Southern Command in Panama to be in the A.O.

10. In March, 1976, a third Watch Tower Mission was implemented and I was in command of that mission which lasted 29 days and engaged in the same tactics used in the Feb., 1976, mission. The March mission encountered a serious accident and resulted in several SAT members being injured from wounds suffered while attempting to exfiltrate from Colombia across the border into Panama where helicopters were waiting to extract them.

11. The March, 1976 mission incident occurred as the SAT that was on station at Turbo, Colombia, encountered 40 to 50 armed men. Action Intelligence reports identified the armed men as local bandits. In regards to this incident the helicopters waiting in Panama, to extract the SAT, entered Colombian air space without authorization and successfully extracted the SAT, after an estimated six or seven minute fire fight.

12. During the March, 1976, Watch Tower Mission, 40 high performance aircraft landed safely at Albrook Air Station where they were met in previously related fashion by those named.

13. After the Watch Tower Mission in March, 1976, I lost touch with several of the men who had served on the SATs, but made no attempt to locate them.

14. In 1978, I assumed command of the 10th Special Forces Group (Airborne) at Fort. Devens and recognized two soldiers.

15. The two soldiers I recognized were assigned to 10th Special Forces Group (Airborne). One was assigned to a Special Forces Operational Detachment Alpha in the 3rd Battalion, Sgt. John Newby. The other had just been reassigned off an Operational Detachment Alpha following a criminal Investigation Division matter being levied against him. PFC William Tyree. Tyree was reassigned to a Forward Support Team but had been carried for the preceding month on 2nd Battalion's roster.

16. Upon the assumption of command, I created and implemented 12 separate SATs. Their mission was to implement Army Regulation 340-18-5 (file number 503-05). My authority for

this action came directly from FORSCOM through Edwin Wilson who appeared before me in my office at 10th Special Forces Group Headquarters. This action was taken to develop surveillance of politicians, judicial figures, law enforcement agencies at the state level, and of religious figures.

17. Mr. Edwin Wilson explained that it was considered that Operation Watch Tower might be compromised and become known if politicians, judicial figures, police and religious entities were approached or received word that U.S. Troops had aided in delivering narcotics from Columbia into Panama. Based on that possibility, intense surveillance was undertaken by my office to ensure if Watch Tower became known of, the U.S. government and the Army would have advance warning and could prepare a defense.

18. I was under orders not to inform Col. Forrest Rittgers, Commanding Officer of Ft. Devens. The reason for this order I was told, is that in the event Ft. Devens personnel are caught in the act of implementing the surveillance, Col. Rittger will have a margin of plausible deniability on which he may be able to downplay and defend against injuries.

19. The surveillance was unofficially dubbed Operation George Orwell.

20. I instituted surveillance against Ted Kennedy, John Kerry, Edward King, Michael Dukakis, Levin H. Campbell, Andrew A. Caffey, Fred Johnston, Kenneth A. Chandler, Thomas P. O'Neill to name a few of the targets. Surveillance at my orders was instituted at the Governors' residences of Massachusetts, Maine, New York, and New Hampshire. The Catholic cathedrals of New York and Boston were placed under electronic surveillance also. In the area of Ft. Devens, all local police and politicians were under some sort of surveillance at various times.

21. I specifically used individuals from the 441st Military Intelligence Detachment and 402 Army Security Agency Detachment assigned to the 10th Special Forces Group to supplement the SATs tasked with carrying out Operation Orwell.

22. I also recruited a number of local state employees who worked within the ranks of local police and as court personnel to assist in this Operation. They were veterans and had previous security clearances. They were told at the outset that if they were caught they were on their own.

23. Among the SAT personnel was (then) SP4 William Tyree. Tyree had learned of the Operation and requested in person to be part of it. Tyree was used in less than a dozen surveillances.

24. In Oct., 1978, it became known to me that SP4 Tyree was receiving telephone threats to his wife and himself. He made that fact known to his First Sergeant, Fredrick Henry and then approached me. Following our discussion, I considered placing Tyree under surveillance to arrive at who was behind the threats and whether or not the threats had the potential of inspiring or compromising Operation Orwell.

25. On 26 Dec. 1978 I began a file on SP4 Tyree and assigned a three man surveillance SAT to the multi-dwelling apartment complex SP4 Tyree shared with his wife. That unit was in place from that date until 14 Feb. 1979.

26. On 5 Jan. 1979, Tyree appeared before me to receive a Field Grade Article 15 (non-judicial punishment) for his part in the theft and sale of military property. I had to make an example out of Tyree and instituted the most severe punishment possible. I concluded that with pending congressional inquiries, the Post Commander (Col. Rittgers) would reverse my decision on appeal, in Pvt. Tyree's favor. As reason to support this conclusion, in addition to pending congressional inquiries, was the fact that the proceedings against Pvt. Tyree were flawed from the outset of the investigation with a number of discrepancies.

27. I was told and understood that the main reason for seeking the Article 15 against him was to make an example of him. To show others that cooperation with the Command law enforcement agencies was mandatory.

28. On 26 Jan. 1979, Pvt. Tyree tendered his Appeal of my sanction. The appeal is attached. It is the best example of what proof existed against Pvt. Tyree when he came before me on 5 Jan. 1979. It also names the characters in another matter that was unfolding as of 26 Jan. 1979.

29. By 29 Jan. 1979, Senator Garn's office had contacted the Army Liaison Office in Washington D.C., on the behalf of Pvt. Tyree who referred the matter to my office, as I was Pvt. Tyree's commanding officer. I then notified Sgt. Doucette in Washington D.C., that it would be approximately two weeks before further action could be taken in regards to the threats Pvt. Tyree was receiving. At that point I knew the threats were taking place, but had not ascertained from whence they originated.

30. At approx. 0945 hours on 30 Jan. 1979 Pvt. Tyree reported to my office at 10th Special Forces Group Headquarters per my instructions. Pvt. Tyree reported that between 2400 hours and 0100 hours of the previous night that his wife had received another threatening phone call. I was notified of the call by the SAT in place at the Tyree residence prior to speaking with Pvt. Tyree. I ordered Tyree to keep this matter to himself as it was being investigated. I notified Pvt. Tyree I would contact him between 1200 and 1300 hours at his duty station as soon as I could look into a matter that pertained to the threats. This meeting lasted until 1019 hours.

31. On 30 Jan. 1979, at approx. 1147 hours, two men were dropped in the parking area of the apt. complex that Pvt. Tyree resided within. One man was identified as Erik Aarhus. The second man due to his face being covered could not be identified as the two men entered the apartment building that the Tyree family resided within. Surveillance indicates that at least one of the two men entered the Tyree apt. and left prior to the arrival of Pvt. Tyree and his wife at noon.

32. On 30 Jan 1979, at noon Pvt. Tyree and his wife were seen arriving at the apartment complex they resided in. Pvt. Tyree never exited his truck and Mrs. Tyree entered the building where their apt. was located. After she disappeared, a car almost ran into Pvt. Tyree as he was leaving the complex parking lot. Mrs. Tyree was stabbed to death in their apt. shortly thereafter.

33. Following a scream, local police were notified (this was not known to the SAT involved in the surveillance however.) The first police car responded quickly and a single officer entered the building where the Tyree family resided. After the officer entered one of the two men exited from a window on the ground floor of the building. This window was identified as the Tyree bedroom window. The man seen leaving this window was identified as SP4 Earl M. Peters. Peters exited the window wearing blue denim, with a red hood sticking out of the rear neck area of the blue denim jacket. He was carrying a box, green and white in color and described by the SAT a long and flat in appearance. Peters then walked from the building to the driveway entrance of the apt. complex and walked in the general direction of the main street in Ayer, Massachusetts. Within 5 or 6 minutes after the first police officer arrived a second officer identified as the police chief arrived.

34. After the police chief arrived a third vehicle arrived. This was 10 to 15 minutes later. That vehicle carried an unknown

man in his late 30s. He was later identified as the landlord of the Tyree apt.

35. Upon knowledge that Mrs. Tyree was dead the SAT did notify me of this fact and I did place Pvt. Tyree under intense surveillance. In addition I placed SP4 Peters under surveillance and at approx. 1405 hours on the afternoon of the murder Sp4 Peters signed a weapon (12 gauge shotgun, Remington 1100) into the Service Company. The weapon was in a long, flat green and white box bearing the name "Remington" across the front and back sides.

36. Pvt. Tyree was questioned and cooperated in a limited fashion. He was then taken to the 441 Military Intelligence Detachment where he slept on the Commanding officers couch, under guard. The following morning, I spoke to him in my office at 10th Special Forces Group Headquarters. I informed him of the surveillance and of what I knew had occurred to his wife. He knew at that point that SP4 Peters and Pvt. Aarhus had been involved in the murder and he began to talk to me.

37. Pvt. Tyree admitted, on 31 Jan. 1979 in my office to me, that his wife had been killed, he felt, because of a set of diaries she kept. Tyree explained that SP4 Peters and Sp4 Rosario were named throughout the books as being involved in illegal matters.

38. Upon Pvt. Tyree leaving my office, I initiated contact with Mass. State Police Lieutenant J. Dwyer, of the Middlesex District Attorneys Office. Lt. Dwyer had cooperated previously on Operation Orwell and understood the urgency of the situation and Lt. Dwyer notified me that during a search of the Tyree apt. he discovered the diaries behind the refrigerator with a note to the family of Elaine Tyree. He did not disclose the contents of the note.

39. Shortly before noon on 2 Feb. 1979, I received a telephone call from Lt. Dwyer indicating he would drop off the diaries belonging to Elaine Tyree at my office. Upon receipt of the diaries I reviewed them, noting much of Operation Watch Tower and Orwell was written about throughout the many pages of the diaries.

40. After my review, I contacted Col. Moore of the U.S. Army Liaison in Washington D.C., and notified him of the scope of the issues involved in the murder of Elaine Tyree. I did notify him at that time of the possibility that arms and narcotics trafficking played a role in her murder. Due to security issues surrounding Operation Watch Tower and Orwell, I did not indicate

how the arms and narcotics trafficking figured in the murder of Elaine Tyree, however.

41. Despite repeated warnings to stay out of the investigation and to remain silent, Tyree was arrested on 13 Feb. 1979, after attempting to bring about the arrest of Pvt. Aarhus. The surveillance SAT reported that an armed confrontation between Pvt. Tyree and SP4 Peters occurred prior to the arrest of Tyree.

42. During Feb. 1979, Pvt. Tyree was arraigned on the pending civilian criminal charges. It was too risky to allow a military court to review the charges against Pvt. Tyree with Operation Orwell still ongoing and Senator Garn's office requesting a full investigation. Pvt. Tyree therefore had to stand before a civilian court of law on the criminal charges.

43. Prior to the arrest of Pvt. Tyree, Lt. Dwyer approached me and insisted on knowing whether or not Tyree had ever served in Vietnam. I suspect Lt. Dwyer was attempting to learn if Tyree's involvement in the military operations elsewhere were being covered up the way Operation Watch Tower was. I replied in the negative, that Tyree had never been in the Republic of South Vietnam. I then contemplated for the first time that Tyree might go public on Operation Watch Tower and Orwell because I had not come forward. Based on that conclusion, I gave orders to erase certain parts of his military records.

44. Actual information erased included the attendance of Pvt. Tyree at certain service schools and references to overseas service. I ordered all records to be erased that linked Pvt. Tyree to Operation Watch Tower or Orwell. Service schools and badges I know were erased were "Paper Flash Special Forces Qualification," "Crewman's Aviator Wings," " Canadian Airborne Badge," and "Master Parachute Badge." I also gave orders to disenfranchise Pvt. Tyree from Special Forces. I wanted no one standing up for him and in the process dragging the information concerning Operation Watch Tower into the public eye.

45. Unbeknownst to him, Pvt. Tyree underwent a hearing on the criminal charges in a local courthouse, under surveillance of Operation Orwell. I learned through transmissions that Tyree only spoke of defense issues with his attorney, but never mentioned Operation Watch Tower or Orwell. In the process of Pvt. Tyree's hearing, a state police officer from Lt. Dwyer's office discovered the state courthouse was under surveillance. This led to the arrest of the senior Court Officer Ira Kiezer, who took full responsibility

and never mentioned my office.

46. After the hearing concluded, the presiding judge in the Tyree matter found no reason to bind Tyree over for the trial on the murder of his wife. I found myself faced with the possibility that Pvt. Tyree, upon release, would become angered at my decision to disfranchise him. So I approached Lt. Dwyer who informed me that an indictment had already been secured for Tyree and that he would stand trial for the charge of murder. Lt. Dwyer expressed concern that there would not be enough evidence to warrant a guilty finding against Tyree. Lt Dwyer indicated that the only person with enough credibility was SP4 Peters. I could not inform Lt. Dwyer that Peters had been the person responsible for Elaine Tyree's murder.

47. After weeks of consideration, I concluded that the security of Operation Watch Tower and Orwell came first and AR 340 185 strictly prohibited the disclosure of intelligence gathered pursuant to that regulation.

48. On 29 Feb. 1980, Pvt. Tyree was convicted of murder and will spend the duration of his life incarcerated. I could not disseminate intelligence gathered under Operation Orwell to notify civilian authorities who actually killed Elaine Tyree.

49. The current intelligence on Archbishop Romero (EI Salvador) indicates he is in receipt of physical evidence supporting several allegations that the U.S. is currently with Honduras, Costa Rica, EI Salvador, and Panama covertly training and sponsoring freedom fighters attempting to overthrow the current regime in Nicaragua; that these freedom fighters are also being supported from funds arising from Operation Watch Tower in part; that Mr. Robert D'Aubuisson (EI Salvador) secretly aided the freedom fighters by allowing U.S. Advisors to train the freedom fighters inside EI Salvador, that D'Aubuisson was contacted by Edwin Wilson and Frank Terpil prior to the freedom fighters being trained inside El Salvador. This information made it necessary to protect Operation Watch Tower and Orwell regardless of the costs.

50. I have been in communication with Lt. Dwyer. In Nov. 1979, after some prodding, Lt. Dwyer and the Middlesex District Attorney went to the Mass. Supreme Court and attained a ruling that prohibits any court but the Mass. Supreme Court from ordering the arrest of suspects in the Tyree murder. I am told that this is without precedent and that normally any court can issue arrest warrants for suspects in a murder. This will ensure that only Tyree and Aarhus are arrested for the murder and that SP4 Peters

will not have to be subjected to having to defend himself on the witness stand. That also could bring the about the entire matter being made public as by this time, I'm sure SP4 Peters is acutely aware that something is afoot, or he would have been arrested when the hearing in the local courthouse was held.

51. I mailed the diaries of Elaine Tyree to a post office box number in Langley, Virginia, per instructions of Edwin Wilson who contacted me by telephone concerning the diaries. Wilson also notified me of the intelligence on Archbishop Romero.

52. I reviewed the diaries prior to mailing them. The diaries contained most of the information on SP4 Peters, as Pvt. Tyree indicated they did. I suspect that this was the motive for Peters' killing Elaine Tyree. The diaries contained no mention of Pvt. Tyree or his alleged illegal dealings. I suspect that Elaine Tyree only wrote in the diaries relating to soldiers other than her husband, who were involved in illegal activities in and around Ft. Devens.

53. The diaries kept by Elaine Tyree mentioned certain personal entries that can corroborate the fact that I saw the diaries, that they exist, and that the information contained within them is accurate. There were numerous entries relating to Elaine Hebb Tyree's family in Maryland and her mends in the army.

54. Jan. 1978 entry: "Rosemary got a job with the FBI and has to be in Washington D.C. by Jan. 31, 1978. Cindy and Edie got out of the hospital today (Thursday)."

55. From reading the entry on Cindy and Edie I suspect the actual date of their release from the hospital was 12 Jan. 1978. But no specific date was given, nor was the hospital named that they were admitted to.

56. Jan. 1978 entry: "Rosemary will be leaving for Wash. D.C., on Sunday. I may ride back with her."

57. From reading the entry on Rosemary driving to Washington, I suspect the actual date Rosemary left the Hebb family home in Cumberland, Maryland to travel to Washington, possibly with Elaine Tyree, was 29 Jan. 1978. No actual date was given in the diaries, nor was there further mention whether or not Elaine Tyree actually rode “back with her.”

58. Nov 1978 entry: "SP5 Scott had a little baby girl. She was due in July. I remember her back before she came to Ft. Devens."

59. From reading the entries on SP5 Scott which begin to appear in the diaries around April 1978, I suspect this female was a member of a unit Elaine Tyree was assigned to either at Ft. Lee, Virginia, or at Ft. McClellan, Alabama. In either case, this is an intimate fact obviously known only to Elaine Tyree, as no one else would need or knowledge about when another female mend gave birth, and the gender of the baby born to that female mend.

60. Jan., Feb. 1978 entries. "I've been running around with Heidi Urban. We go all over together when I don't have duty. Oh, yeah, Diary, Pat Imbu left in mid-January."

61. From reading the entries on Heidi Urban the main fact appears obvious is that Elaine Tyree is then at Ft. Lee, Virginia. That Pvt. William Tyree is not present as he is at Ft. Devens. Mass. Other that Elaine and Heidi, no one, specifically not Pvt. Tyree or myself could know that Elaine and Heidi are “running around together” at that time, unless these facts are represented in the diaries maintained by Elaine Tyree in her own handwriting. Elaine Tyree was assigned to Company C, 1st Battalion, Quartermaster School.

62. Nov. 1978 entry: "Dear Diary, my brother Steven who has been stationed in England for a over a year, is coming home on the 20th for good."

63. From reading the entries on Steven, I learned that he is currently assigned to an Air Force Base in England and that Elaine Tyree got along well with him.

64. From further consideration and reading entries on SP5 Scott., I conclude that Elaine Tyree knew this female at Ft. Lee, Virginia, in the sense that both Scott and Elaine Tyree underwent the same training there. I don't gather from the entries that SP5 Scott married or had a name change between her duty at Ft. Lee, Virginia, and Ft. Devens, Mass., but I could be forgetting of overlooking the numerous personal entries in the diaries in an attempt only to view data pertinent to Operation Watch Tower or Orwell.

65. Nov. 1978 entry: "Peters came by the apartment today. Bill spoke with him in the front room while I was washing dishes. Peters is thinking about buying a new truck. Bill asked Peters if he was going to have Dennis Testagrossa steal this new truck and burn it so Peters could collect the insurance the way Peters had the last time? Peters laughed and said the payments are better on this truck than the one he had Testagrossa steal from the parking lot of

Carlin's Bar. This was the first I knew that Peters was involved in the stealing of his own truck. Peters told me Bill was not involved because at the time Bill was under too much attention."

66. To date, I have not actually seen proof that Pvt. Tyree was involved in illegal activities. I have seen ample proof that he is foolish and eager to do things his way, since Pvt. Tyree's involvement in the March 1976 Watch Tower incident with the 40-50 armed Colombians.

67. I have detailed pertinent events in this affidavit should something happen to me. The lug nuts have been loosened on my car tires twice in the past week. I have had someone tamper with my car once and I have received telephone calls at my home where no one answered at the other end. I have seen other men involved in Operation Watch Tower meet accidental deaths after they were also threatened.

68. Sgt. John Newby reported that he had received threats just prior to the parachuting accident that claimed his life in Oct. 1978. It was at that time that (then) SP4 Tyree began to report threatening phone calls. I saw a pattern and still believe that a pattern exists.

69. I gave Col. Baker the original copy of this affidavit. I gave true copies to Hugh B. Pearce, and to Paul Neri of the National Security Agency and instructed each person to deliver this affidavit to the authorities in the event something occurs to me.

70. I believe the friends I have entrusted with the original and copies of this affidavit will place the National Security of the United States and American interests in Latin America first, and if circumstances allow, will bring this affidavit to the attention of the authorities in the event something occurs to me.

71. During the conversation with Edwin Wilson I was informed of the sensitive data related to Archbishop Romero. He also spoke to me concerning operation Watch Tower and the geopolitical climate in Latin America and the need to maintain security. I notified him that I had requested to release intelligence gathered from Operation Orwell to civilian police authorities involved in the Elaine Tyree murder and that the Staff Judge Advocate's Office had denied the request.

72. Edwin Wilson explained that Operation Watch Tower had to remain secret and gave these reasons: (1) If it became public knowledge it would undermine present governmental interests as

well as those in the future. (2) There are similar operations being implemented elsewhere in the world. Wilson named the "Golden Triangle" of Southeast Asia and Pakistan. Wilson stated in both areas of the world the CIA and other intelligence agencies are using the illegal narcotics flow to support forces fighting to overthrow communist governments, or governments that are not friendly towards the U.S.. Wilson named several recognized officials of Pakistan, Afghanistan, Burma, Korea, Thailand and Cambodia as being aware and consenting to these arrangements, similar to the ones in Panama. (3) Wilson cited the military coup in Argentina in 1976, the coup in Peru in 1976, the fall of the Somoza Government in Nicaragua in 1979, and the growing civil war in EI Salvador as examples of the need for operations like Watch Tower. As these operations funded the ongoing effort to combat communism and defeat actions directed against the United States or matters concerning the U.S.

73. Edwin Wilson explained that the profit from the sale of narcotics was laundered through a series of banks. Wilson stated that over 70% of the profits were laundered through the banks in Panama. The remaining percentage was funneled through Swiss banks with a small remainder being handled by banks within the U.S. Wilson indicated that a large portion of the profits are brought into the banks of Panama without being checked. I understood that some of the profits in Panamanian banks arrived through Israeli couriers. I became aware of that fact from normal conversations with some of the Embassy personnel assigned to the Embassy in Panama. Wilson also stated that an associate whom I don't know also aided in over seeing the laundering of funds, which was then used to purchase weapons to arm the various factions that the CIA saw as friendly towards the U. S. The associates name is Tom Clines. Wilson indicated that most of Operation Watch Tower was implemented on the authority of Clines.

74. I was notified by Edwin Wilson that the information forwarded to Wash. D.C., was disseminated to private corporations who were developing weapons for the Dept. of Defense. Those private corporations were encouraged to use the sensitive information gathered from surveillance on U.S. Senators and Representatives as leverage to manipulate those Congressmen into approving whatever costs the weapons systems incurred.

75. Edwin Wilson named three weapons systems when he spoke of private corporations receiving information from Operation Orwell. (1) An armored vehicle. (2) An aircraft that is invisible to radar. (3) A weapons system that utilizes kinetic energy. I got the impression this weapon was being developed

either for use by NASA or for CBR purposes. I wrote down what I recalled at the time and it is attached.

76. Edwin Wilson indicated to me during our conversation while entailed the dissemination of Operation Orwell information and the identification of the three weapons systems, that Operation Orwell would be implemented nationwide by 4 July 1980.

77. As of the date of this affidavit, 8,400 police departments, 1,370 churches, and approx. 17,900 citizens have been monitored under Operation Orwell. The major churches targeted have been Catholic and Latter Day Saints. I have stored certain information gathered by Operation Orwell on Ft. Devens, and pursuant to instructions from Edwin Wilson have forwarded additional information gathered to Wash. D.C.

78. Per orders from Edwin Wilson, I did not discuss the implementation of Operation Orwell with my staff or others outside of the personnel assigned to surveillance. The only matter discussed with Operation Orwell personnel was what the SA Ts needed to know in order to carry out their mission. Certain information was collected on suspected members of the Trilateral Commission and the Bilderberg group. Among those that information was collected on were Gerald Ford and President Jimmy Carter. Edwin Wilson indicated that additional surveillance was implemented against former CIA director George Bush, who Wilson named as a member of the Trilateral Commission. I do not have personal knowledge that Ford, Carter, or Bush were under surveillance.

79. I spoke to Col. James N. Rowe on 5 March 1980. I specifically requested that Col. Rowe communicate with several contacts he has within the CIA. I asked Col. Rowe to check out Edwin Wilson. I had two concerns. The first was that Edwin Wilson may pose a threat to National Security by disseminating classified information on the CIA's activities to personnel without a clearance or a need to know that information. Edwin Wilson, during his conversations with me, outlined information that was classified and to which I had no need to know. Information that pertained to the activities of the CIA in the U.S. and Latin America. I've related such conversations with Wilson herein. The second concern I had was the issue of his authority and connection to Thomas Clines. I was told repeatedly that Clines was the agent in charge and that Wilson worked with Clines. Col. Rowe indicated that he would make inquiries I requested and would contact me with that information as soon as he had something. Col. Rowe indicated that it would be 60 to 90 days before he would speak to the CIA contact that was most apt to have knowledge of the information I requested. I agreed to meet Col. Rowe on Ft. Bragg the next week in June in the event Col. Rose received documentation relating to the information I sought.

80. On 7 March 1980 Col. Rowe contacted me. During the course of our conversation Col. Rowe informed me that his initial inquiries with CIA contacts confirmed that Edwin Wilson was working for Thomas Clines at the times in question. Col. Rowe indicated that Edwin Wilson was under scrutiny by the CIA at that time but had not been given the details of the circumstances surrounding the events of that matter. Col. Rowe also indicated that there was an Israeli aspect to the matter involving Edwin Wilson and Col. Rowe provided the name of David Kimche as being the Israeli most likely to be involved with Edwin Wilson. In regards to my concerns that Edwin Wilson

posed a possible threat to national security or to the inner working of the CIA, Col. Rowe indicated that off the record, that was a concern of several people to whom he had spoken. Col. Rowe also indicated that he would be in receipt of documentation by the first week of June which listed Edwin Wilson's involvement in several operations. I specifically asked Col. Rowe if he had the names of any of those operations at this time and his reply was in the negative. Col. Rowe did indicate that it was his understanding that each operation had basically the same characters involved and Col. Rowe named two other individuals involved with Edwin Wilson. Col. Rowe named Robert Gates and William J. Casey as officials who had been named in the documentation he would acquire prior to our scheduled meeting on June 1980.

81. On 7 March 1980 after my conversation with Col. Rowe, I made inquiries through Paul Neri and Pentagon contacts and was informed that David Kimche had ties with the Israeli Intelligence Agency known as "The Mossad." I also asked that I be provided a photograph, if any existed, of David Kimche. I requested such a photograph to determine if Kimche was the unidentified male Israeli national who met the aircraft fling into Albrook Air Station during Operation Watch Tower. In addition, I sought whatever photographs existed on those who were known associates of David Kimche for the same reason.

82. In March 1980 I received three photographs from Army Intelligence contacts at the Pentagon. Amongst the three photographs were two individuals I recognized. David Kimche's photograph had been shown to me by a friend, Col. Robert Bayard just prior to his murder in Atlanta, Georgia in 1977. According to Bayard, Kimche was due to meet with him later. Shortly thereafter, I was informed through the normal lines of communication that Col. Bayard was murdered. As of this date his murder remains unsolved. The photograph of Kimche that Col. Bayard had appeared to be a surveillance photo. There is no doubt that Kimche was the person Bayard named as being in the photograph. According to Col. Bayard, Kimche was due to meet with him to discuss a matter that related to Col. Bayard's previous duty in the U.S. Army and assignment in the CIA.

83. Thee second individual I recognized from the three photographs I received, was listed as Michael Harari. I was informed that Michael Harari is listed as a senior Mossad agent. Harari was the unidentified male Israeli national that met the aircraft which flew into Albrook Air Station during Operation Watch Tower. He was the one who gave Edwin Wilson two

briefcases full of U.S. currency in various denominations. The briefcases were given to Edwin Wilson at the end of operations in March and Feb. 1976. It is my understanding from Pentagon contacts, that Harari's activities in Latin America are well known, including his drug trafficking endeavors. I was also informed from those same contacts that the Pentagon on the orders of several Washington VIPs have gone to great lengths to keep the activities of Harari a secret. I have begun preparations to meet with David Kimche or Michael Harari while in Europe on annual NATO exercises. I intend to verify that Harari was the individual who was the individual who gave Edwin Wilson the briefcases while at Albrook Air Station during Operation Watch Tower.

84. I was told from Pentagon contacts, off the record, that CIA Director Stansfield Turner and former CIA Director George Bush are among the VIPs that shield Harari from public scrutiny. Those Pentagon contacts further indicated to me their knowledge that Operation Watch Tower was implemented and of my involvement in that operation. This was the first time that U.S. military authorities confirmed to me that the Operation occurred and gave their approval. I also learned that Harari was a known middleman for matters involving the U.S. in Latin America. Harari acted with the support of a network of Mossad personnel throughout Latin America and worked mainly in the import and export of arms and drug trafficking.

85. As further means to corroborate this affidavit, on 9 Feb. 1979, I spoke to Col. Rittgers concerning the release of Pvt. Tyree from Walter Reed Medical Center in Wash. D.C., where he had been admitted on 5 Feb. 1979. Col. Rittgers notified me that Pvt. Tyree had fully recovered from the depression which was brought about by the murder of Elaine Tyree. Col. Rittgers indicated that upon arrival at Ft. Devens later that day, he would interview Pvt. Tyree to determine for himself if Pvt. Tyree felt he was in any real danger.

86. I also spoke to Captain Gruden who was the Commanding Officer of the 409th Army Security Agency Company, Augsberg, Germany. The telephone call was brief and I inquired into what information PFC Tina Gregory might be expected to give in support of Pvt. Tyree's trial defense. The surveillance of the civilian court house in the early stages of the criminal proceedings against Pvt. Tyree indicated PFC Gregory could have knowledge of Operation Watch Tower since PFC Gregory and Elaine Tyree were very close friends. I was not able to learn much from Cpt. Gruden who was leaving his office when I called. In order not to attract attention to the value of the

information PFC Gregory mayor may not have, I passed the entire phone call off as being interested on the part of Pvt. Tyree who was in my command.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY

ON THIS 11TH DAY OF MARCH 1980

/s/ Edward P. Cutolo, Colonel, Infantry Commanding