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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

October 2004 Grand Jury

UNITED STATES OF AMERICA,) CR 05-587(A)-DDP
)
Plaintiff,)
) **F I R S T**
v.) **S U P E R S E D I N G**
) **I N D I C T M E N T**
)
MILBERG WEISS BERSHAD &) [18 U.S.C. § 371: Conspiracy;
) 18 U.S.C. § 1962(d):
SCHULMAN LLP,) Racketeering Conspiracy;
) 18 U.S.C. §§ 1341 & 1346: Mail
DAVID J. BERSHAD,) Fraud; 18 U.S.C. § 1956(h):
) Money Laundering Conspiracy; 18
STEVEN G. SCHULMAN,) U.S.C. § 1956(a)(1)(B)(i):
) Money Laundering; 26 U.S.C.
SEYMOUR M. LAZAR, and) § 7206(1): Subscribing to False
) Tax Return; 18 U.S.C. § 1503:
PAUL T. SELZER,) Obstruction of Justice;
) 18 U.S.C. § 2: Aiding and
) Abetting and Causing an Act to
Defendants.) be Done; 28 U.S.C. § 2461(c), 18
) U.S.C. § 981(a)(1)(C) & 21 U.S.C.
) § 853: Criminal Forfeiture;
) 18 U.S.C. § 1963: Criminal
) Forfeiture; 18 U.S.C.
) § 982(a)(1) & 21 U.S.C. § 853:
) Criminal Forfeiture]
)
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1
2 The Grand Jury charges:

3 **INTRODUCTORY ALLEGATIONS**

4 **I. DEFENDANTS**

5 1. At all times relevant to this Indictment, defendant
6 MILBERG WEISS BERSHAD & SCHULMAN LLP, formerly known as "Milberg
7 Weiss Bershad Hynes & Lerach LLP" and "Milberg Weiss Bershad
8 Specthrie & Lerach" ("MILBERG WEISS"), was a New York law firm
9 partnership with principal offices in New York, New York and,
10 through on or about May 1, 2004, San Diego, California. At all
11 times relevant to this Indictment, MILBERG WEISS represented
12 plaintiffs in class actions and shareholder derivative actions in
13 federal and state courts throughout the United States, including
14 in the Central District of California.

15 2. At all times relevant to this Indictment, defendant
16 DAVID J. BERSHAD ("BERSHAD") was a named partner in
17 MILBERG WEISS, the senior partner primarily responsible for
18 overseeing MILBERG WEISS's financial affairs and accounting
19 department, and one of MILBERG WEISS's original managing
20 partners. During the times relevant to this Indictment, BERSHAD
21 resided in New Jersey and worked in MILBERG WEISS's New York
22 office. On or about January 1, 1998, BERSHAD was conferred the
23 title "Partner in charge" of that office and became a member of
24 the firm's Executive Committee. During the years 1983 through
25 2005, BERSHAD owned between 10.11% and 17.72% of the firm, and
26 his share of MILBERG WEISS's profits totaled approximately
27 \$160.9 million.

28 3. Defendant STEVEN G. SCHULMAN ("SCHULMAN") became a non-
equity partner in MILBERG WEISS on or about January 1, 1989, and

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2 became an equity partner in MILBERG WEISS on or about January 1,
3 1991. During the times relevant to this Indictment, SCHULMAN
4 resided in New York and worked in MILBERG WEISS's New York
5 office. SCHULMAN was appointed to MILBERG WEISS's Management
6 Committee on or about January 1, 1998; became a member of
7 MILBERG WEISS's Executive Committee on or about January 1, 1999;
8 and became a named partner on or about May 1, 2004. SCHULMAN's
9 ownership interest in MILBERG WEISS grew from approximately
10 1.25%, at the time he became an equity partner in 1991, to 15.0%
11 in 2005. During the years 1991 through 2005, SCHULMAN's share of
12 MILBERG WEISS's profits totaled approximately \$67.1 million.

13 4. During the times relevant to this Indictment,
14 defendants BERSHAD and SCHULMAN each possessed substantial
15 control over the management and conduct of MILBERG WEISS's
16 business affairs. Prior to on or about January 1, 1999, BERSHAD,
17 as an original managing partner, possessed the authority to veto
18 any proposed action or decision affecting the operation or
19 management of MILBERG WEISS. Between on or about January 1, 1999
20 and May 1, 2004, BERSHAD and SCHULMAN, as members of
21 MILBERG WEISS's Executive Committee, shared final decision making
22 authority over all actions or decisions affecting the operation
23 or management of the firm. After on or about May 1, 2004,
24 BERSHAD again possessed the authority to veto any action or
25 decision affecting MILBERG WEISS, and SCHULMAN continued to hold
26 decision making authority through his vote as a member of
27 MILBERG WEISS's Executive Committee.

28 5. At all times relevant to this Indictment, defendant
SEYMOUR M. LAZAR ("LAZAR") resided in Palm Springs, California;

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2 owned and controlled substantial real property throughout
3 Riverside County, California, and elsewhere; and was an active
4 purchaser and seller of publicly traded stocks. Between in or
5 about 1981 and 2002, LAZAR and certain of his family members
6 frequently served as plaintiffs in class actions and shareholder
7 derivative actions brought and caused to be brought by
8 MILBERG WEISS, BERSHAD, SCHULMAN, and others.

9 6. At all times relevant to this Indictment, defendant
10 PAUL T. SELZER ("SELZER") was a California lawyer residing in
11 Palm Springs, California. Prior to in or about July 1995, SELZER
12 was a partner in a law firm that maintained offices in Palm
13 Springs and elsewhere in California (the "Palm Springs Law
14 Firm"), which specialized in real estate, business, and municipal
15 law. In or about July 1995, SELZER left the Palm Springs Law
16 Firm to co-found a small law firm in Palm Springs, California
17 (the "Selzer Law Firm"), where he was a partner through in or
18 about 2004. At all times relevant to this Indictment, SELZER,
19 the Palm Springs Law Firm, and the Selzer Law Firm provided legal
20 services to defendant LAZAR relating to his business and real
21 estate holdings and other personal affairs. SELZER specialized
22 in non-litigation matters and had no expertise in litigating
23 class actions or shareholder derivative actions; the other
24 attorneys at the Palm Springs and Selzer Law Firms likewise had
25 little if any experience in litigating class actions or
26 shareholder derivative actions.

26 **II. OTHER INDIVIDUALS**

27 7. During the times relevant to this Indictment,
28 "Partner A," "Partner B," and "Partner E" were senior partners in

1
MILBERG WEISS.

2 8. During the times relevant to this Indictment,
3 Howard J. Vogel ("Vogel") resided in New Jersey and Florida and
4 worked primarily as a commercial real estate mortgage broker.
5 Between in or about 1991 and 2005, Vogel and certain of his
6 family members and associated entities frequently served as
7 plaintiffs in class actions and shareholder derivative actions
8 brought and caused to be brought by MILBERG WEISS, BERSHAD,
9 SCHULMAN, and others.

10 9. During the times relevant to this Indictment,
11 Steven G. Cooperman ("Cooperman") resided in Brentwood,
12 California and Connecticut and, prior to in or about May 1989,
13 was a licensed ophthalmologist. Between in or about 1988 and
14 1998, Cooperman and certain of his relatives and associates,
15 including "Cooperman Plaintiff 1" and "Cooperman Plaintiff 2,"
16 frequently served as plaintiffs in class actions and shareholder
17 derivative actions brought and caused to be brought by
18 MILBERG WEISS, BERSHAD, SCHULMAN, and others.

19 **III. CLASS ACTIONS AND SHAREHOLDER DERIVATIVE ACTIONS**

20 **A. Overview**

21 10. The term "class action" refers to a certain type of
22 civil lawsuit in which a court authorizes a named plaintiff to
23 represent and litigate claims on behalf of unnamed class members
24 who are not actually before the court (referred to as "absent
25 class members").

26 11. Class actions often are brought to address allegations
27 of fraud; breaches of certain legal duties of fidelity, trust,
28 and loyalty (known as "fiduciary duties"); and other financial

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wrongdoing affecting publicly traded companies. In some such cases, referred to as "securities fraud class actions," a named plaintiff alleges that his or her investment in such a company was harmed by wrongdoing committed by company executives and others, and seeks to obtain money and other relief on behalf of a class of investors in that company who are alleged to have been similarly harmed.

12. Class actions also often are brought to address allegations that a consumer product or service was defective, deceptively represented, or illegally priced. In such cases (referred to as "consumer class actions"), a named plaintiff alleges that he or she was injured or defrauded by the manufacturers or sellers of the product or service, and seeks to obtain money and other relief on behalf of a class of consumers who are alleged to have been similarly harmed.

13. A judgment in a class action (whether the result of a trial or a settlement) typically binds absent class members who do not expressly notify the court that they wish to "opt out" of the litigation.

14. The term "shareholder derivative action" refers to a certain type of civil lawsuit in which a named plaintiff, who is a shareholder in a corporation, is authorized by a court to represent the interests of other shareholders of the corporation, as well as the corporation itself, in seeking the adjudication of rights and obligations of the corporation. As in a class action, a judgment in a shareholder derivative action typically binds unnamed shareholders who are not before the court.

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15. When a controlling shareholder in a corporation
2 attempts to acquire the publicly held shares in that corporation,
3 a certain type of class action and/or shareholder derivative
4 action, referred to as a "transaction case," may be brought. In
5 such a case, a named plaintiff, who owns a minority of the shares
6 in the corporation, alleges on behalf of a class of shareholders
7 that the price per share offered by the controlling shareholder
8 to acquire the remaining shares is too low, and does not
9 represent the fair value of the publicly held shares.

10 16. Class actions and shareholder derivative actions are
11 begun by the filing of a complaint in federal or state court, in
12 which a named plaintiff alleges, among other things, the nature
13 of the claims against the defendants in the action, the reasons
14 why the action should be maintained as a class action or
15 shareholder derivative action, and the reasons why the court
16 should authorize the named plaintiff and his or her attorneys to
17 represent the interests of absent class members or shareholders
18 in the action.

19 17. Before a judgment in a class action or shareholder
20 derivative action may bind absent class members or shareholders,
21 a named plaintiff and the attorneys who seek to represent absent
22 class members or shareholders have to demonstrate to the court's
23 satisfaction, among other things, that: (a) the named plaintiff's
24 claims are "typical" of the claims of the absent class members or
25 shareholders; (b) the named plaintiff has no interest in the
26 outcome of the action that is antagonistic to, or in conflict
27 with, the interests of the absent class members or shareholders;
28 (c) the named plaintiff is not subject to unique defenses that

1
2 could become the focus of the litigation to the detriment of the
3 absent class members or shareholders; and (d) the named
4 plaintiff's attorneys will be able to fairly and adequately
5 represent the interests of the absent class members or
6 shareholders.

7 18. The court's determination that a lawsuit may proceed
8 as a class action or shareholder derivative action is referred to
9 as the "certification" of the action.

10 **B. Benefits of Securing "Lead Counsel" Status**

11 19. In many class actions and shareholder derivative
12 actions, more than one named plaintiff and more than one lawyer
13 or law firm seek to represent, and are approved by the court to
14 represent, the interests of absent class members or shareholders.
15 In such cases, the lawyers and law firms often compete to be
16 appointed by the court as "lead counsel" or "co-lead counsel" for
17 the absent class members or shareholders. A lawyer or law firm
18 that is appointed as lead or co-lead counsel typically has power
19 and responsibility, among other things, to: (a) coordinate the
20 overall litigation strategy; (b) assign the work to be done on
21 the case among lawyers and law firms who have been approved to
22 represent the class members or shareholders; and (c) in some
23 cases, determine the division of attorneys' fees awarded by the
24 court among the lawyers and law firms who have worked on the
25 case.

26 **C. Fiduciary Duties of Named Plaintiffs and**
27 **Their Attorneys**

28 20. Because the conduct and decisions of a named plaintiff
in a class action or shareholder derivative action affect the
interests and rights of class members or shareholders who are not

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2 before the court, the named plaintiff owes these absent class
3 members or shareholders certain fiduciary duties. As a result of
4 these legally imposed duties, a named plaintiff, among other
5 things: (a) may not place his or her own interests above those of
6 absent class members or shareholders; (b) may not act in a
7 deceitful or unethical manner toward the court or the absent
8 class members or shareholders; and (c) is required to disclose to
9 the court any fact that reasonably could affect his or her
10 ability to fairly or adequately represent the interests of the
11 absent class members or shareholders.

12 21. The named plaintiff's attorneys in a class action or
13 shareholder derivative action also owe the absent class members
14 or shareholders fiduciary duties. As a result of these legally
15 imposed duties, the named plaintiff's attorneys, among other
16 things: (a) may not give preferential treatment to the interests
17 of the named plaintiff over the interests of the absent class
18 members or shareholders; (b) may not act in a deceitful or
19 unethical manner toward the court or the absent class members or
20 shareholders; and (c) are required to disclose to the court any
21 fact that reasonably could affect the attorneys' ability to
22 fairly or adequately represent the interests of the absent class
23 members or shareholders.

24 **D. Court Approval of Settlements and Awards of**
25 **Attorneys' Fees**

26 22. Courts presiding over class actions or shareholder
27 derivative actions are obligated to protect the rights and
28 interests of the absent class members or shareholders. As a
result, a court is required to scrutinize any proposed settlement
of a class action or shareholder derivative action, and may

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2 approve such a settlement only if the court first determines that
3 the settlement is fair to absent class members or shareholders.

4 23. The named plaintiff's attorneys in class actions often
5 seek to obtain their attorneys' fees from the recovery obtained
6 for the class in the lawsuit; in shareholder derivative actions
7 they often seek to obtain their attorneys' fees from the
8 corporation. The attorneys' fees in such instances are paid,
9 directly or indirectly, from proceeds that otherwise would be
10 available to the absent class members or shareholders. Courts
11 presiding over class actions or shareholder derivative actions
12 are obligated, on behalf of the absent class members or
13 shareholders, to scrutinize any request for attorneys' fees to
14 ensure its fairness and reasonableness. Consistent with their
15 fiduciary duties, the named plaintiff's attorneys are required,
16 as part of any request for attorneys' fees, to disclose to the
17 court all facts that reasonably could bear on their entitlement
18 to the requested fees.

19 **E. Limitations on Compensation of Named Plaintiffs**

20 24. The compensation that may be paid to a named plaintiff
21 in a class action or shareholder derivative action is limited to
22 the following: (a) the named plaintiff's pro rata share of the
23 recovery obtained in the lawsuit, calculated on the same basis as
24 the pro rata shares available to all of the absent class members
25 or shareholders; and (b) his or her reasonable costs and expenses
26 incurred in connection with the lawsuit, as approved by the
27 court. Additionally, in some circumstances, the court presiding
28 over such a lawsuit may award a modest bonus payment to the named
plaintiff, in recognition of his or her effort in obtaining a

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beneficial result for the absent class members or shareholders.

2 Such a bonus payment may be awarded only if it is first disclosed
3 to absent class members or shareholders, and only after the
4 absent class members or shareholders have an opportunity to
5 object to the bonus award.

6 25. Because a named plaintiff acts as a fiduciary toward
7 absent class members or shareholders and is required to remain
8 free of any conflict of interest toward them, the named plaintiff
9 may not have any financial interest in the outcome of a class
10 action or shareholder derivative action lawsuit other than those
11 described above.

12 **IV. DEFENDANTS' SECRET AND ILLEGAL KICKBACK SCHEME IN CLASS**
13 **ACTIONS AND SHAREHOLDER DERIVATIVE ACTIONS**

14 26. During the time relevant to this Indictment,
15 MILBERG WEISS brought numerous class actions and shareholder
16 derivative actions against publicly traded companies and other
17 major businesses. These lawsuits generated hundreds of millions
18 of dollars in attorneys' fees for MILBERG WEISS. To bring these
19 lawsuits, MILBERG WEISS needed persons who would agree to serve
20 as named plaintiffs, and whom the courts would likely approve to
21 represent absent class members or shareholders.

22 27. Beginning at least as early as in or about 1981 and
23 continuing through at least 2005, in order to facilitate the
24 recruitment of named plaintiffs, MILBERG WEISS, BERSHAD,
25 SCHULMAN, and others known and unknown to the Grand Jury agreed
26 to and did secretly pay kickbacks to named plaintiffs in class
27 actions and shareholder derivative actions in which MILBERG WEISS
28 served as counsel. Specifically, MILBERG WEISS, BERSHAD,
SCHULMAN, and others known and unknown to the Grand Jury agreed

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to and did pay to certain individuals a substantial portion of
2 the attorneys' fees MILBERG WEISS obtained in actions in which
3 such an individual served, or caused a relative or associate to
4 serve, as a named plaintiff for MILBERG WEISS.

5

28. Included among the individuals who served as a named
6 plaintiff for MILBERG WEISS pursuant to the kickback scheme
7 described above are LAZAR; Vogel; and Cooperman and two of his
8 associates, Cooperman Plaintiff 1 and Cooperman Plaintiff 2.

9

These individuals are each referred to as a "Paid Plaintiff," and
10 collectively as the "Paid Plaintiffs." The class actions and
11 shareholder derivative actions in which the Paid Plaintiffs
12 served, or caused their spouse or an associated entity to serve,
13 as a named plaintiff for MILBERG WEISS pursuant to the kickback
14 scheme described above are referred to respectively as the
15 "Lazar Lawsuits," "Vogel Lawsuits," and "Cooperman Lawsuits," and
16 collectively as the "Lawsuits."

17

29. During the times relevant to this Indictment,
18 MILBERG WEISS's kickback arrangements with and kickback payments
19 to the Paid Plaintiffs were illegal and improper for the

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following reasons, among others: (a) under applicable New York
21 law, it is a criminal offense for an attorney to promise or give

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anything of value to induce a person to bring a lawsuit, or to
23 reward a person for having done so; (b) under applicable New York

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law, it is a criminal offense to pay a fiduciary, without the
25 consent of those to whom he or she owes fiduciary duties, with
26 the intent to influence his or her conduct as a fiduciary;

27

and (c) under applicable New York and California laws, lawyers
28 may not share attorneys' fees with persons who are not duly

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2 licensed to practice law. Additionally, the kickback
3 arrangements created a conflict of interest between the
4 Paid Plaintiffs and those to whom they owed fiduciary duties
5 because, as a result of the kickback arrangements, the
6 Paid Plaintiffs had a greater interest in maximizing the amount
7 of attorneys' fees awarded to MILBERG WEISS than in maximizing
8 the net recovery to the absent class members and shareholders.

9 30. To conceal their illegal kickback arrangements from the
10 courts presiding over the Lawsuits, the other parties to the
11 Lawsuits, and the absent class members and shareholders whose
12 interests they purported to represent in the Lawsuits,
13 MILBERG WEISS, BERSHAD, SCHULMAN, the Paid Plaintiffs, and others
14 known and unknown to the Grand Jury engaged and caused others to
15 engage in various fraudulent and deceptive acts, practices, and
16 devices. Among other things, MILBERG WEISS, BERSHAD, SCHULMAN,
17 the Paid Plaintiffs, and others known and unknown to the
18 Grand Jury made and caused others to make false and misleading
19 statements, and omitted and caused others to omit material facts,
20 in complaints, motions, certifications, declarations, and other
21 documents filed in the Lawsuits, and in depositions and other
22 discovery of the Paid Plaintiffs taken in the Lawsuits.
23 Additionally, MILBERG WEISS, BERSHAD, SCHULMAN, and others known
24 and unknown to the Grand Jury concealed and disguised the illegal
25 kickbacks by, among other things, paying the kickbacks in cash
26 and through intermediary law firms and lawyers selected by the
27 Paid Plaintiffs (hereinafter the "Intermediary Lawyers"), who
28 then used and disbursed the payments at the direction, and for
the benefit, of the Paid Plaintiffs.

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2 31. The Intermediary Lawyers included: (a) SELZER, the
3 Palm Springs Law Firm, the Selzer Law Firm, other attorneys and
4 their associated law firms in Los Angeles, California ("Lazar
5 Intermediary A"), Portland, Oregon ("Lazar Intermediary B"),
6 Santa Ana, California ("Lazar Intermediary C"), and Kansas City,
7 Kansas ("Lazar Intermediary D"), and a Los Angeles entertainment
8 lawyer ("Lazar Intermediary E"), all of whom acted as
9 intermediary lawyers for LAZAR; (b) attorneys in Denver, Colorado
10 and New York, New York, and their associated law firms ("Vogel
11 Intermediary A" and "Vogel Intermediary B," respectively), who
12 acted as intermediary lawyers for Vogel; and (c) attorneys in
13 Los Angeles and Santa Monica, California and their associated law
14 firms ("Cooperman Intermediary A" and "Cooperman Intermediary B,"
15 respectively), who acted as intermediary lawyers for Cooperman.

16 32. The concealment of the secret and illegal kickback
17 arrangements and payments from the courts presiding over the
18 Lawsuits influenced, obstructed, and impeded the ability of such
19 courts to assess and determine: (a) the appropriateness of
20 approving the Lawsuits to proceed as class actions or shareholder
21 derivative actions; (b) the ability of the Paid Plaintiffs and
22 their spouses and associated entities to fairly and adequately
23 represent the interests of the absent class members or
24 shareholders; (c) the ability of MILBERG WEISS, BERSHAD,
25 SCHULMAN, and other MILBERG WEISS lawyers to fairly and
26 adequately represent the interests of the absent class members or
27 shareholders; (d) the fairness of settlements proposed by
28 MILBERG WEISS, BERSHAD, SCHULMAN, and the Paid Plaintiffs in the
Lawsuits; and (e) whether and the extent to which MILBERG WEISS

1 should be awarded the attorneys' fees it sought in the Lawsuits.

2 33. By defendants MILBERG WEISS, BERSHAD, SCHULMAN, and
3 others known and unknown to the Grand Jury offering, promising to
4 pay, and paying the Paid Plaintiffs secret and illegal kickbacks,
5 and by the Paid Plaintiffs directing and accepting such payments,
6 the absent class members and shareholders in each of the Lawsuits
7 were deprived of:

8 (a) the honest services of MILBERG WEISS, BERSHAD,
9 SCHULMAN, LAZAR, the other Paid Plaintiffs, and others known and
10 unknown to the Grand Jury, including: (i) the services of a named
11 plaintiff who was free from any conflict of interest that might
12 impair his or her ability to fairly and adequately represent
13 their interests; (ii) the services of attorneys who were able to
14 fairly and adequately represent their interests without
15 preference to the interests of a named plaintiff; and (iii) the
16 services of a named plaintiff and attorneys who would not act in
17 a deceitful, unethical, or unlawful manner toward them or the
18 court;

19 (b) material economic information that affected their
20 right and ability to influence and control class actions and
21 shareholder derivative actions brought on their behalf; and

22 (c) the amount of any kickback that MILBERG WEISS paid
23 using attorneys' fees obtained in the Lawsuit.

24 **V. SUMMARY OF KICKBACK PAYMENTS**

25 **A. Kickback Payments to Lazar**

26 34. Beginning in or about 1981 and continuing through at
27 least in or about 2004, LAZAR served, and caused his relatives
28 and an affiliated entity to serve, as named plaintiffs in

1 approximately seventy lawsuits. In total, MILBERG WEISS,
 2 BERSHAD, and others known and unknown to the Grand Jury made and
 3 caused to be made approximately \$ 2.4 million in secret and
 4 illegal kickback payments for the benefit of LAZAR. Among such
 5 kickback payments were the following, which MILBERG WEISS
 6 associated with the lawsuits identified below and other
 7 procedurally related lawsuits:

Common Case Name, Case Number, and Court	Named Plaintiff(s)	Date of Kickback	Approximate Kickback
<u>Arcata</u> , Civ. No. 257916 (San Mateo County, California, Superior Court)	LAZAR	04/19/84	\$ 8,000
		04/19/84	\$ 32,000
		08/29/84	\$ 54,000
<u>Standard Oil/British Petroleum</u> , No. 127045 (Cuyahoga County, Ohio Court of Common Pleas)	LAZAR	06/29/87	\$ 50,000
		08/17/89	\$ 50,000
<u>Genentech I</u> , C-88-4038 (United States District Court, Northern District of California)	LAZAR	01/23/91	\$ 150,000
		04/28/92	\$ 150,000 (one payment associated with four cases)
<u>Ashland Oil</u> , 86-2465 (United States District Court, Central District of California)	LAZAR's wife	04/28/92	\$ 150,000 (one payment associated with four cases)
<u>Jardine/Bear Stearns</u> , No. 87-26513 (Supreme Court of New York County, New York)	LAZAR	04/28/92	\$ 150,000 (one payment associated with four cases)
<u>PG&E</u> , No. 893849 (San Francisco County, California, Superior Court)	LAZAR's mother-in- law	04/28/92	\$ 150,000 (one payment associated with four cases)
<u>Beverly Hills Savings</u> , No. CV 85-2702 (United States District Court, Central District of California)	LAZAR	12/17/92	\$ 90,079

Common Case Name, Case Number, and Court	Named Plaintiff(s)	Date of Kickback	Approximate Kickback
<u>New Image</u> , No. CV 90-6345 (United States District Court, Central District of California)	LAZAR	07/09/93	\$ 51,881
<u>Zenith National</u> , BC 015017 (Los Angeles County, California, Superior Court)	LAZAR's wife	12/16/93	\$ 89,000
		12/29/93	\$ 201,329
		07/17/95	\$ 65,000
		07/17/95	\$ 35,000
<u>United Airlines</u> , No. 13312 (New Castle County, Delaware Chancery Court)	LAZAR's son	03/10/95	\$ 250,000
<u>Lockheed</u> , CA 001171 (Los Angeles County, California, Superior Court)	LAZAR	09/28/95	\$ 60,000
<u>ZZZZ Best</u> , No. CV 87-6151 (United States District Court, Central District of California)	LAZAR; LAZAR's wife	12/14/95	\$ 50,000
		05/20/96	\$ 60,000 (one payment associated with two cases)
<u>Community Psychiatric</u> , No. 91-5258 (United States District Court, Central District of California)	Cooperman	03/07/96	\$ 25,000
<u>Genentech III</u> , No. 14268 (New Castle County, Delaware, Chancery Court)	LAZAR	05/20/96	\$ 60,000 (one payment associated with two cases)
		12/17/96	\$ 60,000 (one payment associated with two cases)
<u>Copley Pharmaceutical</u> , No. 95-10113 (United States District Court, District of Massachusetts)	LAZAR	12/17/96	\$ 60,000 (one payment associated with two cases)

Common Case Name, Case Number, and Court	Named Plaintiff(s)	Date of Kickback	Approximate Kickback
<u>Concord Holdings</u> , Civ 94-20579 (United States District Court, Northern District of California)	LAZAR	05/06/97	\$ 46,175
<u>Denny's</u> , No. 736748-7 (Alameda County, California, Superior Court)	LAZAR's son	11/14/97	\$ 80,000
		08/12/98	\$ 50,000
		12/18/98	\$ 50,000
		06/25/99	\$ 50,000 (one payment associated with two cases)
		12/08/99	\$ 75,000 (one payment associated with two cases)
		05/26/00	\$ 125,000 (one payment associated with two cases)
<u>W.R. Grace</u> , Civ. 95-8633 (United States District Court, Southern District of Florida)	LAZAR	05/14/98	\$ 75,000
		06/25/99	\$ 50,000 (one payment associated with two cases)
		12/08/99	\$ 75,000 (one payment associated with two cases)
		05/26/00	\$ 125,000 (one payment associated with two cases)
<u>Schein Pharmaceutical</u> , Civ. 98-4311 (United States District Court, District of New Jersey)	LAZAR's daughter	12/28/00	\$ 50,000
		07/09/01	\$ 133,000

B. Kickback Payments to Vogel

35. Beginning in or about 1991 and continuing through at least in or about 2005, Vogel served, and caused his relatives

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2 and associated entities to serve, as named plaintiffs in
3 approximately forty lawsuits. In total, MILBERG WEISS, BERSHAD,
4 SCHULMAN, Partner E, and others known and unknown to the
5 Grand Jury made and caused to be made approximately \$ 2.5 million
6 in secret and illegal kickback payments for the benefit of Vogel.
7 Among such kickback payments were the following, made in
8 connection with the lawsuits identified below and other
9 procedurally related lawsuits:

Common Case Name, Case Number, and Court	Named Plaintiff(s)	Date of Kickback	Approximate Kickback
<u>Valero Energy</u> , No. 1991 CI 12179 (Bexar, Texas District Court) (" <u>Valero I</u> ")	Vogel and Vogel's wife	12/28/92	\$ 637,223
<u>Valero Natural Gas Partners</u> , No. 13194 (New Castle County, Delaware Chancery Court) (" <u>Valero II</u> ")	Vogel	07/18/94	\$ 69,861
<u>Guaranty National</u> , No. 0602632/1996 (New York County, New York Supreme Court)	Vogel's wife	08/08/97	\$ 44,115
<u>Guaranty National</u> , No. 97-CV-5754 (United States District Court, District of Colorado)	Vogel's wife	04/27/99	\$ 47,160
<u>Santa Fe Pacific Pipeline Partners</u> , No. 785816 (Orange County, California Superior Court)	Vogel's wife	04/27/99	\$ 10,920
<u>Vastar Resources</u> , No. 17890 (New Castle County, Delaware Chancery Court)	Vogel's wife	12/05/00	\$ 94,000
<u>Travelers Property Casualty</u> , No. 17902 (New Castle County, Delaware Chancery Court)	Vogel	05/17/01	\$ 140,345

Common Case Name, Case Number, and Court	Named Plaintiff(s)	Date of Kickback	Approximate Kickback
<u>Life Technologies</u> , No. 16519 (New Castle County, Delaware Chancery Court)	Vogel's wife	09/05/02	\$ 1,044
<u>Infinity Broadcasting</u> , No. 18219 (New Castle County, Delaware Chancery Court)	Vogel's wife	03/17/03	\$ 86,923
<u>Intimate Brands</u> , No. 19382 (New Castle County, Delaware Chancery Court)	Vogel's wife	03/17/03	\$ 47,746
<u>Future Healthcare</u> , No. 95-CV-182 (United States District Court, Southern District of Ohio)	Vogel	03/21/03	\$ 68,994
<u>Baan Company</u> , No. 98-CV-2532 (United States District Court, District of Columbia)	Vogel's stepson	12/18/03	\$ 120,000
<u>Oxford Health Plans</u> , No. 97-CV-2325 (United States District Court, District of Connecticut)	Howard Vogel Retirement Plan	12/18/03	\$1,100,000
<u>US Oncology</u> , No. 324-N (New Castle County, Delaware Chancery Court)	Vogel	01/06/05	\$ 11,474
		02/16/05	\$ 2,295
<u>Barnesandnoble.com</u> , No. 042-N (New Castle County, Delaware Chancery Court)	Vogel's wife	05/19/05	\$ 10,801

36. In addition to the foregoing kickback payments, MILBERG WEISS, BERSHAD, Partner E, and others known and unknown to the Grand Jury paid and caused to be paid to Vogel a substantial amount of cash for causing his wife to serve as a named plaintiff in the Vogel Lawsuit Vogel, et al. v. Mercer Int'l Inc., et al., CV 94-4229 (United States District Court, Central District of California) ("Merger").

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C. Kickback Payments to Cooperman

37. Beginning in or about 1988 and continuing through at least in or about 1998, Cooperman served, and caused his relatives and associates to serve, as named plaintiffs in approximately seventy lawsuits. In total, MILBERG WEISS, BERSHAD, and others known and unknown to the Grand Jury made and caused to be made approximately \$ 6.5 million in secret and illegal kickback payments for the benefit of Cooperman, Cooperman Plaintiff 1, and Cooperman Plaintiff 2. Among such kickback payments were the following, which MILBERG WEISS associated with the lawsuits identified below and other procedurally related lawsuits:

Common Case Name, Case Number, and Court	Named Plaintiff(s)	Date of Kickback	Approximate Kickback
<u>Cetus</u> , No. C-90-2042 (United States District Court, Northern District of California)	Cooperman	11/20/91	\$ 178,507
<u>Cineplex Odeon</u> , No. CV 89-2579 (United States District Court, Central District of California)	Cooperman	01/08/92	\$ 21,376
<u>Jan Bell Marketing</u> , No. CV 90-6183 (United States District Court, Southern District of Florida)	Cooperman	07/21/92	\$ 19,363
<u>American Continental/Lincoln Savings</u> , No. CV 89-2448 (United States District Court, Central District of California)	Cooperman Plaintiff 1	10/21/92	\$ 440,000
		07/19/93	\$ 250,000
		11/09/94	\$ 160,000
		12/21/95	\$ 163,000

Common Case Name, Case Number, and Court	Named Plaintiff(s)	Date of Kickback	Approximate Kickback
Software Toolworks, No. C-90-2920 (United States District Court, Northern District of California)	Cooperman	12/16/92	\$ 317,885
		01/15/93	\$ 30,605
		01/28/97	\$ 73,560
		01/28/97	\$ 73,560
		02/25/99	\$ 128,452
LA Gear, No. CV 90-2832 (United States District Court, Central District of California)	Cooperman	01/29/93	\$ 50,000
		05/18/93	\$ 160,000
		07/19/93	\$ 7,476
Prime Motor Inns, No. 90-99 (United States District Court, District of New Jersey)	Cooperman	03/12/93	\$ 200,286
Sun Microsystems, No. C-93-20292 (United States District Court, Northern District of California)	Cooperman	08/16/93	\$ 99,887
One Bancorp, Civil No. 89-0315 (United States District Court, District of Maine)	Cooperman	08/16/93	\$ 39,332
Epitope, Civ. No. 92-780 (United States District Court, District of Oregon)	Cooperman	08/16/93	\$ 3,849
Fairfield Communities, No. C-90-464 (United States District Court, Eastern District of Arkansas)	Cooperman	08/16/93	\$ 24,996
Shawmut, No. H-90-253 (United States District Court, District of Connecticut)	Cooperman	08/16/93	\$ 13,436
Valley National, No. Civ. 89-1733 (United States District Court, District of Arizona)	Cooperman	03/01/94	\$ 17,458

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Common Case Name, Case Number, and Court	Named Plaintiff(s)	Date of Kickback	Approximate Kickback
<u>First Executive</u> , No. 89-7135 (United States District Court, Central District of California)	Cooperman	03/11/94	\$ 763,997
		05/27/94	\$ 211,000
		05/27/94	\$ 100,000
		02/15/95	\$ 100,000
		12/21/95	\$ 200,000
		12/21/95	\$ 140,000
		04/04/96	\$ 150,000
<u>Columbia Savings & Loan</u> , No. CV 89-6538 (United States District Court, Central District of California)	Cooperman	03/31/94	\$ 200,000
		04/29/94	\$ 112,495
		07/27/94	\$ 200,000
		08/04/94	\$ 250,000
		09/22/94	\$ 191,278
		03/30/95	\$ 79,000
		03/30/95	\$ 79,000
<u>U.S. Bioscience</u> , No. CV 92-0743 (United States District Court, Eastern District of Pennsylvania)	associate of Cooperman	09/22/94	\$ 2,700
<u>Abbott Laboratories</u> , Civ. No. 632601 (San Diego County, California, Superior Court) (aka " <u>Infant Formula</u> ")	Cooperman	07/05/95	\$ 25,868
<u>T2 Medical</u> , No. CV 94-1584 (United States District Court, Northern District of Georgia)	one of Cooperman's brothers-in-law ("Cooperman Brother-in-Law A")	07/05/95	\$ 6,433
<u>Fidelity Medical</u> , No. 92-1913 (United States District Court, District of New Jersey)	Cooperman's wife	07/07/95	\$ 22,207

Common Case Name, Case Number, and Court	Named Plaintiff(s)	Date of Kickback	Approximate Kickback
SCI-TV, No. BC100359 (Los Angeles County, California, Superior Court)	Cooperman	11/01/95	\$ 100,000
		11/16/95	\$ 81,846
		11/16/95	\$ 100,000
		12/01/95	\$ 40,000
		12/01/95	\$ 40,000
Community Psychiatric, No. 91-5258 (United States District Court, Central District of California)	Cooperman	03/07/96	\$ 180,140
		11/11/96	\$ 114,892
		02/25/99	\$ 145,305
Heart Technology, No. 14513 (New Castle County, Delaware, Chancery Court)	Cooperman Plaintiff 2	05/06/97	\$ 19,859

38. In addition to the foregoing kickback payments, during the period from in or about March 1989 through February 1990, MILBERG WEISS, BERSHAD, and others known and unknown to the Grand Jury paid and caused to be paid approximately \$245,000 to one of Cooperman's brothers-in-law ("Cooperman Brother-in-Law B"), of which \$203,000 was forwarded to an account controlled by Cooperman.

39. During the period from 1984 through 2005, MILBERG WEISS obtained more than approximately \$ 216.1 million in attorneys' fees in the Lawsuits and litigation resolving the Lawsuits, and, together with BERSHAD, SCHULMAN, and others known and unknown to the Grand Jury, paid and caused to be paid more than approximately \$ 11.3 million in secret and illegal kickbacks to the Paid Plaintiffs.

COUNT ONE

[Defendants MILBERG WEISS, BERSHAD, SCHULMAN, and LAZAR]

[18 U.S.C. § 371]

[Conspiracy]

40. The Grand Jury hereby repeats and realleges paragraphs 1 through 39 of this Indictment.

I. THE OBJECTS OF THE CONSPIRACY

41. Beginning on a date unknown but at least as early as in or about 1981, and continuing through at least in or about 2005, within the Central District of California and elsewhere, defendants MILBERG WEISS, DAVID J. BERSHAD, STEVEN G. SCHULMAN, and SEYMOUR M. LAZAR, together with Partner A, Partner B, the other Paid Plaintiffs, and other persons known and unknown to the Grand Jury, knowingly combined, conspired, and agreed to commit the following offenses against the United States:

a. to commit obstruction of justice by corruptly influencing, obstructing, and impeding, and endeavoring to influence, obstruct, and impede, the due administration of justice in the Lawsuits filed and litigated in federal courts, in violation of Title 18, United States Code, Section 1503;

b. to make false material declarations under oath in proceedings before and ancillary to courts of the United States, in connection with the Lawsuits filed and litigated in federal courts, in violation of Title 18, United States Code, Section 1623(a);

c. to travel in interstate commerce and to use the mail and other facilities in interstate commerce with intent to distribute the proceeds of unlawful activity and otherwise to

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facilitate the promotion, management, and carrying on of such
unlawful activity, namely, commercial bribery of the
Paid Plaintiffs, in violation of New York Penal Law
Section 180.00, and thereafter to perform and attempt to perform
acts to distribute the proceeds of such unlawful activity and to
facilitate the promotion, management, and carrying on of such
activity, in violation of Title 18, United States Code,
Section 1952(a)(1), (3).

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d. to commit mail fraud by using the United States
mails and commercial interstate carriers to execute a scheme to
defraud absent class members and shareholders in the Lawsuits as
to a material matter, by depriving them of money and property and
the honest services of MILBERG WEISS, BERSHAD, SCHULMAN, LAZAR,
the other Paid Plaintiffs, and others, and to obtain money and
property by means of material false and fraudulent pretenses,
representations, and promises, in violation of Title 18, United
States Code, Sections 1341 and 1346;

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e. to commit wire fraud by using interstate wire and
radio communications to execute a scheme to defraud absent class
members and shareholders in the Lawsuits as to a material matter,
by depriving them of money and property and the honest services
of MILBERG WEISS, BERSHAD, SCHULMAN, LAZAR, the other
Paid Plaintiffs, and others, and to obtain money and property by
means of material false and fraudulent pretenses,
representations, and promises, in violation of Title 18, United
States Code, Sections 1343 and 1346; and

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f. to make illegal payments to a witness by giving,
offering, and promising money to the Paid Plaintiffs, for and

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2 because of the testimony under oath or affirmation given and to
3 be given by the Paid Plaintiffs as a witness upon a trial,
4 hearing, or other proceeding before a court authorized by the
5 laws of the United States to hear evidence or take testimony in
6 the Lawsuits, filed or litigated in federal courts, in violation
7 of Title 18, United States Code, Section 201(c)(2).

8 **II. MANNER AND MEANS OF THE CONSPIRACY**

9 42. The objects of the conspiracy were carried out in the
10 manner and by the means described below, among others.

11 43. MILBERG WEISS, BERSHAD, SCHULMAN, and others known and
12 unknown to the Grand Jury arranged for the Paid Plaintiffs to
13 serve, and to cause relatives and associates to serve, as named
14 plaintiffs in class actions and shareholder derivative actions in
15 which MILBERG WEISS served as counsel.

16 44. As an inducement to the Paid Plaintiffs to serve, and
17 to induce them to cause relatives and associates to serve, as
18 named plaintiffs, MILBERG WEISS, BERSHAD, SCHULMAN, and others
19 known and unknown to the Grand Jury offered, promised, and agreed
20 secretly to pay the Paid Plaintiffs kickbacks consisting of a
21 portion of the attorneys' fees that MILBERG WEISS expected to
22 obtain in each action in which the respective Paid Plaintiff
23 served, or caused a relative or associate to serve, as a named
24 plaintiff.

25 45. In the course of the Lawsuits, MILBERG WEISS, BERSHAD,
26 SCHULMAN, LAZAR, the other Paid Plaintiffs, and others known and
27 unknown to the Grand Jury engaged in, and caused each other to
28 engage in, various fraudulent and deceptive acts, practices, and
29 devices, including the following:

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a. MILBERG WEISS, BERSHAD, SCHULMAN, LAZAR, the other
2 Paid Plaintiffs, and others known and unknown to the Grand Jury,
3 concealed their illegal kickback arrangements from the courts
4 presiding over, the other parties to, and the absent class
5 members and shareholders in the Lawsuits;

6 b. MILBERG WEISS, BERSHAD, SCHULMAN, LAZAR, the other
7 Paid Plaintiffs, and others known and unknown to the Grand Jury
8 made and caused to be made false and misleading representations
9 in: (i) complaints to initiate and maintain the Lawsuits;
10 (ii) motions seeking court approval for the Lawsuits to proceed
11 as class actions or shareholder derivative actions; and
12 (iii) motions seeking court approval of MILBERG WEISS and the
13 Paid Plaintiffs or their spouses or associated entities to
14 represent absent class members or shareholders in the Lawsuits.
15 Specifically, they caused to be represented in these pleadings
16 that the Paid Plaintiffs or their spouses or associated entities
17 had no interest in conflict with, or antagonistic to, absent
18 class members or shareholders in the Lawsuits, and that
19 MILBERG WEISS and the Paid Plaintiffs or their spouses or
20 associated entities would fairly and adequately represent their
21 interests. In truth and in fact, as MILBERG WEISS, BERSHAD,
22 SCHULMAN, LAZAR, and the other Paid Plaintiffs well knew, the
23 interests of the Paid Plaintiffs or their spouses or associated
24 entities conflicted with those of absent class members or
25 shareholders because, as a result of their secret and illegal
26 kickback arrangements, they had a greater interest in maximizing
27 the amount of attorneys' fees awarded to MILBERG WEISS than in
28 maximizing the net recovery to the absent class members or

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2 shareholders. Additionally, as a result of the secret and
3 illegal kickback arrangements, MILBERG WEISS improperly favored
4 the financial interests of the Paid Plaintiffs or their spouses
5 or associated entities over the interests of the absent class
6 members or shareholders.

7 c. In under-oath testimony given in connection with
8 the Lawsuits and in written certifications, declarations, and
9 other documents signed under penalty of perjury in the Lawsuits,
10 LAZAR and the other Paid Plaintiffs, acting in concert with
11 MILBERG WEISS, BERSHAD, SCHULMAN, and others, falsely denied that
12 they had ever received, or expected to receive, any payment for
13 serving as a named plaintiff other than their pro rata share of
14 the recovery based on the same terms as the pro rata shares
15 available to all of the absent class members or shareholders. In
16 truth and in fact, as MILBERG WEISS, BERSHAD, SCHULMAN, LAZAR,
17 and the other Paid Plaintiffs well knew, in return for serving as
18 named plaintiffs the Paid Plaintiffs had received and expected to
19 receive from MILBERG WEISS, BERSHAD, SCHULMAN, and others
20 kickback payments that substantially exceeded any pro rata share
21 of the recovery they received, or could expect to receive, based
22 on the terms used to determine the pro rata shares available to
23 all of the absent class members or shareholders in the Lawsuits.

24 d. MILBERG WEISS, BERSHAD, SCHULMAN, LAZAR, the other
25 Paid Plaintiffs, and others known and unknown to the Grand Jury
26 caused the Lawsuits to be settled in a manner that often would
27 generate substantial attorneys' fees for MILBERG WEISS, while
28 concealing from the courts approving these settlements, and from
the absent class members or shareholders on whose behalf the

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2 settlements were being negotiated, their secret and illegal
3 kickback arrangements.

4 e. MILBERG WEISS, BERSHAD, SCHULMAN, LAZAR, the other
5 Paid Plaintiffs, and others known and unknown to the Grand Jury
6 caused to be filed motions in the Lawsuits seeking the awards of
7 attorneys' fees to MILBERG WEISS, in which they concealed from
8 the courts awarding attorneys' fees, and the absent class members
9 or shareholders, their illegal kickback arrangements under which
10 the awarded attorneys' fees secretly would be shared with the
11 Paid Plaintiffs.

12 46. In the course of certain of the securities fraud class
13 action Lawsuits, MILBERG WEISS, BERSHAD, SCHULMAN, Vogel,
14 Cooperman Plaintiff 1, Cooperman Plaintiff 2, and others known
15 and unknown to the Grand Jury engaged in, and caused each other
16 to engage in, additional fraudulent and deceptive acts,
17 practices, and devices, including the following:

18 a. MILBERG WEISS, BERSHAD, SCHULMAN, and others known
19 and unknown to the Grand Jury falsely represented and caused to
20 be falsely represented in complaints and other pleadings filed in
21 such Lawsuits that the Paid Plaintiffs' claims were typical of
22 the claims of the members of the class and that the
23 Paid Plaintiffs relied on the allegedly false and misleading
24 statements made by the defendants in the Lawsuits when purchasing
25 the securities at issue in the Lawsuits. In truth and in fact,
26 as MILBERG WEISS, BERSHAD, SCHULMAN, and others well knew, the
27 Paid Plaintiffs' claims in such Lawsuits were not typical of the
28 claims of the class members. Unlike the other class members in
the Lawsuits, the Paid Plaintiffs purchased the securities at

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2 issue anticipating that the securities would decline in value, in
3 order to position themselves to be named plaintiffs in securities
4 fraud class actions and to obtain kickback payments from MILBERG
5 WEISS, BERSHAD, SCHULMAN, and others.

6 b. In under-oath testimony given in connection with
7 such Lawsuits and in written certifications, declarations, and
8 other documents signed under penalty of perjury in such Lawsuits,
9 Vogel, Cooperman Plaintiff 1, Cooperman Plaintiff 2, and other
10 Paid Plaintiffs, acting in concert with MILBERG WEISS, BERSHAD,
11 SCHULMAN, and others known and unknown to the Grand Jury, falsely
12 denied that they purchased the securities at issue in the
13 Lawsuits in order to be named plaintiffs. In truth and in fact,
14 as MILBERG WEISS, BERSHAD, SCHULMAN, the Paid Plaintiffs in such
15 Lawsuits, and others well knew, the Paid Plaintiffs purchased the
16 securities at issue in order to position themselves to be named
17 plaintiffs in securities fraud class actions and to obtain
18 kickback payments from MILBERG WEISS, BERSHAD, SCHULMAN, and
19 others.

20 47. After the court in a Lawsuit awarded attorneys' fees,
21 or was expected to award attorneys' fees, MILBERG WEISS, BERSHAD,
22 SCHULMAN, and others known and unknown to the Grand Jury arranged
23 for the secret and illegal kickbacks to be paid to the Paid
24 Plaintiffs. To conceal and disguise these kickback payments,
25 among other things: (a) MILBERG WEISS, BERSHAD, and others known
26 and unknown to the Grand Jury made and caused kickback payments
27 to be made in cash given directly to the Paid Plaintiffs; and
28 (b) MILBERG WEISS, BERSHAD, SCHULMAN, and others known and
unknown to the Grand Jury made and caused kickback payments to be

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made by MILBERG WEISS check payable to the Intermediary Lawyers or other professionals selected by the Paid Plaintiffs, who then used and disbursed the payments at the direction, and for the benefit, of the Paid Plaintiffs.

48. To further conceal and disguise the kickbacks paid to the Paid Plaintiffs in cash:

a. MILBERG WEISS, BERSHAD, Partner A, and others known and unknown to the Grand Jury obtained and caused to be obtained the cash in a manner that made the payments difficult to trace, including from casinos;

b. MILBERG WEISS, BERSHAD, and others known and unknown to the Grand Jury kept cash used to make such payments in a safe located in a credenza in BERSHAD's office at MILBERG WEISS, to which access was strictly limited;

c. MILBERG WEISS, BERSHAD, and others known and unknown to the Grand Jury failed to record such cash payments in MILBERG WEISS's accounting books and records.

49. To further conceal and disguise the kickbacks paid by MILBERG WEISS check made payable to the Intermediary Lawyers or other professionals selected by the Paid Plaintiffs:

a. MILBERG WEISS, BERSHAD, SCHULMAN, and others known and unknown to the Grand Jury caused such payments to be falsely characterized in MILBERG WEISS's accounting books and records as, among other things, referral fees, professional fees, and "fees to others" paid to the Intermediary Lawyers or other professionals;

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2 b. MILBERG WEISS, BERSHAD, SCHULMAN, and others known
3 and unknown to the Grand Jury falsely characterized such payments
4 in accompanying cover letters as, among other things: the
5 Intermediary Lawyer's "entitlement" for work and responsibility
6 "assumed" in a Lawsuit; the Intermediary Lawyer's "share" of
7 attorneys' fees for "work, services, and joint representation" of
8 a Paid Plaintiff in a Lawsuit; "referral" fees earned by the
9 Intermediary Lawyer in a Lawsuit; the Intermediary Lawyer's
10 "participation" in MILBERG WEISS's fee award in a Lawsuit; or
11 made "on account of cases" that MILBERG WEISS was "doing" with
12 the Intermediary Lawyer or other professional;

13 c. MILBERG WEISS, BERSHAD, and others known and
14 unknown to the Grand Jury provided and caused to be provided
15 false and misleading information to MILBERG WEISS's outside
16 accountants and tax return preparers concerning such payments,
17 which helped to disguise them as legitimate fees paid for the
18 benefit of the Intermediary Lawyers and other professionals,
19 rather than as illegal kickback payments for the benefit of the
20 Paid Plaintiffs; and

21 d. MILBERG WEISS, BERSHAD, and others known and
22 unknown to the Grand Jury issued and caused to be issued IRS
23 Forms 1099-MISC to the Intermediary Lawyers, which made it appear
24 as if such payments were legal referral fees for the benefit of
25 the Intermediary Lawyers.

26 50. After an Intermediary Lawyer or other professional
27 received a kickback payment from MILBERG WEISS, the
28 Paid Plaintiff directed the Intermediary Lawyer or other
professional to use and apply such kickback payment for the

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benefit of the Paid Plaintiff including, among other things:
2 (a) to make a payment directly to the Paid Plaintiff; (b) to
3 satisfy legal fees or expenses that the Paid Plaintiff owed or
4 would owe to the Intermediary Lawyer; and (c) to pay third
5 parties to whom the Paid Plaintiff owed money.

6 **III. OVERT ACTS**

7 51. In furtherance of the conspiracy and to accomplish its
8 object, defendants MILBERG WEISS, BERSHAD, SCHULMAN, and LAZAR,
9 together with Partner A, Partner B, the other Paid Plaintiffs,
10 and others known and unknown to the Grand Jury, committed and
11 caused others to commit the following overt acts, among others,
12 in the Central District of California and elsewhere, in
13 connection with the following Lawsuits.

14 **A. Overt Acts in the Lazar Lawsuits**

15 **The Arcata Class Action**

16 Overt Act No. 1: On or about October 1, 1981,
17 MILBERG WEISS and others known and unknown to the Grand Jury
18 caused to be filed a verified class action and shareholder
19 derivative action complaint in the Arcata lawsuit, naming
20 defendant LAZAR as a plaintiff.

21 Overt Act No. 2: On or about March 1, 1982, in support
22 of a request that the court certify Arcata as a class action,
23 LAZAR falsely represented, under penalty of perjury, that he had
24 "no agreement or understanding to share in the legal fees, if
25 any, that are awarded to [MILBERG WEISS]."

26 Overt Act No. 3: On or about March 13, 1984,
27 MILBERG WEISS obtained approximately \$821,000 in attorneys' fees
28 awarded by the court in Arcata.

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Overt Act No. 4: On or about April 19, 1984, MILBERG WEISS paid \$8,000 to Lazar Intermediary D, which MILBERG WEISS characterized in its accounting books and records as professional fees to Lazar Intermediary D relating to LAZAR.

Overt Act No. 5: In or about April 1984, LAZAR caused Lazar Intermediary D to use proceeds of the payment described in Overt Act No. 4 for LAZAR's benefit.

Overt Act No. 6: On or about April 19, 1984, MILBERG WEISS sent to Selzer and the Palm Springs Law Firm a \$32,000 check, which MILBERG WEISS characterized in its accounting books and records as professional fees to the Palm Springs Law Firm relating to LAZAR.

Overt Act No. 7: On or about April 30, 1984, LAZAR caused the Palm Springs Law Firm to use the proceeds of the check described in Overt Act No. 6 to satisfy \$32,000 in legal fees owed by LAZAR to the Palm Springs Law Firm.

Overt Act No. 8: On or about July 16, 1984, MILBERG WEISS obtained approximately \$547,168 in additional attorneys' fees awarded by the court in Arcata.

Overt Act No. 9: On or about August 23, 1984, LAZAR caused the Palm Springs Law Firm to send to MILBERG WEISS an invoice billing the New York Law Firm in the amount of \$54,000 for "Legal Services rendered to Seymour Lazar."

Overt Act No. 10: On or about August 29, 1984, MILBERG WEISS sent to the Palm Springs Law Firm a \$54,000 check, which MILBERG WEISS characterized in its accounting books and records as "fees to others" paid to the Palm Springs Law Firm relating to Arcata.

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2 Overt Act No. 11: On or about September 11, 1984, LAZAR
3 and Selzer caused the Palm Springs Law Firm to deposit the
4 \$54,000 check described in Overt Act No. 10 into a personal trust
5 account established for the benefit of LAZAR.

6 Overt Acts Nos. 12-17: On or about the following dates,
7 LAZAR and Selzer caused the Palm Springs Law Firm to use the
8 proceeds of the \$54,000 check described in Overt Act No. 11 to
9 make the following payments and credits, among others, for the
10 benefit of LAZAR:

OVERT ACT	DATE	APPROXIMATE AMOUNT	RECIPIENT
No. 12	09/18/84	\$ 27,000	trust account of LAZAR's wife
No. 13	09/18/84	\$ 792	surveying firm
No. 14	10/11/84	\$ 2,000	law firm in Downey, California
No. 15	10/23/84	\$ 15,000	the Palm Springs Law Firm
No. 16	11/13/84	\$ 2,000	law firm in Downey, California
No. 17	12/4/84	\$ 2,000	law firm in Downey, California

19 Overt Act No. 18: On or about August 29, 1984, MILBERG
20 WEISS recharacterized in its accounting books and records the
21 \$8,000 and \$32,000 payments described in Overt Acts Nos. 4 and 6
22 from "professional fees" relating to LAZAR to "fees to others"
23 relating to Arcata.

24 **The Standard Oil/British Petroleum Class Action**

25 Overt Act No. 19: In or about April 1987, MILBERG WEISS
26 and others known and unknown to the Grand Jury caused to be filed
27 a class action complaint in the Standard Oil/British Petroleum
28 lawsuit, naming LAZAR as a plaintiff.

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Overt Act No. 20: On or about June 22, 1987, LAZAR caused Selzer to send a letter to Partner A purportedly confirming that MILBERG WEISS had agreed to pay 10% of the fees it received in Standard Oil/British Petroleum to the Palm Springs Law Firm "on account of services rendered by [the Palm Springs Law Firm] to Mr. Lazar" and requesting that MILBERG WEISS "advance" the Palm Springs Law Firm "\$50,000 on or before June 30, 1987."

Overt Act No. 21: On or about June 29, 1987, MILBERG WEISS and BERSHAD caused to be sent to Selzer and the Palm Springs Law Firm a \$50,000 check, with a cover letter signed by BERSHAD falsely describing the payment as fees to Selzer and the Palm Springs Law Firm "in furtherance of arrangements made" with regard to "Lazar v. British Petroleum."

Overt Act No. 22: On or about June 30, 1987, LAZAR and Selzer caused the Palm Springs Law Firm to use the proceeds of the check described in Overt Act No. 21 to satisfy \$50,000 in legal fees that LAZAR owed to the Palm Springs Law Firm.

Overt Act No. 23: On or about August 21, 1989, MILBERG WEISS and BERSHAD caused to be sent to Selzer and the Palm Springs Law Firm a \$50,000 check, with a cover letter signed by BERSHAD falsely stating that the check "represent[ed] your share of fees earned on Lazar v. Standard Oil."

Overt Act No. 24: On or about August 25, 1989, LAZAR and Selzer caused the Palm Springs Law Firm to use the proceeds of the check described in Overt Act No. 23 to satisfy \$50,000 in legal fees that LAZAR owed to the Palm Springs Law Firm.

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2 **The Genentech I Class Action**

3 Overt Act No. 25: On or about January 9, 1990,
4 MILBERG WEISS and others known and unknown to the Grand Jury
5 caused to be filed with the court an amended class action
6 complaint in the Genentech I lawsuit, naming LAZAR as a
7 plaintiff.

8 Overt Act No. 26: On or about March 30, 1990,
9 MILBERG WEISS and others known and unknown to the Grand Jury
10 caused to be filed with the court a memorandum in support of a
11 request that the court certify Genentech I as a class action, in
12 which they falsely represented that LAZAR's interests in the
13 lawsuit were "coextensive with, and in no way antagonistic to
14 those of the members of the Class[.]"

15 Overt Act No. 27: On or about January 24, 1991,
16 MILBERG WEISS and BERSHAD caused to be sent to Selzer and the
17 Palm Springs Law Firm a \$150,000 check, with a cover letter
18 signed by BERSHAD falsely stating that the check was a "payment
19 toward your firm's referral entitlement in connection with
20 [Genentech I]."

21 Overt Act No. 28: On or about January 28, 1991, LAZAR
22 and Selzer caused the proceeds of the check described in Overt
23 Act No. 27 to be deposited into the Palm Springs Law Firm's
24 client trust account, for the benefit of LAZAR.

25 Overt Acts Nos. 29-31: On or about the following dates,
26 LAZAR and Selzer caused the proceeds of the check described in
27 Overt Act No. 27 to be used to make the following payments and
28 credits for the benefit of LAZAR:

OVERT ACT	DATE	APPROXIMATE AMOUNT	RECIPIENT
No. 29	01/31/91	\$ 100,000	the Palm Springs Law Firm
No. 30	02/25/91	\$ 47,219	the Palm Springs Law Firm
No. 31	02/25/91	\$ 2,781	LAZAR's accountant

The Ashland Oil Class Action

Overt Act No. 32: On or about April 9, 1986, MILBERG WEISS and others known and unknown to the Grand Jury caused to be filed with the court a class action and shareholder derivative action complaint in the Ashland Oil lawsuit, naming LAZAR's wife as a plaintiff.

Overt Act No. 33: On or about November 3, 1988, after the removal and transfer of Ashland Oil from the Los Angeles County Superior Court to the United States District Court for the Southern District of New York, MILBERG WEISS and others known and unknown to the Grand Jury caused to be filed with the federal court a sworn affidavit in support of a request that the court certify Ashland Oil as a class action, in which they falsely represented that LAZAR's wife had "no conflict of interest" with "the other investors whom plaintiff seeks to represent."

Overt Act No. 34: On or about October 24, 1989, in an under-oath deposition in Ashland Oil, MILBERG WEISS and LAZAR caused LAZAR's wife to deny falsely that she had any "financial interest in the outcome of the lawsuit, other than what [she would] receive as damages if [her] individual complaint [was] successful."

Overt Act No. 35: On or about April 28, 1992, MILBERG WEISS and BERSHAD caused to be sent to Selzer and the Palm Springs Law Firm a \$150,000 check, with a cover letter

1 signed by BERSHAD falsely stating that the check was "in full
2 payment of your firm's referral entitlement in connection with"
3 Genentech I, Ashland Oil, and two other class actions in which
4 LAZAR or a family member served as a named plaintiff.

5 Overt Act No. 36: On or about May 5, 1992, LAZAR and
6 Selzer caused the check described in Overt Act No. 35 to be
7 deposited into the Palm Springs Law Firm's client trust account
8 for the benefit of LAZAR.

9 Overt Acts Nos. 37-38 : On or about the following
10 dates, LAZAR and Selzer caused the proceeds of the check
11 described in Overt Act No. 35 to be used to make the following
12 payments and credits for the benefit of LAZAR:

OVERT ACT	DATE	APPROXIMATE AMOUNT	RECIPIENT
No. 37	05/05/92	\$ 25,000	surveying firm
No. 38	05/05/92	\$ 125,000	the Palm Springs Law Firm

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17 **The Beverly Hills Savings Class Action**

18 Overt Act No. 39: On or about December 11, 1985,
19 MILBERG WEISS and others known and unknown to the Grand Jury
20 caused to be filed with the court an amended class action
21 complaint in the Beverly Hills Savings lawsuit, naming LAZAR as a
22 plaintiff, in which they falsely represented, among other things,
23 that LAZAR had "no interests which are contrary to or in conflict
24 with" the absent class members.

25 Overt Act No. 40: On or about June 19, 1986, during an
26 under-oath deposition in Beverly Hills Savings, LAZAR, acting in
27 concert with MILBERG WEISS and others, falsely testified that he
28 had no understanding by which he would receive "any monetary
advantage or any monetary sum" other than his pro rata share of

1 the recovery available to all plaintiffs in the lawsuit.

2 Overt Act No. 41: On or about August 28, 1992,
3 MILBERG WEISS obtained approximately \$900,785.53 in attorneys'
4 fees awarded by the court in Beverly Hills Savings.

5 Overt Act No. 42: On or about December 17, 1992,
6 MILBERG WEISS and BERSHAD caused to be sent to Selzer and the
7 Palm Springs Law Firm a \$90,078.55 check, with a cover letter
8 signed by BERSHAD falsely stating that the check "represent[ed]
9 your entitlement with regard to work and responsibility assumed
10 as counsel for Seymour Lazar" in Beverly Hills Savings.

11 Overt Acts Nos. 43-44: On or about the following dates,
12 LAZAR and Selzer caused the proceeds of the check described in
13 Overt Act No. 42 to be used to make the following payments and
14 credits, among others, for the benefit of LAZAR:

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OVERT ACT	DATE	APPROXIMATE AMOUNT	RECIPIENT
No. 43	12/18/92	\$ 85,820	the Palm Springs Law Firm
No. 44	12/23/92	\$ 4,258	engineering firm

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19 **The New Image Class Action**

20 Overt Act No. 45: On or about November 27, 1990,
21 MILBERG WEISS, LAZAR, and others known and unknown to the
22 Grand Jury caused to be filed with the court a class action
23 complaint in the New Image lawsuit, naming LAZAR as a plaintiff,
24 in which they falsely represented that LAZAR had "no interest
25 which is contrary to or in conflict with those of the Class he
26 seeks to represent."

27 Overt Act No. 46: On or about April 25, 1991, in a
28 written document that LAZAR verified under penalty of perjury,

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2 MILBERG WEISS and LAZAR falsely represented that LAZAR had never
3 received any compensation from MILBERG WEISS or any of its
4 partners, and that his "claims do not in any manner conflict
5 with, or are . . . antagonistic to, those of the class."

6 Overt Act No. 47: On or about May 7, 1991, during an
7 under-oath deposition in New Image, LAZAR, acting in concert with
8 MILBERG WEISS and others, evaded answering questions regarding
9 whether he had a "fee arrangement with" MILBERG WEISS by, among
10 other things, denouncing the questioning as an "absolute insult."

11 Overt Act No. 48: On or about July 9, 1993, MILBERG
12 WEISS and BERSHAD sent to Selzer and the Palm Springs Law Firm a
13 \$51,880.79 check, along with a cover letter signed by BERSHAD
14 falsely stating that the check "represent[ed] your entitlement
15 with regard to work and responsibility assumed as counsel for
16 Seymour Lazar" in New Image.

17 Overt Act No. 49: On or about July 12, 1993, LAZAR and
18 Selzer caused the Palm Springs Law Firm to use the proceeds of
19 the check described in Overt Act No. 48 to satisfy approximately
20 \$51,880.79 in legal fees that LAZAR owed to the Palm Springs Law
21 Firm.

22 **The W.R. Grace Class Action**

23 Overt Act No. 50: On or about October 19, 1995,
24 MILBERG WEISS and others known and unknown to the Grand Jury
25 caused to be filed with the court a class action complaint in the
26 W.R. Grace lawsuit, naming LAZAR as a plaintiff, in which they
27 falsely represented that LAZAR did not "have interests
28 antagonistic to, or in conflict with, the Class."

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Overt Act No. 51: On or about April 24, 1998, MILBERG WEISS obtained approximately \$2,531,519 in attorneys' fees awarded by the court in W.R. Grace.

Overt Act No. 52: On or about May 14, 1998, MILBERG WEISS and BERSHAD caused to be sent to the Palm Springs Law Firm a \$75,000 check, with a cover letter signed by BERSHAD falsely stating that the check was "in recognition of your supportive role with regard to [W.R. Grace] and our client."

Overt Acts Nos. 53-58: On or about the following dates, LAZAR caused the proceeds of the check described in Overt Act No. 52 to be used to make the following payments and credits, among others, for his benefit:

OVERT ACT	DATE	AMOUNT	RECIPIENT
No. 53	05/22/98	\$ 46,000	the Palm Springs Law Firm
No. 54	05/22/98	\$ 10,000	LAZAR's son
No. 55	06/01/98	\$ 7,900	the Selzer Law Firm
No. 56	06/01/98	\$ 2,000	Lazar Intermediary C
No. 57	06/01/98	\$ 3,000	Lazar Intermediary B
No. 58	08/07/98	\$ 5,000	Lazar Intermediary C

Overt Act No. 59: On or about June 25, 1999, MILBERG WEISS and BERSHAD caused to be sent to the Palm Springs Law Firm a \$50,000 check, with a cover letter signed by BERSHAD falsely stating that the check "represent[ed] an incremental payment of your participation in the fees earned in [Denny's and W.R. Grace]."

Overt Acts Nos. 60-61: On or about the following dates, LAZAR caused the proceeds of the check described in Overt Act No. 59 to be used to make the following payments and credits, among others, for his benefit:

OVERT ACT	DATE	APPROXIMATE AMOUNT	RECIPIENT
No. 60	06/30/99	\$ 44,079	the Palm Springs Law Firm
No. 61	07/20/99	\$ 5,000	the Selzer Law Firm

Overt Act No. 62: On or about December 8, 1999, MILBERG WEISS and BERSHAD caused to be sent to the Palm Springs Law Firm a \$75,000 check, with a cover letter signed by BERSHAD falsely stating that the check "represent[ed] further recognition of your participation and entitlement in the fees in [Denny's and W.R. Grace]."

Overt Acts Nos. 63-64: On or about the following dates, LAZAR caused the proceeds of the check described in Overt Act No. 62 to be used to make the following payments and credits for his benefit:

OVERT ACT	DATE	APPROXIMATE AMOUNT	RECIPIENT
No. 63	12/10/99	\$ 60,000	the Palm Springs Law Firm
No. 64	12/21/99	\$ 15,000	the Selzer Law Firm

Overt Acts Nos. 65-72: On or about the following dates, LAZAR and Selzer caused the proceeds of the \$15,000 payment described in Overt Act No. 64 to be used to make the following payments and credits, among others, for the further benefit of LAZAR:

OVERT ACT	DATE	APPROXIMATE AMOUNT	RECIPIENT
No. 65	02/04/00	\$ 3,000	public land specialist
No. 66	02/14/00	\$ 150	title searcher
No. 67	03/03/00	\$ 1,695	title company
No. 68	04/05/00	\$ 10	Los Angeles County
No. 69	04/05/00	\$ 165	Riverside County

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OVERT ACT	DATE	APPROXIMATE AMOUNT	RECIPIENT
No. 70	05/05/00	\$ 1	Los Angeles County
No. 71	06/23/00	\$ 5,000	LAZAR's personal trust account
No. 72	06/30/00	\$ 354	public land specialist

Overt Act No. 73: On or about May 26, 2000, MILBERG WEISS and BERSHAD caused to be sent to the Palm Springs Law Firm a \$125,000 check, with a cover letter signed by BERSHAD falsely stating that the check was an "additional payment upon and on account of a number of the cases we have been doing including among others W.R. Grace and Denny's."

Overt Acts Nos. 74-76: On or about the following dates, LAZAR caused the proceeds of the check described in Overt Act No. 73 to be used to make the following payments and credits for his benefit:

OVERT ACT	DATE	APPROXIMATE AMOUNT	RECIPIENT
No. 74	06/13/00	\$ 30,564	the Selzer Law Firm
No. 75	06/20/00	\$ 75,461	the Palm Springs Law Firm
No. 76	07/20/00	\$ 18,975	the Selzer Law Firm

Overt Acts Nos. 77-79: On or about the following dates, LAZAR and Selzer caused the proceeds of the payments described in Overt Acts Nos. 74 and 76 to be used to make the following payments and credits for the further benefit of LAZAR:

OVERT ACT	DATE	APPROXIMATE AMOUNT	RECIPIENT
No. 77	07/28/00	\$ 525	engineering firm
No. 78	07/31/00	\$ 3,975	the Selzer Law Firm
No. 79	08/07/00	\$ 19,100	LAZAR's personal trust account

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Other Overt Acts in Lazar Lawsuits

2 Overt Act No. 80: On or about February 1, 1984, during
3 an under-oath deposition taken in the Lazar Lawsuit Seymour Lazar
4 v. Unity Buying Service Co., Civ. No. 511287 (San Diego County,
5 California, Superior Court) ("Unity Buying"), LAZAR, acting in
6 concert with MILBERG WEISS and others, falsely denied that he
7 contemplated sharing in any award of attorneys' fees in Unity
8 Buying or Arcata.

9 Overt Act No. 81: On or about January 30, 1985, in the
10 Lazar Lawsuit Seymour Lazar v. James D. Sadlier, et al., CV 84-
11 8100-WJR (United States District Court, Central District of
12 California) ("Arrays"), MILBERG WEISS and others known and
13 unknown to the Grand Jury caused to be filed with the court a
14 memorandum in support of a request that the court certify Arrays
15 as a class action, in which they falsely represented that LAZAR's
16 interests in the lawsuit were "congruent with and not in conflict
17 with those of the members of the class."

18 Overt Act No. 82: On or about March 12, 1985, during an
19 under-oath deposition in Arrays, LAZAR, acting in concert with
20 MILBERG WEISS and others, falsely testified that he had "never,
21 ever received any sums from [MILBERG WEISS] whatsoever," and
22 falsely denied that he had "any arrangement" with MILBERG WEISS
23 under which he was "to receive or might anticipate receiving any
24 of the award in [Arrays] aside from [his] own personal recovery
25 as a plaintiff."

26 Overt Act No. 83: On or about June 10, 1985, LAZAR
27 caused Lazar Intermediary E to send an invoice in the amount of
28 \$25,000 to MILBERG WEISS for "professional services rendered."

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Overt Act No. 84: On or about June 25, 1985, MILBERG WEISS and Partner B caused to be sent to Lazar Intermediary E a \$25,000 check.

Overt Act No. 85: On or about July 5, 1985, LAZAR caused Lazar Intermediary E to send \$22,500 from the proceeds of the check described in Overt Act No. 84 to Selzer and the Palm Springs Law Firm, with a cover letter stating that the payment represented proceeds of a check from the MILBERG WEISS "ostensibly for legal services" that Lazar Intermediary E did not in fact perform.

Overt Act No. 86: On or about July 5, 1985, LAZAR and Selzer caused the \$22,500 payment described in Overt Act No. 85 to be deposited into a client trust account maintained by the Palm Springs Law Firm for the benefit of LAZAR.

Overt Act No. 87: On or about December 10, 1986, MILBERG WEISS and Partner B caused to be sent to Lazar Intermediary A, who was representing LAZAR in connection with a dispute between LAZAR and a bank, a \$35,000 check with a cover letter signed by Partner B falsely stating that the payment was "to satisfy our fee obligation to you" in a case referred to as Union Carbide.

Overt Act No. 88: On or about December 12, 1986, LAZAR caused Lazar Intermediary A to use the proceeds of the check described in Overt Act No. 87 to satisfy legal fees that LAZAR owed to Lazar Intermediary A.

Overt Act No. 89: On or about May 5, 1987, MILBERG WEISS and Partner B caused to be sent to Lazar Intermediary A a \$45,000 check, which MILBERG WEISS falsely

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2 characterized in its accounting books and records as "? prof
3 fees."

4 Overt Act No. 90: On or about May 7, 1987, LAZAR caused
5 Lazar Intermediary A to use approximately \$23,851.60 from the
6 proceeds of the check described in Overt Act No. 89 to satisfy
7 legal fees that LAZAR owed to Lazar Intermediary A.

8 Overt Act No. 91: On or about May 11, 1987, LAZAR
9 caused Lazar Intermediary A to use the remaining approximately
10 \$21,148.40 from the proceeds of the check described in Overt Act
11 No. 89 as a credit toward future legal fees that LAZAR would owe
12 to Lazar Intermediary A.

13 Overt Act No. 92: On or about March 10, 1995,
14 MILBERG WEISS and BERSHAD caused to be sent to one of LAZAR's
15 sons, who was an attorney, a \$250,000 check with a cover letter
16 signed by BERSHAD falsely stating that the payment represented
17 "your participation in our fee in the [United Airlines]
18 litigation in accordance with our agreement."

19 Overt Act No. 93: On or about March 13, 1995, LAZAR
20 caused the check described in Overt Act No. 92 to be deposited
21 into his daughter-in-law's personal checking account, to be used
22 for the personal benefit of LAZAR and his son.

23 Overt Act No. 94: On or about July 17, 1995,
24 MILBERG WEISS and BERSHAD caused to be sent to Lazar Intermediary
25 B a \$35,000 check, along with a cover letter signed by BERSHAD
26 falsely stating that the check was "your share of the attorney's
27 fee" in Zenith National.

28 Overt Act No. 95: On or about July 31, 1995, LAZAR
caused Lazar Intermediary B to use the proceeds from the check

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2 described in Overt Act No. 94 to satisfy \$35,000 in fees that
3 LAZAR owed to Lazar Intermediary B.

4 Overt Act No. 96: On or about March 7, 1996,
5 MILBERG WEISS and BERSHAD caused to be sent to Lazar Intermediary
6 C a \$25,000 check, with a cover letter signed by BERSHAD falsely
7 describing the payment as Lazar Intermediary C's "participation
8 in the most recent fee" obtained by MILBERG WEISS, and which
9 MILBERG WEISS falsely characterized in its accounting books and
10 records as a referral fee paid to Lazar Intermediary C in the
11 Community Psychiatric class action.

12 Overt Act No. 97: On or about March 11, 1996, LAZAR
13 caused Lazar Intermediary C to use the proceeds of the check
14 described in Overt Act No. 96 to satisfy legal fees that LAZAR
15 owed to Lazar Intermediary C.

16 Overt Act No. 98: On or about August 12, 1998,
17 MILBERG WEISS and BERSHAD caused to be sent to the Palm Springs
18 Law Firm a \$50,000 check, with a cover letter signed by BERSHAD
19 falsely stating that the payment was "in recognition of your
20 contribution to the legal effort in the Denny's litigation."

21 Overt Acts Nos. 99-100: On or about the following
22 dates, LAZAR caused the proceeds of the check described in Overt
23 Act No. 98 to be used to make the following payments and credits,
24 among others, for his benefit:

OVERT ACT	DATE	APPROXIMATE AMOUNT	RECIPIENT
No. 99	08/18/98	\$ 18,000	the Palm Springs Law Firm
No. 100	08/26/98	\$ 23,000	Lazar Intermediary B

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28 Overt Acts Nos. 101-102: On or about the following
dates, LAZAR caused Lazar Intermediary B to use the proceeds of

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2 \$23,000 payment described in Overt Act No. 100 to make the
3 following payments and credits for his further benefit:

OVERT ACT	DATE	APPROXIMATE AMOUNT	RECIPIENT
No. 101	09/08/98	\$ 5,000	LAZAR's son
No. 102	09/11/98	\$ 18,000	investment in LAZAR's name

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7 Overt Act No. 103: On or about December 2, 1998, in the
8 Lazar Lawsuit Seymour Lazar v. Micro Focus Group PLC, et al.,
9 Civ. 98-8591 (United States District Court, Southern District of
10 New York), in which LAZAR was a named plaintiff, LAZAR falsely
11 certified, under penalty of perjury, that he would "not accept
12 any payment for serving as a representative party on behalf of a
13 class beyond plaintiff's pro rata share of any recovery, except
14 such reasonable costs and expenses (including lost wages)
15 directly relating to the representation of the Class as ordered
16 and approved by the Court."

17 Overt Act No. 104: On or about December 13, 1999, in
18 the Lazar Lawsuit Helene Giarputo and Seymour Lazar v. Xerox
19 Corp. et al., 99 CV 2374 (United States District Court, District
20 of Connecticut), in which LAZAR was a named plaintiff, LAZAR
21 falsely certified, under penalty of perjury, that he would "not
22 accept any payment for serving as a representative party on
23 behalf of a class beyond plaintiff's pro rata share of any
24 recovery, except such reasonable costs and expenses (including
25 lost wages) directly relating to the representation of the Class
26 as ordered and approved by the Court."

27 Overt Act No. 105: On or about December 28, 2000,
28 MILBERG WEISS and BERSHAD caused to be sent to the Palm Springs
Law Firm a \$50,000 check, which MILBERG WEISS's accounting books

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2 and records falsely described as a "referral fee" to the Palm
3 Springs Law Firm regarding Schein Pharmaceutical.

4 Overt Acts Nos. 106-107: On or about the following
5 dates, LAZAR caused the proceeds of the check described in Overt
6 Act No. 105 to be used to make the following payments and
7 credits, among others, for his benefit:

OVERT ACT	DATE	APPROXIMATE AMOUNT	RECIPIENT
No. 106	12/29/00	\$ 23,000	the Palm Springs Law Firm
No. 107	01/10/01	\$ 23,000	the Selzer Law Firm

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11 Overt Act No. 108: On or about June 18, 2001,
12 MILBERG WEISS and BERSHAD attempted to send to the Palm Springs
13 Law Firm a \$133,000 check with a cover letter signed by BERSHAD
14 falsely stating that the payment represented "your share of the
15 fee in recognition of your participation in the fee in [Schein
16 Pharmaceutical]."

17 Overt Act No. 109: On or about July 9, 2001, MILBERG
18 WEISS and BERSHAD caused to be sent to the Palm Springs Law Firm
19 a \$133,000 check, after the check described in Overt Act No. 108
20 had been returned to MILBERG WEISS because it was improperly
21 addressed.

22 Overt Acts Nos. 110-112: On or about the following
23 dates, LAZAR caused the proceeds of the check described in Overt
24 Act No. 109 to be used to make the following payments and
25 credits, among others, for his benefit:

OVERT ACT	DATE	APPROXIMATE AMOUNT	RECIPIENT
No. 110	07/11/01	\$ 95,795	the Palm Springs Law Firm
No. 111	07/18/01	\$ 35,000	the Selzer Law Firm

OVERT ACT	DATE	APPROXIMATE AMOUNT	RECIPIENT
No. 112	08/16/01	\$ 3,895	Lazar Intermediary B

B. Overt Acts in the Vogel Lawsuits

The Valero I Class Action

Overt Act No. 113: Prior to in or about August 1991, Partner E, acting in concert with BERSHAD, told Vogel that MILBERG WEISS would pay Vogel for serving as a named plaintiff in an action against Valero Energy Corporation.

Overt Act No. 114: On or about August 20, 1991, MILBERG WEISS, Partner E, and others caused to be filed with the court a class action complaint in Valero I, naming Vogel as a plaintiff, in which they falsely represented, among other things, that Vogel had "the same interests [in the outcome of the case] as the other members of the Class."

Overt Act No. 115: In or about mid-1992, BERSHAD and Partner E told Vogel that he needed to identify a lawyer through whom MILBERG WEISS would pay him, because MILBERG WEISS would not pay Vogel directly.

Overt Act No. 116: In or about mid-1992, following the discussion referenced in Overt Act No. 115, Vogel enlisted Vogel Intermediary A to receive monies from MILBERG WEISS on Vogel's behalf.

Overt Act No. 117: In or about mid-1992, during a meeting attended by, among others, BERSHAD, Partner E, and Vogel, BERSHAD told Vogel the following: (a) MILBERG WEISS would pay Vogel 14% of the attorneys' fees MILBERG WEISS obtained in Valero I; (b) MILBERG WEISS would also reimburse Vogel for losses that would be sustained by him in connection with the eventual

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2 sale of his Valero securities; and (c) since Vogel had not yet
3 sold his Valero securities, MILBERG WEISS would pay him \$10,000
4 in anticipation of such losses.

5 Overt Act No. 118: On or about October 14, 1992,
6 MILBERG WEISS and Partner E sent to Vogel Intermediary A a
7 purported retainer agreement, which stated in part:

8 This will confirm that we have been retained by Howard
9 Vogel . . . to prosecute a class action [against]
10 Valero Natural Gas Partners L.P., and a derivative
11 action on behalf of the partnership. On the basis of
12 your efforts in this matter and your having shared in
13 the work and responsibility in this matter, we will
14 pool all fees awarded to us and you shall receive 14%
15 (fourteen percent) of the fees so awarded plus \$10,000.

16 Overt Act No. 119: On or about October 16, 1992,
17 MILBERG WEISS, Partner E, and others caused the court to certify
18 Valero I as a class action, approve Vogel and his wife as class
19 representatives, and preliminarily approve a proposed settlement
20 of Valero I.

21 Overt Act No. 120: On or about November 23, 1992,
22 MILBERG WEISS, Partner E, and others caused the court to award
23 approximately \$4.75 million in attorneys' fees and expenses in
24 Valero I.

25 Overt Act No. 121: On or about December 28, 1992,
26 MILBERG WEISS, Partner E, and others caused to be sent to Vogel
27 Intermediary A a check in the amount of \$637,223, representing
28 Vogel's share of the attorneys' fees awarded in Valero I, plus an
additional \$10,000.

Overt Act No. 122: In or about January 1993, Vogel
caused Vogel Intermediary A to transfer to Vogel substantially
all of the proceeds of the check described in Overt Act No. 121.

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The Valero II Class Action

2 Overt Act No. 123: On or about October 15, 1993,
3 MILBERG WEISS, Partner E, and others caused to be filed with the
4 court a class action complaint in Valero II, naming Vogel as a
5 plaintiff, in which they falsely alleged, among other things,
6 that Vogel had "the same interests [in the outcome of the case]
7 as other members of the Class."

8 Overt Act No. 124: On or about March 13, 1994, after
9 Vogel sold his Valero securities at a \$27,600 loss, Vogel sent to
10 MILBERG WEISS and Partner E a letter requesting that
11 MILBERG WEISS "add the sum of \$17,600" to Vogel's expected
12 payment in Valero II, explaining that "[i]t was Dave Bershad's
13 position in late 1992 that since no loss was actually incurred, a
14 contribution to the unknown future loss would be \$10,000," and
15 asserting that the remaining \$17,600 loss was "real money - no
16 different than the out of pocket disbursements that your firm
17 incurs to maintain the case."

18 Overt Act No. 125: On or about May 23, 1994,
19 MILBERG WEISS, Partner E, and others caused Vogel to sign an
20 under-oath affidavit, to be filed with the court in support of a
21 proposed settlement of Valero II, in which Vogel falsely stated,
22 among other things, "I have no claim or interest of any kind [in
23 the outcome of the case] that is adverse to Valero Partners or
24 its public unitholders . . . nor do I have any conflict of
25 interest of any kind that precludes me from bringing or settling
26 this action."

27 Overt Act No. 126: On or about May 31, 1994, MILBERG
28 WEISS, Partner E, Vogel, and others caused the court to approve a

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2 settlement in Valero II, and to award approximately \$1.2 million
3 in attorneys' fees and expenses.

4 Overt Act No. 127: On or about June 2, 1993,
5 MILBERG WEISS, Partner E, and others caused to be telefaxed to
6 Vogel Intermediary A a letter stating, "As Howard Vogel's
7 referring attorney you will receive 14% of the legal fee that is
8 paid to my firm, [MILBERG WEISS]."

9 Overt Act No. 128: On or about July 18, 1994,
10 MILBERG WEISS, Partner E, and others caused to be sent to Vogel
11 Intermediary A a check in the amount of \$69,860.89, with a cover
12 letter signed by Partner E falsely describing the payment as
13 "your firm's referral fee" in Valero II.

14 Overt Act No. 129: On or about July 26, 1994, Vogel
15 caused Vogel Intermediary A to wire transfer to Vogel
16 approximately \$69,848.39 of the proceeds of the check described
17 in Overt Act No. 128.

18 **The Oxford Health Class Action**

19 Overt Act No. 130: Prior to in or about October 1997,
20 Vogel read a research report that contained negative financial
21 analysis about Oxford Health Plans, Inc. ("Oxford Health").

22 Overt Act No. 131: On or about October 8, 1997, Vogel
23 caused a trust of which he was the sole trustee (the "Howard
24 Vogel Retirement Plan," hereinafter referred to as "HVRP") to
25 purchase 50 shares of Oxford Health stock for the purpose of
26 positioning HVRP to be a named plaintiff in a securities fraud
27 class action lawsuit to be brought by MILBERG WEISS against
28 Oxford Health.

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Overt Act No. 132: On or about October 31, 1997, MILBERG WEISS, Partner E, and others caused Vogel to sign under penalty of perjury a certification, be filed with the court in Oxford Health, in which Vogel falsely stated, among other things, that HVRP did not purchase Oxford Health "in order to participate in any private action arising under the federal securities laws," and would "not accept any payment for serving as a representative party on behalf of a class beyond plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the Class as ordered or approved by the Court."

Overt Act No. 133: On or about October 31, 1997, MILBERG WEISS, Partner E, Vogel, and others caused to be filed with the court a class action complaint in Oxford Health, naming HVRP as a plaintiff, in which they falsely alleged, among other things, that HVRP's claims were "typical of the claims of the members of the Class."

Overt Act No. 134: In or about November 1997, Partner E told Vogel that because Oxford Health was so large, and MILBERG WEISS would have other payment obligations in the case, Vogel's payment would be less than his usual percentage of MILBERG WEISS's attorneys' fees.

Overt Act No. 135: Sometime in or about 1999, Partner E told VOGEL that he was leaving MILBERG WEISS, and that Vogel's payment arrangements would thereafter be handled by SCHULMAN.

Overt Act No. 136: On or about June 27, 2003, MILBERG WEISS obtained approximately \$40.0 million of the attorneys' fees awarded in Oxford Health.

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2 Overt Act No. 137: In or about September 2003, SCHULMAN
3 told Vogel to have Vogel Intermediary A call Partner A to
4 negotiate the amount of Vogel's payment in Oxford Health and the
5 Baan class action (in which Vogel had arranged for his step-son
6 to serve as a named plaintiff for MILBERG WEISS).

7 Overt Act No. 138: On or about September 20, 2003,
8 Vogel sent SCHULMAN a memorandum stating, in part:

9 "As we discussed, enclosed is material from 1997/1998
10 relating to my role as initiating plaintiff in the
11 Oxford and Baan cases. My dealings with [MILBERG
12 WEISS] in those years centered around [Partner E].

13 My attorney, who previously represented me in the two
14 Valero cases (working with [Partner E]) is [Vogel
15 Intermediary A]

16 [Vogel Intermediary A] will call [secretary of Partner
17 A] to arrange a call with [Partner A] to discuss the
18 Oxford case only."

19 Overt Act No. 139: On or about October 15, 2003, Vogel
20 sent, to Partner A's secretary, a copy of the memorandum
21 referenced in Overt Act No. 138, annotated to clarify that the
22 discussion with Partner A would include the Baan class action as
23 well as Oxford Health.

24 Overt Act No. 140: In or about October 2003, SCHULMAN
25 told Vogel that Partner A refused to engage in substantive
26 discussions with Vogel Intermediary A on the telephone, but
27 instead insisted on meeting Vogel Intermediary A in person at
28 MILBERG WEISS's offices in New York to discuss Vogel's payments
in Oxford Health and Baan.

Overt Act No. 141: On or about November 10, 2003,
Partner A met with Vogel Intermediary A at MILBERG WEISS's
New York offices and agreed that MILBERG WEISS would pay Vogel a
percentage of its attorneys' fees obtained in connection with

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2 Oxford Health and Baan.

3 Overt Act No. 142: On or about December 18, 2003,
4 MILBERG WEISS, SCHULMAN, Partner A, and others caused to be sent
5 to Vogel Intermediary A a \$1.1 million check, with a cover letter
6 signed by SCHULMAN falsely stating, "Enclosed please find a check
7 in the amount of \$1,100,000.00, reflecting your share of court
8 ordered attorneys' fees in consideration of your work, services
9 and joint representation of our clients in connection with
10 [Oxford Health]."

11 Overt Act No. 143: On or about December 18, 2003,
12 MILBERG WEISS, SCHULMAN, Partner A, and others also caused to be
13 sent to Vogel Intermediary A a \$120,000 check, with a cover
14 letter signed by SCHULMAN falsely stating, "Enclosed please find
15 a check in the amount of \$120,000.00, reflecting your share of
16 court ordered attorneys' fees in consideration of your work,
17 services and joint representation of our clients in connection
18 with [Baan]."

19 Overt Act No. 144: On or about January 8, 2004, Vogel
20 caused Vogel Intermediary A to wire transfer approximately
21 \$1,205,932.37 of the proceeds of the checks described in Overt
22 Acts Nos. 142 and 143 to a bank account controlled by Vogel.

23 **The Infinity Broadcasting Class Action**

24 Overt Act No. 145: On or about June 14, 2000, after
25 learning that Viacom, Inc. ("Viacom"), might attempt to acquire
26 the publicly held shares of Infinity Broadcasting Corp.
27 ("Infinity Broadcasting"), in which Viacom held a majority
28 interest, Vogel caused his wife to purchase 100 shares of
Infinity Broadcasting to position her to serve as a named

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2 plaintiff in a potential "transaction case" to be brought against
3 Infinity Broadcasting by MILBERG WEISS.

4 Overt Act No. 146: On or about June 14, 2000, Vogel
5 wrote a letter to SCHULMAN stating, among other things, "As we
6 just discussed, [Vogel's wife] owns shares of Infinity
7 Broadcasting" and "I feel that a complaint should be drafted and
8 ready to go."

9 Overt Act No. 147: On or about August 15, 2000, the
10 same day that Viacom announced a proposed acquisition by merger
11 of the publicly owned shares of Infinity Broadcasting,
12 MILBERG WEISS, SCHULMAN, and others caused to be filed a class
13 action complaint in Infinity Broadcasting, naming Vogel's wife as
14 a plaintiff.

15 Overt Act No. 148: On or about August 23, 2001, during
16 an under-oath deposition taken of him by an Infinity Broadcasting
17 shareholder who objected to the proposed settlement of Infinity
18 Broadcasting and the adequacy of Vogel's wife as a representative
19 plaintiff, SCHULMAN falsely stated that no promises had been made
20 to Vogel's wife "in the context of any benefit that she might
21 receive that the class would not receive" in Infinity
22 Broadcasting, and that he was "not . . . aware" of any such
23 promises being made in "any other case."

24 Overt Act No. 149: On or about September 14, 2001,
25 MILBERG WEISS, SCHULMAN, Vogel, and others caused Vogel's wife to
26 sign an under-oath affidavit, to be filed with the court in
27 support of a proposed settlement of Infinity Broadcasting, which
28 falsely stated, among other things, "I have no claim or interest
that is adverse to Infinity or its public shareholders."

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Overt Act No. 150: On or about October 29, 2001, MILBERG WEISS, SCHULMAN, and others caused the court, among other things, to certify Infinity Broadcasting as a class action; to approve Vogel's wife and others as a class representative; to approve MILBERG WEISS as class co-counsel; to approve the proposed settlement in Infinity Broadcasting; and to award \$2.5 million in attorneys' fees.

Overt Act No. 151: On or about March 13, 2003, SCHULMAN directed an employee in MILBERG WEISS's accounting department to draft a check to Vogel Intermediary B for 12% of the attorneys' fees MILBERG WEISS obtained in Infinity Broadcasting.

Overt Act No. 152: On or about March 17, 2003, MILBERG WEISS, SCHULMAN, Vogel, and others caused to be sent to Vogel Intermediary B an \$86,923 check, along with a cover letter signed by SCHULMAN falsely disguising the check as a payment to Vogel Intermediary B "in consideration of [Vogel Intermediary B's] work, services, and joint representation of our clients" in Infinity Broadcasting.

Overt Act No. 153: On or about March 24, 2003, Vogel caused Vogel Intermediary B to send to him most of the proceeds from the check described in Overt Act No. 152 and from a MILBERG WEISS payment that had been made in connection with another Vogel Lawsuit.

Other Overt Acts in the Vogel Lawsuits

Overt Act No. 154: In or about 1996, during a meeting at MILBERG WEISS's New York offices, Partner E handed to Vogel a substantial amount of cash, which he had obtained from BERSHAD, as a secret kickback to Vogel for causing his wife to serve as a

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named plaintiff in Mercer.

2 Overt Act No. 155: On or about July 21, 1998, Vogel,
3 acting in concert with MILBERG WEISS and others, in an under-oath
4 deposition taken in the Vogel Lawsuit Howard Vogel, et al. v.
5 Marvin A Pomerantz, et al., C.A. No. 14722 (later consolidated
6 into In re Gaylord Container Corp. Shareholders Litigation,
7 Consolidated Civil Action No. 14616 (Del. Chancery Ct.) ("Gaylord
8 Container"), refused to answer questions he was asked concerning
9 his income or sources of income.

10 Overt Act No. 156: In or about early 2000, after
11 Partner E had left MILBERG WEISS, SCHULMAN told Vogel that he
12 would not receive 14% of MILBERG WEISS's attorneys' fees in
13 future cases in which Vogel was a named plaintiff, and instead
14 would receive no more than 12% of MILBERG WEISS's attorneys'
15 fees.

16 Overt Act No. 157: In or about early December 2000,
17 MILBERG WEISS, BERSHAD, and SCHULMAN reaffirmed that Vogel would
18 receive 12% of MILBERG WEISS' attorneys' fees in Vastar and
19 thereafter caused to be sent to Vogel Intermediary B a check in
20 the amount of \$94,000, made payable to "[Vogel Intermediary B]
21 IOLA."

22 Overt Act No. 158: On or about December 12, 2000, Vogel
23 caused Vogel Intermediary B to pay Vogel \$93,000 of the proceeds
24 of the check described in Overt Act No. 157.

25 Overt Act No. 159: On or about March 15, 2003, Vogel
26 sent to SCHULMAN an "inventory" of all "transaction cases" in
27 which Vogel, his wife, or HVRP were prepared to serve as named
28 plaintiffs.

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Overt Act No. 160: In or about late 2002, Vogel asked SCHULMAN when he would receive his share of the attorneys' fees that had been awarded to MILBERG WEISS in Future Healthcare.

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Overt Act No. 161: On or about March 21, 2003, MILBERG WEISS, SCHULMAN, and others caused to be sent to Vogel Intermediary B a check in the amount of \$68,993.70, which was 12% of MILBERG WEISS's attorneys' fees in Future Healthcare.

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Overt Act No. 162: On or about April 9, 2003, MILBERG WEISS, SCHULMAN, and others caused Vogel to sign a certification under penalty of perjury, to be filed with the court in the Vogel Lawsuit Howard Vogel v. CIT Group Inc., et al., 93-CV-2471-JES (United States District Court, Southern District of New York) ("CIT"), in which Vogel falsely stated, among other things, that he would "not accept any payment for serving as a representative party of behalf of a class beyond plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the Class as ordered or approved by the Court."

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Overt Act No. 163: On or about April 16, 2003, Vogel caused Vogel Intermediary B to send him \$67,993.70 of the proceeds of the check described in Overt Act No. 161.

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Overt Act No. 164: On or about May 24, 2004, MILBERG WEISS, SCHULMAN, and others caused Vogel to sign a certification under penalty of perjury, to be filed with the court in the Vogel Lawsuit Howard Vogel v. The Bisys Group Inc., et al., 04-CV-4048-LTS (United States District Court, Southern District of New York ("Bisys")), in which Vogel falsely stated,

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2 among other things, that he "did not acquire the BISYS Group,
3 Inc. . . . stock at the direction of plaintiff's counsel or in
4 order to participate in any private action under the federal
5 securities laws," and would "not accept any payment for serving
6 as a representative party beyond my pro rata share of any
7 recovery, except reasonable costs and expenses, such as lost
8 wages and travel expenses, directly related to the class
9 representation, as ordered or approved by the court pursuant to
10 law."

11 Overt Act No. 165: On or about July 26, 2004,
12 MILBERG WEISS, SCHULMAN, and others caused Vogel to sign a
13 certification under penalty of perjury, to be filed with the
14 court in the Vogel Lawsuit Howard Vogel v. KVH Industries Inc.,
15 et al., 04-CV-320-ML ("KVH"), in which Vogel falsely stated,
16 among other things, that he would "not accept any payment for
17 serving as a representative party beyond my pro rata share of any
18 recovery, except reasonable costs and expenses, such as lost
19 wages and travel expenses, directly related to the class
20 representation, as ordered or approved by the court pursuant to
21 law."

22 Overt Act No. 166: On or about September 23, 2004,
23 MILBERG WEISS, SCHULMAN, and others caused Vogel to sign an
24 under-oath affidavit, to be filed with the court in support of a
25 proposed settlement of U.S. Oncology, falsely stating, among
26 other things, "I have no claim or interest of any kind that is
27 adverse to [U.S. Oncology] shareholders . . . nor do I have any
28 conflict of interest of any kind that would preclude me from
bringing and prosecuting [U.S. Oncology] as a class action."

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Overt Act No. 167: On or about February 27, 2005, MILBERG WEISS, SCHULMAN, Vogel, and others caused Vogel's wife to sign an under-oath affidavit, to be filed with the court in support of a proposed settlement of BarnesandNoble.com, falsely stating, among other things, "I have no claim or interest of any kind that is adverse to [BarnesandNoble.com] shareholders . . . nor do I have any conflict of interest of any kind that would preclude me from bringing and prosecuting [BarnesandNobel.com] as a class action."

Overt Act No. 168: On or about May 19, 2005, MILBERG WEISS, SCHULMAN, and others caused to be sent to Vogel Intermediary A a check in the amount of \$10,800.67, along with a cover letter signed by SCHULMAN falsely stating that the check was Vogel Intermediary A's "referral fees" in connection with BarnesandNoble.com.

Overt Act No. 169: On or about June 20, 2005, Vogel caused Vogel Intermediary A to forward to an account controlled by Vogel approximately \$10,320.80 of the proceeds of the check described in Overt Act No. 168.

Overt Act No. 170: On or about September 13, 2005, MILBERG WEISS, SCHULMAN, and others caused Vogel to sign on behalf of HVRP an under-oath affidavit, to be filed with the court in support of a proposed settlement of the Vogel Lawsuit In re Fox Entertainment Group, Inc. Shareholders Litigation, Consolidated Case No. 1033-N (Del. Chancery Ct.) ("Fox"), falsely stating, among other things, "I have no claim or interest of any kind that is adverse to [Fox Entertainment Group] shareholders . . . nor do I have any conflict of interest of any kind that would

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2 preclude me from bringing and prosecuting [Fox] as a class
3 action.”

4 **C. Overt Acts in the Cooperman Lawsuits**

5 **The Newhall Land Class Action**

6 Overt Act No. 171: On or about April 19, 1988
7 MILBERG WEISS, Partner B, and others caused to be filed a
8 verified derivative and class action complaint in Newhall Land,
9 naming Cooperman and Cooperman Plaintiff 1 as plaintiffs, in
10 which they represented that “Plaintiffs . . . do not have
11 interests antagonistic to or in conflict with those they
12 represent as class representatives.”

13 Overt Act No. 172: Between in or about April and
14 November 1988, Cooperman told Cooperman Plaintiff 1 that
15 MILBERG WEISS would pay them a percentage of MILBERG WEISS’s fee
16 in Newhall Land.

17 Overt Act No. 173: On or about November 8, 1988,
18 MILBERG WEISS, Partner B, and others caused the court to approve
19 a settlement of Newhall Land, which provided for an attorneys’
20 fees award in the amount of \$1,797,891.70 plus interest.

21 Overt Act No. 174: In or about early 1989, Partner B
22 told Cooperman and Cooperman Plaintiff 1 that they could receive
23 approximately 5% to 10% of MILBERG WEISS’s attorneys’ fees in
24 Newhall Land; that MILBERG WEISS would pay Cooperman and
25 Cooperman Plaintiff 1 5% to 10% of MILBERG WEISS’s attorneys’
26 fees in future cases that they brought to the firm; and that
27 Cooperman and Cooperman Plaintiff 1 should purchase stocks in
28 companies in order to position them and MILBERG WEISS to file
lawsuits in the future.

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Overt Act No. 175: In or about early 1989, Cooperman gave to Cooperman Plaintiff 1 a check that Cooperman Plaintiff 1 understood to be his share of the amount MILBERG WEISS paid to Cooperman in Newhall Land.

The Jan Bell Class Action

Overt Act No. 176: On or about March 7, 1990, MILBERG WEISS and others caused to be filed a class action complaint in the Jan Bell lawsuit, naming Cooperman as a plaintiff.

Overt Act No. 177: On or about March 22, 1991, in an under oath deposition in Jan Bell, Cooperman falsely testified, among other things, that in other lawsuits in which he had been a named plaintiff for MILBERG WEISS he had never received any money other than his shareholder portion of the settlements, and that "whatever the court awards as compensation or a judgment," he would "collect [his] share based on how much stock [he] bought."

Overt Act No. 178: On or about July 21, 1992, MILBERG WEISS and BERSHAD caused to be sent to Cooperman Intermediary A a \$19,363 check, with a cover letter that falsely stated that the payment was to Cooperman Intermediary A "in consideration of your consultation and referral of Dr. Cooperman to our firm."

Overt Act No. 179: In or about July 1992, Cooperman caused Cooperman Intermediary A to use the proceeds of the check described in Overt Act No. 178 to satisfy legal fees Cooperman owed to Cooperman Intermediary A.

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The American Continental/Lincoln Savings Class Action

2 Overt Act No. 180: On or about January 30, 1989, acting
3 in consultation with Partner B, Cooperman Plaintiff 1 purchased
4 100 shares of stock in American Continental Corporation for the
5 purpose of positioning MILBERG WEISS and himself to file a class
6 action lawsuit.

7 Overt Act No. 181: On or about April 24, 1989,
8 MILBERG WEISS, Partner B, and others caused to be filed a class
9 action complaint in American Continental/Lincoln Savings, naming
10 Cooperman Plaintiff 1 as a plaintiff.

11 Overt Act No. 182: On or about October 12, 1989,
12 MILBERG WEISS, Partner B, and others caused to be falsely
13 represented to the court in support of a motion for class
14 certification in American Continental/Lincoln Savings, among
15 other things, that the interests of Cooperman Plaintiff 1 "do not
16 in any manner conflict with, nor are they antagonistic to, those
17 of the class."

18 Overt Act No. 183: On or about November 2, 1989,
19 Cooperman Plaintiff 1, acting in concert with MILBERG WEISS,
20 Partner B, and others, subscribed under penalty of perjury to
21 Answers to Interrogatories in American Continental/Lincoln
22 Savings, which falsely concealed that Partner B had discussed
23 with Cooperman Plaintiff 1 purchasing ACC stock to position
24 MILBERG WEISS to file a lawsuit.

25 Overt Act No. 184: On or about April 22, 1991, in an
26 under oath deposition in American Continental/Lincoln Savings,
27 Cooperman Plaintiff 1, acting in concert with MILBERG WEISS and
28 others, falsely stated, among other things, that he would not

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2 receive any payment from any source in exchange for serving as a
3 named plaintiff in the American Continental/Lincoln Savings
4 lawsuit, and that he did not receive any compensation in Newhall
5 Land beyond that which he received as a member of the class.

6 Overt Act No. 185: In or about October 1992, Cooperman
7 told Cooperman Intermediary A that MILBERG WEISS would be sending
8 Cooperman Intermediary A a substantial amount of money, which was
9 Cooperman's share of MILBERG WEISS's attorneys' fees in American
10 Continental/Lincoln Savings.

11 Overt Act No. 186: On or about October 21, 1992,
12 BERSHAD sent to Cooperman Intermediary A a \$440,000 check,
13 accompanied by a cover letter falsely stating the check was
14 Cooperman Intermediary A's "compensation for work and
15 responsibility in our most recent endeavor."

16 Overt Act No. 187: On or about October 23 1992,
17 Cooperman caused Cooperman Intermediary A to forward \$215,000 of
18 the proceeds of the check described in Overt Act No. 186 to
19 Cooperman.

20 Overt Act No. 188: On or about October 26, 1992,
21 Cooperman paid Cooperman Plaintiff 1 \$129,000 of the proceeds of
22 the check described in Overt Act No. 186.

23 **The Fairfield Communities Class Action**

24 Overt Act No. 189: On or about June 29, 1990,
25 MILBERG WEISS and others caused to be filed with the court a
26 class action complaint in Fairfield Communities, naming Cooperman
27 as a plaintiff.

28 Overt Act No. 190: On or about November 29, 1990,
Cooperman, acting in concert with MILBERG WEISS, subscribed under

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2 penalty of perjury to Answers to Interrogatories in Fairfield
3 Communities, falsely stating, among other things, that Cooperman
4 had "at no time received any bonus or incentive payment as a
5 result of being named as a plaintiff in any class or derivative
6 actions."

7 Overt Act No. 191: On or about July 17, 1990, in an
8 under oath deposition in Fairfield Communities, Cooperman, acting
9 in concert with MILBERG WEISS and others, falsely denied that he
10 had received any benefit in connection with Newhall Land other
11 than those paid to all shareholders.

12 Overt Act No. 192: On or about July 16, 1993, SCHULMAN
13 represented to the Court, in support of a request for attorneys'
14 fees in Fairfield Communities, that MILBERG WEISS was not seeking
15 any incentive bonus award on behalf of Cooperman, and that
16 Cooperman was "satisfied to participate as a class member in the
17 recovery of his claim."

18 Overt Act No. 193: On or about August 10, 1993,
19 MILBERG WEISS obtained approximately \$249,962.69 in attorneys'
20 fees in Fairfield Communities.

21 Overt Act No. 194: On or about August 16, 1993,
22 MILBERG WEISS and BERSHAD caused to be sent to Cooperman
23 Intermediary A a \$24,996.27 check, along with a cover letter
24 signed by BERSHAD falsely stating that the check "represents your
25 interest in the fee earned by my firm in" Fairfield Communities.

26 Overt Act No. 195: In or about October 1993, Cooperman
27 caused Cooperman Intermediary A to use the proceeds of the check
28 described in Overt Act No. 194 to satisfy legal fees Cooperman
owed to Cooperman Intermediary A.

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The Columbia Savings Class Action

2 Overt Act No. 196: On or about November 9, 1989,
3 MILBERG WEISS and others caused to be filed a class action
4 complaint in Columbia Savings, naming Cooperman as a plaintiff.

5 Overt Act No. 197: On or about January 11, 1990,
6 MILBERG WEISS, Partner B, and others caused to be falsely
7 represented to the court in Columbia Savings, in support of a
8 motion for class certification, that the interests of Cooperman
9 in the lawsuit "do not in any manner conflict with, nor are they
10 antagonistic to, those of the class."

11 Overt Act No. 198: On or about February 28, 1990,
12 Cooperman, acting in concert with MILBERG WEISS, Partner B, and
13 others, subscribed under penalty of perjury to interrogatory
14 responses in Columbia Savings in which, among other things, he
15 falsely stated in response to a question whether he had any
16 "agreement, arrangement, expectation, intention, or understanding
17 . . . with respect to receiving any payment or consideration
18 different from the payment or consideration that may be received
19 by other members of the putative class as a result of this
20 litigation" the following: "I will not be treated differently
21 than any other class member regarding any recovery."

22 Overt Act No. 199: On or about June 28, 1990, in an
23 under oath deposition in the Columbia Savings lawsuit, Cooperman,
24 acting in concert with MILBERG WEISS and others, concealed his
25 kickback arrangement with MILBERG WEISS.

26 Overt Act No. 200: On or about December 28, 1993,
27 MILBERG WEISS obtained approximately \$3,926,452 in attorneys'
28 fees in Columbia Savings.

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Overt Act No. 201: On or about March 31, 1994, MILBERG WEISS and BERSHAD caused to be sent to Cooperman Intermediary A a \$200,000 check, along with a cover letter signed by BERSHAD falsely describing the payment as "a portion of your entitlement" to the attorneys' fees in Columbia Savings.

Overt Act No. 202: In or about April 1994, Cooperman caused Cooperman Intermediary A to use the proceeds of the check described in Overt Act No. 201 to satisfy legal fees Cooperman owed to Cooperman Intermediary A.

Overt Act No. 203: On or about July 26, 1994, MILBERG WEISS obtained approximately \$8,210,164 in attorneys' fees in Columbia Savings.

Overt Act No. 204: On or about July 27, 1994, MILBERG WEISS and BERSHAD caused to be sent to Cooperman Intermediary A a \$200,000 check, along with a cover letter signed by BERSHAD falsely representing the payment to be "your current entitlement" to the attorneys' fees in Columbia Savings.

Overt Act No. 205: In or about July 1994, Cooperman caused Cooperman Intermediary A to use the proceeds of the check described in Overt Act No. 204 to satisfy legal fees Cooperman owed to Cooperman Intermediary A.

Overt Act No. 206: On or about September 22, 1994, MILBERG WEISS and BERSHAD caused to be sent to Cooperman Intermediary A a \$191,278 check, along with a cover letter signed by BERSHAD describing the payment to be "in furtherance of our prior arrangement" concerning Columbia Savings.

Overt Act No. 207: In or about September 1994, Cooperman caused Cooperman Intermediary A to use the proceeds of

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2 the check described in Overt Act No. 206 to satisfy legal fees
3 Cooperman owed to Cooperman Intermediary A.

4 **The SCI-Television Class Action**

5 Overt Act No. 208: On or about March 10, 1994,
6 MILBERG WEISS, Partner B, and others caused to be filed a
7 verified class action complaint in SCI-Television, naming
8 Cooperman as a plaintiff, in which they falsely represented,
9 among other things, that Cooperman did "not have interests
10 antagonistic to or in conflict with those he represents as a
11 class representative."

12 Overt Act No. 209: On or about March 21, 1994, in an
13 under oath deposition in SCI-Television, Cooperman falsely stated
14 that he had never been compensated for appearing as a plaintiff
15 in a class action case.

16 Overt Act No. 210: On or about November 11, 1994,
17 Cooperman, acting in concert with MILBERG WEISS and others,
18 executed a declaration under penalty of perjury to be filed with
19 the court in SCI-Television, which falsely stated, among other
20 things, that there were no legal differences in Cooperman's
21 status as a class member and those of other persons within the
22 class; there were no unique legal issues pertaining to Cooperman
23 as a class representative; and Cooperman "anticipate[d] receiving
24 [his] pro rata share, and no more, of the damages received by
25 this class."

26 Overt Act No. 211: On or about November 1, 1995,
27 MILBERG WEISS and BERSHAD caused to be sent to Cooperman
28 Intermediary A a \$100,000 check, with a cover letter signed by

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2 BERSHAD falsely describing the check as a payment "towards your
3 participation" in SCI-Television.

4 Overt Act No. 212: On or about November 2, 1995,
5 MILBERG WEISS obtained approximately \$3,218,329.50 in attorneys'
6 fees in SCI-Television.

7 Overt Act No. 213: On or about November 16, 1995,
8 MILBERG WEISS and BERSHAD caused to be sent to Cooperman
9 Intermediary A an \$81,846 check, with a cover letter signed by
10 BERSHAD falsely describing the payment as being "with regard to
11 your participation as counsel in [SCI Television]."

12 Overt Act No. 214: In or about November 1995, Cooperman
13 caused Cooperman Intermediary A to use the proceeds of the checks
14 described in Overt Acts Nos. 211 and 213 to satisfy legal fees
15 Cooperman owed to Cooperman Intermediary A.

16 **The Community Psychiatric Class Action**

17 Overt Act No. 215: On or about September 30, 1991,
18 MILBERG WEISS and others known and unknown to the Grand Jury
19 caused to be filed a class action complaint in Community
20 Psychiatric, naming Cooperman as a plaintiff, in which they
21 falsely represented, among other things, that Cooperman had "no
22 interest which is contrary to or in conflict with those of the
23 class [he] seek[s] to represent."

24 Overt Act No. 216: On or about February 16, 1996,
25 MILBERG WEISS obtained approximately \$4,123,000 in attorneys'
26 fees in Community Psychiatric.

27 Overt Act No. 217: On or about November 11, 1996,
28 MILBERG WEISS and BERSHAD caused to be issued to Cooperman a

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2 \$114,891.50 check, made payable to Cooperman Intermediary B,
3 relating to Community Psychiatric.

4 Overt Act No. 218: On or about November 14, 1996,
5 Cooperman deposited the check described in Overt Act No. 217 into
6 his personal bank account.

7 **The Heart Technology Class Action**

8 Overt Act No. 219: On or about August 11, 1995,
9 Cooperman Plaintiff 2 purchased 100 shares of stock in
10 Heart Technology Inc., for the purpose of positioning
11 MILBERG WEISS and himself to file a lawsuit.

12 Overt Act No. 220: On or about August 30, 1995,
13 MILBERG WEISS, BERSHAD, SCHULMAN, and others known and unknown to
14 the Grand Jury caused to be filed a class action complaint in
15 Heart Technology, naming Cooperman Plaintiff 2 as a plaintiff.

16 Overt Act No. 221: On or about March 13, 1997,
17 Cooperman Plaintiff 2, acting in concert with MILBERG WEISS and
18 others, subscribed under penalty of perjury to an affirmation in
19 which he falsely stated that he had "no claim or interest that is
20 adverse to Heart [Technology] or its stockholders."

21 Overt Act No. 222: On or about May 5, 1997,
22 MILBERG WEISS obtained approximately \$198,589.63 in attorneys'
23 fees in Heart Technology.

24 Overt Act No. 223: On or about May 6, 1997,
25 MILBERG WEISS, BERSHAD, and others caused to be sent to Cooperman
26 a check payable to Cooperman Intermediary A in the amount of
27 \$19,858.96, representing 10% of the fees awarded in Heart
28 Technology.

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Overt Act No. 224: On or about May 8, 1997, Cooperman caused to be deposited the check described in Overt Act No. 223 into his personal bank account.

Overt Act No. 225: On or about May 14, 1997, Cooperman caused to be sent to Cooperman Intermediary A a check in the amount of \$19,858.96.

Overt Act No. 226: In or about May 1997, Cooperman caused Cooperman Intermediary A to use proceeds of the check described in Overt Act No. 225 to satisfy legal fees owed to Cooperman Intermediary A's law firm by Cooperman.

Overt Act No. 227: On or about October 3, 1997, Cooperman caused Cooperman Intermediary A to pay Cooperman Plaintiff 2 \$10,000, representing Cooperman Plaintiff 2's share of the MILBERG WEISS kickback in Heart Technology.

Other Overt Acts in the Cooperman Lawsuits

Overt Act No. 228: On or about March 27, 1989, MILBERG WEISS, BERSHAD, SCHULMAN, and others caused to be sent to Cooperman Brother-in-Law B a letter, signed by SCHULMAN, falsely characterizing Cooperman's brother-in-law as a "consultant" to MILBERG WEISS in a case called "Liberty All-Star Equity Fund."

Overt Act No. 229: On or about March 29, 1989, MILBERG WEISS, BERSHAD, and others caused to be sent to Cooperman Brother-in-Law B a \$35,000 check, with a cover letter signed by BERSHAD falsely describing the payment as Cooperman's Brother-in-Law B's "retainer with work performed and to be performed with regard to [Liberty All-Star]."

Overt Act No. 230: On or about April 21, 1989, MILBERG WEISS, BERSHAD, and others caused to be sent to Cooperman

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2 Brother-in-Law B a \$25,000 check, with a cover letter signed by
3 BERSHAD falsely describing the payment as Cooperman's Brother-in-
4 Law B's "retainer" in a case called "Brinkmann Instruments,
5 Inc.."

6 Overt Act No. 231: On or about May 17, 1989,
7 MILBERG WEISS, BERSHAD, and others caused to be sent to Cooperman
8 Brother-in-Law B a \$40,000 check, with a cover letter signed by
9 BERSHAD falsely describing the payment as Cooperman's Brother-in-
10 Law B's "retainer payment" in a case called "MDC Corporation."

11 Overt Act No. 232: On or about May 19, 1989,
12 MILBERG WEISS, BERSHAD, and others caused to be sent to Cooperman
13 Brother-in-Law B a \$40,000 check, with a cover letter signed by
14 BERSHAD falsely describing the payment as Cooperman's Brother-in-
15 Law B's "retainer payment" in a case called "Imperial Bank."

16 Overt Act No. 233: On or about June 19, 1989, Cooperman
17 caused Cooperman Brother-in-Law B to pay \$65,000 of the proceeds
18 of the MILBERG WEISS checks described in Overt Acts Nos. 230-232
19 to a company controlled by Cooperman.

20 Overt Act No. 234: On or about June 24, 1989, Cooperman
21 caused Cooperman Brother-in-Law B to pay \$60,000 of the proceeds
22 of the MILBERG WEISS checks described in Overt Acts Nos. 230-232
23 to a company controlled by Cooperman.

24 Overt Act No. 235: On or about August 17, 1989,
25 MILBERG WEISS, BERSHAD, and others caused to be sent to Cooperman
26 Brother-in-Law B a \$10,000 check, with a cover letter signed by
27 BERSHAD falsely describing the entirety of the payment as
28 Cooperman Brother-in-Law B's "retainer" in a case called
"Citytrust Litigation."

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2 Overt Act No. 236: On or about August 28, 1989,
3 Cooperman caused Cooperman Brother-in-Law B to pay \$10,000 of the
4 proceeds of the MILBERG WEISS checks described in Overt Acts
5 Nos. 230-232 and 235 to a company controlled by Cooperman.

6 Overt Act No. 237: On or about February 8, 1990,
7 MILBERG WEISS, BERSHAD, and others caused to be sent to Cooperman
8 Brother-in-Law B a \$35,000 check, with a cover letter signed by
9 BERSHAD falsely describing the payment as Cooperman Brother-in-
10 Law B's "retainer" for his "services with regard to investigation
11 and expert analysis in connection with" a company called "Lone
Star Industries."

12 Overt Act No. 238: On or about June 12, 1990,
13 MILBERG WEISS, BERSHAD, and others caused to be sent to Cooperman
14 Brother-in-Law B a \$25,000 check, with a cover letter signed on
15 behalf of BERSHAD falsely describing the entirety of the payment
16 as Cooperman Brother-in-Law B's "payment" for his "activities and
17 report" in connection with a case called "Hyatt Union Square
18 Litigation."

19 Overt Act No. 239: On or about November 16, 1990, in an
20 under oath deposition in Valley National, Cooperman, acting in
21 concert with MILBERG WEISS and others, falsely denied that he had
22 received any payment for serving as a plaintiff in
23 Newhall Land, and concealed his expectation that MILBERG WEISS
24 would pay him for being a class representative in
25 Valley National.

26 Overt Act No. 240: On or about February 6, 1991,
27 MILBERG WEISS, BERSHAD, and others caused to be sent to Cooperman
28 Brother-in-Law B a \$35,000 check, with a cover letter signed by

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2 BERSHAD falsely describing the entirety of the payment as
3 Cooperman Brother-in-Law B's "retainer with regard to acting as
4 an expert as to damages and other aspects concerning" a case
5 called "C.R. Bard Securities Litigation."

6 Overt Act No. 241: On or about February 15, 1991,
7 Cooperman caused Cooperman Brother-in-Law B to pay \$33,250 of the
8 proceeds of the MILBERG WEISS checks described in Overt Acts
9 Nos. 230-232, 235, 237-238, and 240 to a company controlled by
10 Cooperman.

11 Overt Act No. 242: On or about July 3, 1992, Cooperman,
12 acting in concert with MILBERG WEISS and others, subscribed under
13 penalty of perjury to answers to interrogatories in MBNA, which
14 falsely stated that Cooperman had never, directly or indirectly,
15 received payment from MILBERG WEISS.

16 Overt Act No. 243: On or about June 1, 1995, Cooperman
17 caused to be sent to MILBERG WEISS and Partner B a letter
18 stating, among other things, "Re: Infant Formula case - please do
19 ASAP - our share goes to [Cooperman Intermediary A] - he's
20 pressing me for \$ - please send me copy."

21 Overt Act No. 244: On or about July 7, 1995,
22 MILBERG WEISS, BERSHAD, Partner B, and others caused to be sent
23 to Cooperman Intermediary A a \$25,868 check, with a cover letter
24 signed by BERSHAD falsely describing the payment as
25 Cooperman Intermediary A's "share of attorneys' fees with respect
26 to [Infant Formula]."

27 Overt Act No. 245: On or about April 5, 2001,
28 MILBERG WEISS caused to be sent by interstate telefax a letter
directing that an additional \$507,662.71 in attorneys' fees in

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ACC/Lincoln Savings and an additional \$572,078.37 in attorneys' fees in Columbia Savings be sent to MILBERG WEISS from the settlement funds in those cases.

COUNT TWO

[Defendants BERSHAD, SCHULMAN, and LAZAR]

[18 U.S.C. § 1962(d)]

[Racketeering Conspiracy]

52. The Grand Jury hereby repeats and realleges paragraphs 1 through 39 of this Indictment.

I. THE ENTERPRISE

53. At all times relevant to this Indictment, the New York law firm partnership Milberg Weiss Bershad & Schulman LLP, formerly known as "Milberg Weiss Bershad Hynes & Lerach LLP" and "Milberg Weiss Bershad Specthrie & Lerach" ("Milberg Weiss"), constituted an "enterprise" as defined by Title 18, United States Code, Section 1961(4), which was engaged in, and the activities of which affected, interstate commerce.

54. Defendants DAVID J. BERSHAD and STEVEN G. SCHULMAN were employed by and associated with the enterprise. Defendant SEYMOUR M. LAZAR was associated with the enterprise.

II. PURPOSES OF THE RACKETEERING CONSPIRACY

55. The purposes of the racketeering conspiracy included the following:

a. to provide Milberg Weiss and its partners, including BERSHAD and SCHULMAN, with a stable of persons who were ready, willing, and able to serve, and whom the courts would likely approve to serve, as named plaintiffs representing absent class members and shareholders in the Lawsuits;

b. to enable Milberg Weiss and its partners, including BERSHAD and SCHULMAN, to file and maintain the Lawsuits;

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2 c. to assist Milberg Weiss and its partners,
3 including BERSHAD and SCHULMAN, in securing lead counsel status
4 in the Lawsuits; and

5 d. to enrich BERSHAD, SCHULMAN, LAZAR, and the other
6 members and associates of the enterprise through the more than
7 approximately \$ 216.1 million dollars of attorneys' fees
8 Milberg Weiss obtained in the Lawsuits and litigation resolving
9 the Lawsuits and the more than approximately \$ 11.3 million
10 dollars in kickbacks that BERSHAD, SCHULMAN, and others paid and
11 caused to be paid to the Paid Plaintiffs.

12 **III. THE RACKETEERING CONSPIRACY**

13 56. Beginning on a date unknown but at least as early as in
14 or about 1981, and continuing through at least in or about 2005,
15 within the Central District of California and elsewhere,
16 defendants BERSHAD, SCHULMAN, and LAZAR, together with other
17 persons known and unknown to the Grand Jury, being persons
18 employed by and associated with the enterprise described in
19 paragraph 53 above, which enterprise engaged in, and the
20 activities of which affected, interstate and foreign commerce,
21 knowingly and intentionally conspired to violate 18 U.S.C.
22 § 1962(c), that is, to conduct and participate, directly and
23 indirectly, in the conduct of the affairs of that enterprise
24 through a pattern of racketeering activity, as that term is
25 defined in Sections 1961(1) and 1961(5) of Title 18, United
26 States Code, consisting of multiple acts indictable under the
27 following provisions of federal law:

28 a. 18 U.S.C. §§ 2, 1503 (obstruction of justice);

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- b. 18 U.S.C. §§ 2, 1952(a)(1), (3) (travel and use of facilities in interstate commerce, in furtherance of commercial bribery);
- c. 18 U.S.C. §§ 2, 1341, 1346 (mail fraud involving the deprivation of money and property and honest services);
- d. 18 U.S.C. §§ 2, 1343, 1346 (wire fraud involving the deprivation of money and property and honest services);
- e. 18 U.S.C. §§ 2, 201(c)(2) (illegal witness payments); and
- f. 18 U.S.C. §§ 2, 1956 (money laundering).

57. It was a further part of the conspiracy that each defendant agreed that a conspirator would commit at least two acts of racketeering activity in the conduct of the affairs of the enterprise.

IV. MANNER AND MEANS OF THE CONSPIRACY

58. The object of the conspiracy was carried out in the manner and by the means described in paragraphs 42 through 50 above, which the Grand Jury incorporates herein by reference.

COUNTS THREE THROUGH FIVE

[Defendant LAZAR]

[18 U.S.C. §§ 1341, 1346, 2]

[Mail Fraud; Aiding and Abetting; and Causing An Act to be Done]

59. The Grand Jury hereby repeats and realleges paragraphs 1 through 34 and 42 through 50 of this Indictment.

60. Beginning on a date unknown to the Grand Jury but at least as early as in or about 1981, and continuing until at least in or about 2004, within the Central District of California and elsewhere, defendant SEYMOUR M. LAZAR, together with Milberg Weiss, Bershad, Schulman, and others known and unknown to the Grand Jury, knowingly and with intent to defraud, devised, participated in, and executed a scheme to defraud absent class members and shareholders in the Lazar Lawsuits as to a material matter, by depriving these victims of the honest services of Milberg Weiss, lawyers in Milberg Weiss, and LAZAR.

61. On or about the following dates, within the Central District of California and elsewhere, for the purpose of executing and attempting to execute the above-described scheme to defraud, defendant LAZAR, aided and abetted by Milberg Weiss, Bershad, and others known and unknown to the Grand Jury, caused the following items to be placed in an authorized depository for mail matter and to be sent and delivered by the United States Postal Service, and to be deposited to be sent and delivered by private and commercial carrier, according to the directions thereon:

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COUNT	DATE	ITEM
THREE	05/25/00	\$125,000 check from Milberg Weiss in New York, New York, to the Palm Springs Law Firm in Rancho Mirage, California
FOUR	06/15/00	\$30,564.03 check from the Palm Springs Law Firm in Indian Wells, California, to the Selzer Law Firm in Palm Springs, California
FIVE	07/24/00	\$18,975 check from the Palm Springs Law Firm in Indian Wells, California, to the Selzer Law Firm in Palm Springs, California

COUNTS SIX THROUGH EIGHT

[Defendants MILBERG WEISS, BERSHAD, SCHULMAN and LAZAR]

[18 U.S.C. §§ 1341, 1346, 2]

[Mail Fraud; Aiding and Abetting; and Causing An Act to be Done]

62. The Grand Jury hereby repeats and realleges paragraphs 1 through 34 and 42 through 50 of this Indictment.

63. Beginning on a date unknown to the Grand Jury but at least as early as in or about 1981, and continuing until at least in or about 2004, within the Central District of California and elsewhere, defendants MILBERG WEISS, DAVID J. BERSHAD, STEVEN G. SCHULMAN, and SEYMOUR M. LAZAR, together with others known and unknown to the Grand Jury, knowingly and with intent to defraud, devised, participated in, and executed a scheme to defraud absent class members and shareholders in the Lazar Lawsuits as to a material matter, by depriving these victims of money and property and of the honest services of MILBERG WEISS, lawyers in MILBERG WEISS, and LAZAR, and to obtain money and property by means of material false and fraudulent pretenses, representations, and promises.

64. On or about the following dates, within the Central District of California and elsewhere, for the purpose of executing and attempting to execute the above-described scheme to defraud, defendants MILBERG WEISS, BERSHAD, SCHULMAN, LAZAR, and others known and unknown to the Grand Jury, aided and abetted by each other and by others known and unknown to the Grand Jury, caused the following items to be placed in an authorized depository for mail matter and to be sent and delivered by the United States Postal Service, and to be deposited to be sent and

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2 delivered by private and commercial carrier, according to the
3 directions thereon:

COUNT	DATE	ITEM
SIX	12/28/00	\$50,000 check from MILBERG WEISS in New York, New York, to the Palm Springs Law Firm in Indian Wells, California
SEVEN	06/18/01	Letter from BERSHAD in New York City to the Palm Springs Law Firm in Palm Springs, California
EIGHT	07/09/01	\$133,000 check from MILBERG WEISS in New York, New York, to the Palm Springs Law Firm in Indian Wells, California

COUNT NINE

[Defendants MILBERG WEISS, BERSHAD, LAZAR, and SELZER]

[18 U.S.C. § 1956(h)]

[Money Laundering Conspiracy]

65. The Grand Jury hereby repeats and realleges paragraphs 1, 2, 5, and 6 of this Indictment.

I. INTRODUCTION

66. As used in this Count Nine, the term "Specified Unlawful Activity" includes all acts and activities described in Counts One and Three through Eight concerning defendant LAZAR that are indictable as: (a) obstruction of justice, in violation of Title 18, United States Code, Section 1503; (b) mail fraud involving deprivation of honest services, in violation of Title 18, United States Code, Sections 1341 and 1346; (c) wire fraud involving deprivation of honest services, in violation of Title 18, United States Code, Sections 1343 and 1346; (d) mail fraud involving a scheme to obtain money and property in violation of Title 18, United States Code, Section 1341; (e) wire fraud involving a scheme to obtain money and property in violation of Title 18, United States Code, Section 1343; and (f) illegal witness payments, in violation of Title 18, United States Code, Section 201(c)(2).

67. As a result of the Specified Unlawful Activity, MILBERG WEISS was awarded, obtained, and retained ownership and control of certain monies and property, including more than \$44 million in attorneys' fees that were awarded to MILBERG WEISS in the Lazar Lawsuits, which became the proceeds of the Specified

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2 Unlawful Activity no later than upon receipt of these funds by
3 MILBERG WEISS.

4 **II. THE OBJECTS OF THE MONEY LAUNDERING CONSPIRACY**

5 68. Beginning on or about October 28, 1992 (the date on
6 which Title 18, United States Code, Section 1956(h) was enacted),
7 and continuing until at least in or about 2004, in the Central
8 District of California and elsewhere, defendants MILBERG WEISS,
9 DAVID J. BERSHAD, SEYMOUR M. LAZAR, and PAUL T. SELZER, together
10 with others known and unknown to the Grand Jury, knowingly
11 combined, conspired, and agreed to commit the following money
12 laundering offenses against the United States:

13 a. To commit concealment money laundering by
14 knowingly conducting, willfully causing others to conduct, and
15 attempting to conduct and to cause others to conduct financial
16 transactions involving the proceeds of Specified Unlawful
17 Activity, knowing that the property involved in the transactions
18 represented the proceeds of some form of unlawful activity, and
19 knowing that the transactions were designed, in whole or in part,
20 to conceal or disguise the nature, source, ownership, or control
21 of the proceeds of Specified Unlawful Activity, in violation of
22 Title 18, United States Code, Sections 1956(a)(1)(B)(i) and 2(b);
23 and

24 b. To commit promotional money laundering by
25 knowingly conducting, willfully causing others to conduct, and
26 attempting to conduct and to cause others to conduct financial
27 transactions involving the proceeds of Specified Unlawful
28 Activity, knowing that the property involved in the transactions
represented the proceeds of some form of unlawful activity, with

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2 the intent to promote the carrying on of Specified Unlawful
3 Activity, in violation of Title 18, United States Code,
4 Section 1956(a) (1) (A) (i) and 2(b).

4 **III. THE MANNER AND MEANS OF THE MONEY LAUNDERING CONSPIRACY**

5 69. The objects of the money laundering conspiracy were
6 carried out, in part, in the manner and by the means described
7 below.

8 70. As described in Count One of this Indictment,
9 MILBERG WEISS, BERSHAD, and others known and unknown to the
10 Grand Jury paid and caused to be paid secret and illegal
11 kickbacks to LAZAR through SELZER and the other intermediary law
12 firms and lawyers.

13 71. As further described in Count One of this Indictment,
14 SELZER and the other intermediary law firms and lawyers used and
15 applied the kickback payments at LAZAR's direction and for his
16 benefit, including to: (a) satisfy legal fees and expenses that
17 LAZAR owed to SELZER and the other intermediary law firms and
18 lawyers, for work related to LAZAR's real estate holdings and
19 personal matters; (b) pay real estate appraisers, engineers,
20 surveyors, and others who performed work for LAZAR relating to
21 his real estate holdings; (c) pay permitting fees relating to
22 LAZAR's real estate holdings; (d) make political contributions on
23 LAZAR's behalf; (e) make and maintain investments for the benefit
24 of LAZAR; (f) make payments to and for the benefit of one of
25 LAZAR's sons; and (g) make payments directly to LAZAR.

26 72. These transactions concealed and disguised the nature,
27 source, ownership, and control of the proceeds of Specified
28 Unlawful Activity by, among other means: (a) concealing and

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disguising the payments from MILBERG WEISS to SELZER and the other of LAZAR's intermediary law firms and lawyers as fees paid to and for the benefit of the law firms and lawyers, when in fact they were secret and illegal kickback payments to and for the benefit of LAZAR; and (b) concealing and disguising the payments by SELZER and the other of LAZAR's intermediary law firms and lawyers to and for the benefit of LAZAR as payments involving legitimately obtained proceeds of LAZAR, when in fact they were secret and illegal kickback payments from MILBERG WEISS.

73. These transactions promoted the Specified Unlawful Activity by, among other means: (a) inducing and rewarding LAZAR for serving and causing his wife to serve as named plaintiffs in the Lazar Lawsuits; (b) causing LAZAR to make false statements, conceal material facts, and engage in other dishonest conduct in the Lazar Lawsuits in order to maintain the secrecy of his illegal kickback arrangement with MILBERG WEISS; and (c) ensuring that LAZAR would serve and cause his wife to serve as named plaintiffs in future Lazar Lawsuits to be brought by MILBERG WEISS.

COUNTS TEN THROUGH THIRTEEN

[Defendants LAZAR and SELZER]

[18 U.S.C. §§ 1956(a)(1)(B)(i) and 2]

[Concealment Money Laundering; Aiding and Abetting
and Causing An Act to be Done]

74. The Grand Jury hereby repeats and realleges paragraphs 1, 2, 5, 6, 66, 67, and 69 through 73 of this Indictment.

75. On or about the dates listed below, within the Central District of California and elsewhere, defendants SEYMOUR M. LAZAR and PAUL T. SELZER, aided and abetted by each other and by others known and unknown to the Grand Jury, conducted and willfully caused others to conduct the following financial transactions affecting interstate commerce, which transactions in fact involved the proceeds of Specified Unlawful Activity (as defined in paragraph 66 in Count Nine above), knowing that the property involved in the transactions represented the proceeds of some form of unlawful activity, and knowing that the transactions were designed, in whole or in part, to conceal and disguise the nature, source, ownership, and control of the proceeds of Specified Unlawful Activity:

COUNT	DATE	TRANSACTION
TEN	06/22/00	transfer of approximately \$30,564 from the Palm Springs Law Firm's business checking account (Bank of America account # XXXXX-X0990) to the Selzer Law Firm's business checking account (Union Bank of California account #XXXXXX4299)

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COUNT	DATE	TRANSACTION
ELEVEN	06/26/00	transfer of approximately \$5,000 from the Selzer Law Firm's client trust account (Union Bank of California account #XXXXX-X0884) to LAZAR's personal trust account (Bank of America account # XXXXX-X8703, in the name "Paul T. Selzer, FBO Seymour Lazar")
TWELVE	07/25/00	transfer of approximately \$18,975 from the Palm Springs Law Firm's business checking account (Bank of America account #XXXXX-X0990) to the Selzer Law Firm's client trust account (Union Bank of California account #XXXXXX0884)
THIRTEEN	08/10/00	transfer of approximately \$19,100 from the Selzer Law Firm's client trust account (Union Bank of California account #XXXXXX0884) to LAZAR's personal trust account (Bank of America account # XXXXX-X8703, in the name "Paul T. Selzer, FBO Seymour Lazar")

COUNTS FOURTEEN THROUGH SIXTEEN

[Defendant LAZAR]

[26 U.S.C. § 7206(1)]

[Subscribing to False Tax Return]

76. The Grand Jury hereby repeats and realleges paragraphs 1 through 34 and 42 through 50 of this Indictment.

77. On or about the following dates, in Riverside County, within the Central District of California, defendant SEYMOUR M. LAZAR willfully made and subscribed a Personal Income Tax Return Form 1040 for the tax years identified below, which contained and was verified by a written declaration that it was made under the penalties of perjury, and which LAZAR knew and believed was not true and correct as to a material matter, in that it failed to report as income kickbacks paid during the year by Milberg Weiss for LAZAR's benefit, in the following amounts:

COUNT	DATE	TAX YEAR	AMOUNT OF KICKBACKS FROM MILBERG WEISS
FOURTEEN	10/17/00	1999	\$ 125,000
FIFTEEN	10/12/01	2000	\$ 175,000
SIXTEEN	05/21/03	2001	\$ 133,000

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COUNT SEVENTEEN

[Defendant LAZAR]

[18 U.S.C. §§ 1503, 2]

[Obstruction of Justice; Causing An Act to be Done]

78. The Grand Jury hereby repeats and realleges paragraphs 1 through 39 and 42 through 50 of this Indictment.

79. At all times relevant to this Count Seventeen, there was pending in the Central District of California a federal grand jury proceeding involving allegations that Milberg Weiss had paid secret and illegal kickbacks to named plaintiffs in class actions and shareholder derivative actions, including LAZAR (the "Grand Jury Proceeding").

80. On or about January 9, 2002, LAZAR was personally served at his residence in Palm Springs, California, with a grand jury subpoena (the "Subpoena"). The Subpoena required LAZAR to produce to the Grand Jury certain specified documents relating to the Grand Jury Proceeding that were in his possession, custody, or control, which, as defined and instructed by the Subpoena, included documents that were in the possession of LAZAR's accountant and tax return preparer.

81. In or about February 2002, within the Central District of California, defendant SEYMOUR M. LAZAR corruptly influenced, obstructed, and impeded, and endeavored to influence, obstruct, and impede, the due administration of justice in the Grand Jury Proceeding by directing his accountant and tax return preparer to destroy certain documents relating to LAZAR, including documents that LAZAR knew: (a) were responsive to the Subpoena; and (b) were and would become relevant to the Grand Jury Proceeding.

COUNT EIGHTEEN

[Defendants MILBERG WEISS, BERSHAD, SCHULMAN, and LAZAR]

[28 U.S.C. § 2461(c), 18 U.S.C. § 981(a)(1)(C),

and 21 U.S.C. § 853]

[Criminal Forfeiture]

82. The allegations contained in Count One of this Indictment are hereby repeated, realleged, and incorporated by reference herein as though fully set forth at length for the purpose of alleging forfeiture pursuant to the provisions of Title 28, United States Code, Section 2461(c), Title 18, United States Code, Section 981(a)(1)(C), and Title 21, United States Code, Section 853.

83. Pursuant to Title 28, United States Code, Section 2461(c), Title 18, United States Code, Section 981(a)(1)(C), and Title 21, United States Code, Section 853, each of defendants MILBERG WEISS, DAVID J. BERSHAD, STEVEN G. SCHULMAN, and SEYMOUR M. LAZAR convicted under Count One of this Indictment shall forfeit to the United States any and all property, real or personal, which constitutes or is derived from proceeds traceable to such offense, including the following:

a. with respect to MILBERG WEISS, the more than approximately \$ 216.1 million in attorneys' fees obtained by MILBERG WEISS in the Lawsuits and litigation resolving the Lawsuits (the "tainted attorneys' fees");

b. with respect to BERSHAD, SCHULMAN, and LAZAR, the portion of the tainted attorneys' fees that each of these defendants received, namely:

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i. the more than approximately \$ 26.6 million in tainted attorneys' fees that BERSHAD received as a result of his partnership interest in MILBERG WEISS;

ii. the more than approximately \$ 9.5 million in tainted attorneys' fees that SCHULMAN received as a result of his partnership interest in MILBERG WEISS; and

iii. the more than approximately \$ 1.2 million that LAZAR received as kickback payments derived from the tainted attorneys' fees;

c. A sum of money equal to the total amount of proceeds traceable to such offense, which sum for each defendant will be up to the following approximate amount:

<u>Defendant</u>	<u>Amount</u>
MILBERG WEISS . . .	\$ 216.1 million
BERSHAD	\$ 216.1 million
SCHULMAN.	\$ 216.1 million
LAZAR	\$ 57.7 million

84. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), each of defendants MILBERG WEISS, BERSHAD, SCHULMAN, and LAZAR, if so convicted, shall forfeit substitute property, up to the value of the amount described in the preceding paragraph, if, by any act or omission of the defendant, the property described therein, or any portion thereof, (a) cannot be located upon the exercise of due diligence; (b) has been transferred or sold to, or deposited with, a third party; (c) has been placed beyond the jurisdiction of the court; (d) has been substantially diminished in value; or (e) has been

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commingled with other property which cannot be divided without
difficulty.

COUNT NINETEEN

[Defendants BERSHAD, SCHULMAN, and LAZAR]

[18 U.S.C. § 1963]

[Criminal Forfeiture]

85. The allegations contained in Count Two of this Indictment are hereby repeated, realleged, and incorporated by reference herein as though fully set forth at length for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 1963. Pursuant to Federal Rule of Criminal Procedure 32.2, notice is hereby given to the defendants that the United States will seek forfeiture as part of any sentence in accordance with Title 18, United States Code, Section 1963 in the event of any defendant's conviction under Count Two of this Indictment.

86. The defendants, DAVID J. BERSHAD, STEVEN G. SCHULMAN, and SEYMOUR M. LAZAR:

a. have acquired and maintained interests in violation of Title 18, United States Code, Section 1962, which interests are subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(1);

b. have an interest in, security of, claims against, and property and contractual rights that afford a source of influence over, the enterprise named and described herein, which the defendants established, operated, controlled, conducted, and participated in the conduct of, in violation of Title 18, United States Code, Section 1962, which interests, securities, claims, and rights are subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(2); and

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c. have property constituting and derived from proceeds obtained, directly and indirectly, from racketeering activity, in violation of Title 18, United States Code, Section 1962, which property is subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(3).

87. The properties of the defendants subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(1), (a)(2), and (a)(3), include but are not limited to:

a. any and all interests any of the defendants BERSHAD and SCHULMAN has in Milberg Weiss.

b. defendant BERSHAD's share of the more than approximately \$ 216.1 million in attorneys' fees obtained by Milberg Weiss in the Lawsuits and litigation resolving the Lawsuits, which share exceeds approximately \$ 26.6 million;

c. defendant SCHULMAN's share of the more than approximately \$ 216.1 million in attorneys' fees obtained by Milberg Weiss in the Lawsuits and litigation resolving the Lawsuits, which share exceeds approximately \$ 9.5 million; and

d. with respect to LAZAR, the more than \$2.4 million in illegal kickback payments he acquired from Milberg Weiss; and

e. a sum of money equal to the total amount of proceeds the defendants derived from proceeds obtained, directly and indirectly, from racketeering activity, in the minimum amount of \$38.5 million.

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88. If any of the property described in the preceding paragraph as being subject to forfeiture, as a result of any act or omission of any defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intention of the United States, pursuant to Title 18, United States Code, Section 1963(m), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property.

89. The above-named defendants, MILBERG WEISS, BERSHAD, SCHULMAN, and LAZAR, and each of them, are jointly and severally liable for the forfeiture obligations as alleged above.

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COUNT TWENTY

[MILBERG WEISS, BERSHAD, LAZAR, SELZER]

[18 U.S.C. § 982(a)(1) and 21 U.S.C. § 853]

[Criminal Forfeiture]

90. The allegations contained in Count Nine of this Indictment are hereby repeated, realleged, and incorporated by reference herein as though fully set forth at length for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 982, and Title 21, United States Code, Section 853.

91. Pursuant to Title 18, United States Code, Section 982(a)(1), each of defendants MILBERG WEISS, DAVID J. BERSHAD, SEYMOUR M. LAZAR, and PAUL T. SELZER convicted under Count Nine of this Indictment shall forfeit to the United States the following property:

a. All right, title, and interest in any and all property involved in each offense in violation of Title 18, United States Code, Section 1956, or conspiracy to commit such offense, for which the defendant is convicted, and all property traceable to such property, including the following:

(1) all money or other property that was the subject of each transaction in violation of Title 18, United States Code, Sections 1956(h) and/or 1956(a)(1)(A)(I);

(2) all commissions, fees, and other property constituting proceeds obtained as a result of those violations;

(3) all property used in any manner or part to commit or to facilitate the commission of those violations; and

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(4) all property traceable to money or property described in this paragraph 91.a.(1) to 91.a.(3).

b. A sum of money equal to the total amount of money involved in each offense in violation of Title 18, United States Code, Section 1956, or conspiracy to commit such offense, for which the defendant is convicted, which sum for each defendant will be up to at least \$ 883,463.

92. If, as a result of any act or omission by defendants MILBERG WEISS, BERSHAD, LAZAR, or SELZER, any of the foregoing money or property (a) cannot be located upon the exercise of due diligence; (b) has been transferred or sold to, or deposited with, a third party; (c) has been placed beyond the jurisdiction of the court; (d) has been substantially diminished in value; or (e) has been commingled with other property that cannot be subdivided without difficulty, then any other property or

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interests of that defendant, up to the value of the money and property described in the preceding paragraph of this Indictment, shall be subject to forfeiture to the United States.

A TRUE BILL

Foreperson

DEBRA WONG YANG
United States Attorney

GEORGE S. CARDONA
Chief Assistant United States Attorney

THOMAS P. O'BRIEN
Assistant United States Attorney
Chief, Criminal Division

DOUGLAS A. AXEL
Assistant United States Attorney
Deputy Chief, Major Frauds Section

RICHARD E. ROBINSON
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Major Frauds Section