

SEALED

BY ORDER OF THE COURT

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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
Feb 12, 2024, 2:27 pm
Lucy H. Carrillo, Clerk of Court

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEITH MITSUYOSHI KANESHIRO (1),
DENNIS KUNIYUKI MITSUNAGA (2),
TERRI ANN OTANI (3),
AARON SHUNICHI FUJII (4),
CHAD MICHAEL MCDONALD (5),
SHERI JEAN TANAKA (6),

Defendants.

CR No. 22-00048-JMS

UNITED STATES' SEALED
MOTION IN LIMINE NO. 5: TO
ADMIT EVIDENCE OF GRAND
JURY OBSTRUCTION

UNDER SEAL

INTRODUCTION

“[T]he concealment of evidence subsequent to a commission of a crime or evidence of conduct designed to impede a witness from testifying truthfully may indicate consciousness of guilt and should be placed before the trier of fact.” *United States v. Brashier*, 548 F.2d 1315, 1325 (9th Cir. 1976). The conspirators here—individually and collectively—engaged in a coordinated effort to thwart the investigation into their conduct. That included dodging grand jury subpoenas, giving

false testimony to the grand jury, reading prepared speeches, instructing witnesses to not testify, and wrongfully invoking the Fifth Amendment. The United States' fifth motion *in limine* seeks to introduce this evidence of obstruction at trial.

BACKGROUND

The United States' sealed motion response to the misconduct motions, ECF No. 288, incorporated here, outlines a broad range of obstructive conduct by the defendants and other employees or close affiliates of Mitsunaga & Associates, Inc. ("MAI") during the grand jury investigation of this case. In sum, led by Defendant Sheri Tanaka, the MAI machine was activated in full force to prevent the grand jury for the District of Hawaii from uncovering the crimes in this case. Where necessary, the United States supplements those background facts below.

DISCUSSION

- A. Defendant Otani's attempt to silence her niece—and hide Otani's straw donations to Kaneshiro—should be admitted.

According to campaign contribution records, R.A., J.A.¹ and their adult daughter, J.H., each contributed to Kaneshiro's campaign during the charged conspiracy. However, these donations were straw donations made by Otani—not R.A., J.A., or J.H. *See* FSI ¶ 22(45), (47). R.A. and J.A. are expected to testify at trial that they never made donations to Kaneshiro (and that other donations appearing in their names were also not from them). For her part, J.H. initially tried to claim

¹ J.A. is Dennis Mitsunaga's cousin and Terri Otani's sister.

that she was a legitimate campaign contributor (and that she would donate to various campaigns when requested by Otani). J.H. said she did not recall contributing to Kaneshiro's campaign, but also claimed that she contributed "because [her] auntie asked [her] to." After additional investigation made clear J.H. had *not* contributed, J.H. admitted that she was not actually making contributions but had instead agreed to act as a straw contributor for Otani. Otani's straw donor scheme with J.H. included J.H. sending Otani emails "confirming" J.H.'s agreement to contribute to certain politicians (i.e., laying a paper trail suggesting the gifts were legitimate).

The day after J.H.'s first grand jury appearance, Otani left J.H. a voicemail stating, "Don't talk to anybody else, to the FBI, they're the enemy; they're attacking me; you shouldn't be helping them. So give me a call as soon as you can." When J.H. declined to contact her, Otani then called J.H.'s mother—J.A.—stating:

What [J.H.] did was to be a prosecution witness against me. If she thinks about it. So I need to get information from her as to when she got the subpoena, and who she talked to, what the arrangements were, for her to come down and testify against me. So I need to know the questions, the answers – the answers she gave and any other information. I really need it right now, or else I don't know how I'm going to avoid all this kind of crap; they gonna put me in jail, because [J.H.] went in to testify against me. That's number one. So tell her to think about it and help me get out of this shit; have her call me or write things down or whatever she needs to do, but I need the information now. Ok bye.

This attempt to persuade J.H. to decline to provide further information did not work. J.H. returned to the grand jury and told the truth about Otani's straw donation scheme—and in doing so J.H. revealed that Otani had lied to the grand jury when Otani denied coordinating political contributions with anyone.

Otani’s attempt to silence J.H. is admissible at trial. The facts closely parallel the fact pattern in *Brashier*. There, the defendant’s part-time secretary was called as a witness in an SEC investigation. The defendant “instructed her to say that she knew nothing of his business activities.” *Brashier*, 548 F.2d at 1325. The Ninth Circuit found that evidence was properly admitted: “the concealment of evidence subsequent to a commission of a crime or evidence of conduct designed to impede a witness from testifying truthfully may indicate consciousness of guilt and should be placed before the trier of fact.” *Id.* at 1325; *see also United States v. Collins*, 90 F.3d 1420, 1428 (9th Cir. 1996) (“evidence of the Collins’ attempts to induce witnesses to lie is indicative of consciousness of guilt and may be placed before the jury”).

The same analysis applies here. J.H. possessed damaging testimony against Otani—e.g., that Otani had used J.H.’s name to make fraudulent donations to Kaneshiro’s campaign (further inflating Kaneshiro’s collection from the MAI defendants above and beyond campaign contribution limits). Otani then tried to convince J.H. to “help [Otani] get out of this shit” by avoiding the grand jury—the most charitable interpretation of her voicemails—or simply lying to the grand jury about the facts. The Court should therefore admit this evidence of witness tampering.

B. Evidence of a concerted effort to obstruct the grand jury—directed by Defendant Tanaka—should be admitted.

When the grand jury began investigating the defendants’ crimes, the MAI machine swiftly moved into action to obstruct the investigation and prevent the truth from being revealed. MAI’s actions in the grand jury—with Tanaka at the helm—were

all designed to conceal their crimes, the sophisticated equivalent of burying the smoking gun. This evidence is relevant and admissible. *See Brashier*, 548 F.2d at 1325.

As outlined below, much obstruction came in the form of prepared speeches denigrating the investigation, among other antics. Where non-defendants made the statements, they are not hearsay. The statements would not be offered for the truth of the matters asserted. *See United States v. Lopez*, 913 F.3d 807, 826 (9th Cir. 2019) (“[A]n out-of-court statement is not hearsay if offered for any purpose other than the truth of whatever the statement asserts.”). The United States is not contending the prepared speeches were truthful. Rather, they would be offered to show what the MAI witnesses *did*, i.e., evidence of their obstruction. And in any event, the evidence demonstrates the MAI witnesses acted in concert in attempting to mislead the grand jury and conceal discovery of their crimes. Accordingly, even if offered for the truth, the statements are admissible as co-conspirator statements under FRE 801(d)(2)(E).²

² In this context, “conspiracy” refers to a “common enterprise” between individuals. *United States v. Layton*, 855 F.2d 1388, 1400 (9th Cir. 1988), *overruled on other grounds by People of Territory of Guam v. Ignacio*, 10 F.3d 608, 612 n.2 (9th Cir. 1993). “[T]he common enterprise or joint venture on which admission of a coventurer’s statement is based need not be the same as the charged conspiracy, if any.” *Id.* at 1398. Rather, the rule “applies to statements made during the course and in furtherance of any enterprise, whether legal or illegal, in which the declarant and the defendant jointly participated.” *Id.* at 1400. In other words, “[t]he substantive criminal law of conspiracy . . . simply has no application to this evidentiary principle. Thus, once the existence of a joint venture for an illegal purpose, or for a legal purpose using illegal means, and a statement made in the course of and in furtherance of that venture have been demonstrated by a preponderance of the evidence, it makes no difference whether the declarant or any other ‘partner in crime’ could actually be tried, convicted and punished for the crime of conspiracy.” *United States v. Peralta*,

1. *Steven Wong’s written false statement to the grand jury—directed by Tanaka—should be admitted, as should prepared speeches read by other MAI witnesses in the grand jury.*

Steven Wong, a MAI employee, came to the grand jury clutching a prepared statement in his hand. After receiving his rights, he immediately began reading from the script, attached as Exhibit 1. Wong claimed he wrote the statement “on advice of my attorney,” and that Tanaka had highlighted specific portions of his statement, including the directive to “REPEAT ABOVE STATEMENT AGAIN AND AGAIN.” He further confessed that the FBI did not really “terrorize” him when trying to serve him with a grand jury subpoena. See ECF No. 288 at 12. In other words, Tanaka used Wong as a tool to impugn the investigation, infect the grand jury with doubts about the investigators, and stonewall the investigation by refusing to answer any questions.

In a similar manner, other witnesses, all represented by Tanaka or employed by Dennis Mitsunaga (or whose spouse was employed by Mitsunaga), came to the grand jury reading prepared speeches and refusing to answer questions. For instance, Joann Fujii (wife of Aaron Fujii), Arnold Koya (MAI vice president), Terri Otani, and Ryan Shindo (MAI employee; also spouse of Lois, Dennis Mitsunaga’s daughter) all read prepared, typed speeches at the beginning of their grand jury sessions. Their speeches falsely denigrated the prosecutor assisting the grand jury

941 F.2d 1003, 1007 (9th Cir. 1991) (quoting *United States v. Gil*, 604 F.2d 546, 549–50 (7th Cir. 1979)).

investigation, and served as a prelude to the witness’ refusal to answer additional questions.³ See ECF 288 at 13–16. Based on the peculiar similarity with the Wong episode, the evidence shows that Tanaka used these witnesses, just as she used Wong, in an effort to impugn the investigation, infect the grand jury with doubt, and stonewall the investigation into the MAI defendants’ role in the charged conspiracy. Therefore, evidence that witnesses affiliated with MAI read prepared speeches in the grand jury should be admitted as evidence of a concerted effort within the MAI organization—spearheaded by Tanaka—to impede the grand jury investigation.

2. *Lois Mitsunaga’s prepared statement should be admitted.*

Lois Mitsunaga is Dennis Mitsunaga’s adult daughter. She is also the Chief Financial Officer and Vice President of MAI. She described MAI as “a local owned, family-owned company.” She is close friends with Defendant Tanaka (they attended high school together). At her initial grand jury appearance, Lois⁴ stated that she was represented by Tanaka. Near the outset of Lois’s testimony, she brought out a written statement titled, “STATEMENT TO GRAND JURY REGARDING [L.J.M.] AND THE PROSECUTOR’S OFFICE.” See Exhibit 3. This statement contained various lies. For instance—attempting to plant the seed of untruth as to why MAI went to the prosecutor’s office—Lois said that HPD Detective Phillip Snoops

³ Shindo’s speech stated, in part, that the prosecutor was “wasting my time, your time, taxpayer dollars, and engaging in a fishing expedition because he has no case.” See Exhibit 2.

⁴ For clarity, at times, we refer to Mitsunaga family members by their first names.

“recommended that we report [L.J.M.] directly to the Prosecutor’s Office.” Exhibit 3 at 3. Immediately thereafter, Lois stated that “this is why we retained attorney MYRON TAKEMOTO (who is now a Judge) to file the complaint with the Prosecutor’s Office.”⁵ Later in her statement, Lois falsely stated, “Sadly, the case was dismissed because of a *technicality* and [L.J.M.] escaped punishment for her misdeeds.” *Id.* (emphasis added).

Lois also stated that, “It was our understanding that the Prosecutor was going to appeal the decision, but for some reason, that was never done.” *Id.* Unlike the various lies in Lois’s written statement, this final statement about “our understanding” is true: the MAI defendants did expect Kaneshiro to appeal the dismissal of L.J.M.’s case. After all, they had paid Kaneshiro handsomely to marshal L.J.M.’s case through to the end. This statement is not hearsay: Lois’s statement—rife with references to “we” and “our,” referring to MAI’s actions against L.J.M.—shows she was speaking as an agent and employee of MAI and, ultimately, her father and CEO Dennis Mitsunaga. Accordingly, her statements are admissible for the truth under FRE 801(d)(2)(D) (a statement is not hearsay if “made by the party’s agent or employee on a matter within the scope of that relationship and while it existed”).

⁵ This fact is false. Mr. Takemoto joined the MAI legal team in approximately May 2014—18 months *after* Mitsunaga and Tanaka met with Kaneshiro to get L.J.M. prosecuted. Takemoto served as Tanaka’s co-counsel in the federal civil trial against L.J.M. After the civil trial in 2014, Tanaka brought Mr. Takemoto to the Prosecutor’s Office for a brief meeting with Kaneshiro and EA-1. The conspiracy was already well under way at that point. There is no evidence that Mr. Takemoto was aware of the MAI payoffs to Kaneshiro when he joined the MAI trial team.

3. *Arnold Koya’s dodging of subpoenas—while in direct contact with Defendant Tanaka—should be admitted*

In February and March 2021, the FBI made repeated efforts to subpoena Koya to the grand jury. They traveled to his residence multiple times, called him multiple times, left copies of the subpoena on his front door and windshield, to no avail. Three separate rounds of efforts were made—for three different grand jury dates—but Koya continued to avoid the FBI’s service efforts. It was clear Koya knew the FBI was trying to serve him: he told his property manager that he was concerned with the FBI’s access to the facility and mentioned that the FBI had left some paperwork on his car and front door.⁶ Koya failed to appear on all three grand jury dates. Ultimately, the Court issued an arrest warrant after concluding Koya had deliberately ignored multiple subpoenas served “on multiple locations with third-party sources knowledgeable as well about Mr. Koya’s awareness of these subpoenas.” ECF 288 at 13. When Koya finally appeared, he brought a typed speech and asserted, in part, that he was “NEVER personally served with any subpoena to testify at these Grand Jury Proceedings.” *See* Exhibit 4. Koya then handed out copies of his speech to the grand jurors, which ended with him invoking the Fifth Amendment and declining to answer “any further questions.” *See id.* Tanaka’s fingerprints are all over Koya’s

⁶ Moreover, Tanaka was talking to Koya throughout the service efforts. Tanaka and Koya had no phone contact in 2021 before February 24, 2021—the first day the FBI attempted to serve Koya. At around 5:30 p.m., the FBI tried to serve Koya at his home; about 18 minutes later, Koya called Tanaka and they spoke for about nine minutes. At around 6:04 p.m., the FBI called Koya’s phone to arrange service; at about 6:51 p.m. Tanaka called Koya and they spoke for over five minutes. Tanaka and Koya exchanged several additional phone calls that evening.

attempts to dodge grand jury subpoenas and then obstruct the grand jury proceeding. Just like other episodes in which Tanaka spearheaded the effort to deny the grand jury information, this episode of obstructive conduct is admissible to show the MAI defendants' consciousness of guilt.

4. *The MAI witnesses' wrongful invocations of the Fifth Amendment should be admitted*

Wong, Joann Fujii, Koya, Otani, and others also abused the Fifth Amendment privilege. After answering several questions, Wong consulted with Tanaka and thereafter stated that he would invoke the Fifth Amendment in response to "any question" asked of him. ECF 288 at 12. Joann Fujii, Koya, and Otani, for their parts, effectively made blanket invocations of the Fifth Amendment, asserting the privilege as to every or nearly every question asked, including questions like "Do you have a cell phone?" and "who are you married to?" *Id.* at 13–16.

Subsequently, district judges in this Court confirmed that the Fifth Amendment privilege was being badly abused by Tanaka and MAI. *See* ECF 288 at 16–17. Similar to the prepared speeches discussed above, Tanaka's efforts in wrangling witnesses from MAI into abusing their Fifth Amendment privilege on her advice is evidence of obstruction. Her actions veered far beyond the confines of zealous legal advocacy into an orchestrated effort to prevent the grand jury from penetrating the MAI organization and learning about the charged conspiracy.

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CONCLUSION

The Court should grant the United States' fifth motion in limine.

Dated: January 22, 2024

Respectfully submitted,

MERRICK B. GARLAND
Attorney General

/s/ Colin M. McDonald
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JOSEPH J.M. ORABONA
JANAKI G. CHOPRA
COLIN M. MCDONALD
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Special Attorneys of the United States

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEITH MITSUYOSHI KANESHIRO (1),
DENNIS KUNIYUKI MITSUNAGA (2),
TERRI ANN OTANI (3),
AARON SHUNICHI FUJII (4),
CHAD MICHAEL MCDONALD (5),
SHERI JEAN TANAKA (6),

Defendants.

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that:

I, Colin M. McDonald, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, CA 92101-8893.

I am not a party to the above-entitled action. Upon lodging on January 22, 2024, I will cause service of the foregoing and any sealed exhibits upon the following via e-mail communication:

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 22, 2024.

s/ Colin M. McDonald

COLIN M. MCDONALD

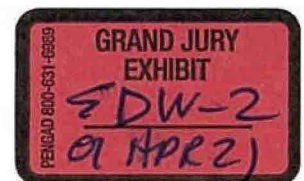
SEALED EXHIBIT 1

*Steven Wong's Prepared Statement
For The Grand Jury*

STEVE WONG'S TESTIMONY

I hereby invoke my Fifth Amendment right against self-incrimination in good faith. The FBI came to my home on multiple occasions in a harassing manner attempting to intimidate and put fear in myself and my family, and refused to tell me why I am here today. The FBI's terrorizing conduct severely affected my health especially since this has never happened to me before in my entire life and I therefore respectfully decline to answer your question.

REPEAT ABOVE STATEMENT
AGAIN AND AGAIN



SEALED EXHIBIT 2

*Ryan Shindo's Prepared Statement
For The Grand Jury*

I would like to address the Grand Jury first before moving forward. You have already heard about my encounter with the FBI while taking my children to school. I am here because Michael Wheat subpoenaed me and I am here to tell you what happened first-hand. I can clearly remember the incident because it happened on my birthday, February 24.

Contrary to the facade Michael Wheat and the FBI put on here in Court today, the FBI (at Michael Wheat's direction) harassed, terrorized, and endangered myself and my children. In February, I left my home to take my children to school, and an unmarked car began tailing me down the hill. At the stop light, where Laukahi Street and Kalaniani'ole Highway intersects, another unmarked car dangerously boxed my car in the middle of the street almost causing an accident so that my kids and I could not move during rush hour traffic. The FBI agents then raced to my side of the car. An individual named McDonald flashed an apparent badge that I was unable to clearly see as he approached my car so I could not confirm his identity. He immediately began pounding on my car window and yelling at me which obviously scared my children. In that moment, he flashed his handcuffs, demanded that I comply with his directives, and threatened to arrest me in front of my children. At no point in time, did the FBI agents tell me why I was being detained. I calmly asked if we could move to the side of the street for the sake of my children's safety. The FBI agents refused and again yelled at me. Instead, they shouted that I exit the vehicle immediately, sit on the curb like a criminal in front of my children, and leave my children unattended in a running car parked in the middle of the road during rush hour traffic endangering their lives. The FBI agents refused to tell me why they had pulled me over, they never read me my Miranda rights, and then began interrogating me without allowing me to have an attorney present. Eventually, the FBI agents reluctantly let me go. I did absolutely nothing wrong to justify their actions. More than that, the FBI did not serve me with any Subpoena on that day. I am absolutely appalled by the FBI's conduct as directed by Michael Wheat and do not wish this to happen to anyone in this Court room (except for Michael Wheat).

After intimidating, harassing, and terrorizing my children and I for no reason whatsoever in February, the FBI waited multiple months before serving me with a subpoena in May (about 3 months later) while I was picking up my 3 year-old daughter from Preschool. Why serve me at my daughter's Preschool when they could have easily served me through my attorney or come to my workplace? My family and I are still so upset by what happened, and my children continue to have nightmares about their terrifying experience with the FBI. Michael Wheat's appalling conduct has not stopped just with my family, but is an abusive tactic that he has used against other individuals as well.

- On March 1, Michael Wheat had FBI agents aggressively follow Terri Otani late at night in Mapunapuna, which resulted in a severe car accident. Ms. Otani's car was totaled and she was taken to the hospital. Ms. Otani is still recovering from her injuries sustained from the accident. Michael Wheat attempted to have Ms. Otani held in contempt of court, even though he failed to serve her with any subpoena. Recognizing his motion was meritless, Michael Wheat quickly withdrew it.



- On Thursday, May 20, Michael Wheat sent 7 FBI agents with rifles drawn and 3 FBI agents in street clothes to arrest Arnold Koya, a 73 year-old man who recently suffered a severe stroke and is a Mitsunaga & Associates, Inc. employee, even though Michael Wheat failed to serve Mr. Koya with any subpoena, just like with Ms. Otani. While Mr. Koya was being arrested, the FBI agents refused to tell him why he was being arrested, and failed to read him his Miranda rights – just like they did with me. Michael Wheat had Mr. Koya strategically spend 4 nights in Federal Prison before the Court ordered Mr. Koya's no bail release on Monday.

It is shocking how unethical Michael Wheat's conduct is. Michael Wheat and the FBI threatened, harassed, and endangered the safety of myself and my children for no reason. Michael Wheat made my wife testify on three different occasions in these Grand Jury Proceedings because he was unprepared, wanted to further harass, terrorize, and intimidate my family, and try to charge my wife with perjury. Michael Wheat refused to tell me why I am here today and what this Grand Jury Proceedings is about.

It is my understanding that a witness can become a subject or target at any point in time. I therefore have no idea what is self-incriminating or not. Moreover, Michael Wheat and the FBI's terrorizing and appalling conduct has violated myself, my family, and other witnesses' basic constitutional rights. Michael Wheat is wasting my time, your time, taxpayer dollars, and engaging in a fishing expedition because he has no case.

For the foregoing reasons and due to Michael Wheat's abuse of power as a special prosecutor and failure to act ethically as an "officer of the court", I hereby invoke my Fifth Amendment right against self-incrimination and therefore respectfully decline to answer any questions.

SEALED EXHIBIT 3

*Lois Mitsunaga's Prepared Statement
For The Grand Jury*

EXHIBIT 1

Lois Mitsunaga's Statement to the Grand Jury

STATEMENT TO GRAND JURY
REGARDING LAUREL MAU AND
THE PROSECUTOR'S OFFICE

By Lois Mitsunaga

LAUREL MAU:

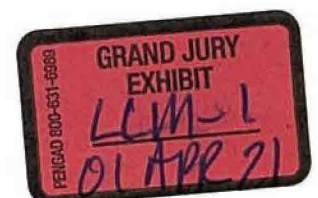
1. Laurel Mau was an Architect working for Mitsunaga Associates – Mitsunaga Associates is a full service Architectural and Engineering Company.
2. While employed by Mitsunaga and getting paid over \$100,000 per year in salary and fringe benefits, Laurel Mau was not doing her work because she was also working and getting paid by other firms, including our competitors.

She got away with this by falsifying her time sheets.

3. Besides neglecting her work for us while getting paid HUNDREDS OF THOUSANDS of DOLLARS, she was doing "SIDE JOBS" on her own.

Although she used Mitsunaga Associates as the entity to process the Contract and process the Building Permit, she kept the money for all the side jobs for herself.

4. We had suspected something was wrong for some time because the Building Department would periodically call our office to inquire about permits for projects that no one else in the office knew anything about.



5. Laurel Mau's criminal activities came to a head when one of her Clandestine Clients sued her contractor boyfriend and Mitsunaga Associates for faulty design work that she had done using Mitsunaga as the contracted entity.

a. We had no knowledge or involvement with the project but got sued because Laurel Mau had used us to procure the contract and process the Building Permit.

b. The case as filed in court is STANFORD H. MATSUI vs. EDGAR KAMAKA.

Edgar Kamaka is Laurel Mau's boyfriend with whom she was doing the "SIDE JOBS" with.

c. Although Laurel Mau kept all the money for the project, we had to spend many thousands of dollars in company resources and legal fees for the next four (4) years to get released from the lawsuit.

6. During the Stanford Matsui lawsuit we found out that there were many other "SIDE JOBS" that Laurel Mau had done using Mitsunaga Associates to procure the contract and process the Building Permit, while getting all the money diverted directly to her.

7. After Laurel Mau's criminal activities were uncovered and she was naturally terminated, she had the audacity to file a "WRONGFUL TERMINATION" lawsuit against us claiming that she was fired because she was a woman as opposed to the fact that she is a thief.

a. It was a jury trial and we won the case "HANDS DOWN".

During the trial Laurel Mau even admitted that what she had done to us was "unethical"!

8. After we fired her, we filed a complaint with the Honolulu Police Department to have her prosecuted. The HPD Report No. is 12-2589.
 - a. If someone burglarized your house and stole your belongings, wouldn't you want the thief to be caught and prosecuted??
 - This is exactly what Mitsunaga Associates did.

REGARDING OUR INVOLVEMENT WITH THE PROSECUTOR'S OFFICE:

1. When we first filed our Complaint with the Honolulu Police Department, they directed us to Detective Phillip Snoops. Detective Snoops felt what Laurel Mau did was a complicated business crime and recommended that we report it directly to the Prosecutor's Office.
 - a. This is why we retained Attorney MYRON TAKEMOTO (who is now a Judge) to file the complaint with the Prosecutor's Office.

Mr. Takemoto was an experienced Criminal Attorney and had previously worked in the Prosecutor's Office for over 10 years.
2. In May 2015, the Prosecutor's Office independently filed our (4) counts of theft against Laurel Mau.
 - a. Sadly, the case was dismissed because of a technicality and Laurel Mau escaped punishment for her misdeeds.
 - b. It was our understanding that the Prosecutor was going to appeal the decision, but for some reason, that was never done.

We obviously do not control or have any influence over the Prosecutor's decisions and until this day do not know why the decision was not appealed.

FALSE NEWSCAST BY HNN on March 4, 2021

1. Whoever released the false information to HNN prejudiced the minds of the jurors, compromised the unbiasedness of the Grand Jury, and did irreparable harm to Mitsunaga Associates.

The entire newscast by HNN on March 4th was FALSE. I wish to submit to the Grand Jury Chad McDonald's Declaration regarding Laurel Mau which I believe will reveal the truth regarding this entire Laurel Mau issue.

DECLARATION OF CHAD MCDONALD

I, Chad McDonald, hereby declare the following:

1. My name is Chad McDonald. I am a Civil Engineer and the Senior Vice President of Mitsunaga & Associates, Inc. (“MAI”), a company located in the City and County of Honolulu, State of Hawaii. I have been employed by MAI for over 15 years (from 1997 to present). MAI is a design firm that provides architectural, engineering, and construction management services to clients throughout the State of Hawaii and internationally. I currently oversee MAI’s Civil Engineering Division and the Construction Management Division. I hold a bachelor’s degree in Civil Engineering from Loyola Marymount University.

2. I have knowledge of and participated in the investigation involving a former MAI employee, Laurel J. Mau (“Mau”), and her performance of side jobs while employed at MAI using MAI’s name, time, money, and resources, without MAI’s consent, knowledge, authority, and/or approval.

3. On or about November 10, 2011, Mau was terminated from MAI for misconduct and performing unauthorized side jobs using MAI’s name, time, money, and resources in direct violation of MAI’s Employee Handbook.

4. I have knowledge of and participated in the *Stanford H. Masui, et al. v. Edgar Kamaka, et al.* (Civil No. 12-1-0524-02) lawsuit in the Circuit Court of the First Circuit, State of Hawaii. In this case, MAI was sued by the Plaintiffs for Mau performing an unauthorized side job located at 1578 Alewa Drive, using MAI’s name, time, money, and resources, without MAI’s consent or knowledge. A settlement was reached on or about August 19, 2014. I reviewed all documents, including but not limited to the pleadings, correspondence, and depositions, in this proceeding and have relied upon these documents in developing my testimony.

EXHIBIT A

5. I have knowledge of and participated in the *Laurel J. Mau v. Mitsunaga & Associates, Inc.* (Civil No. 12-00468) lawsuit in the United States District Court for the District of Hawaii. In this case, Mau filed a complaint on or about August 20, 2012 alleging age and sex discrimination, retaliation, negligent and intentional infliction of emotional distress, and seeking punitive damages. Prior to trial, Mau withdrew the age discrimination claims. A jury trial in this matter began on July 14, 2014. The jury returned a verdict on July 25, 2014 in favor of MAI: (1) denying all of Mau's claims; and (2) granting MAI's claim against Mau for breach of the duty of loyalty. I reviewed all documents, including but not limited to the pleadings, correspondence, depositions, and trial transcripts, in this proceeding and have relied upon these documents in developing my testimony.

6. Through my knowledge of and participation in the investigation of Mau, and my involvement in the *Stanford H. Masui, et al. v. Edgar Kamaka, et al.* (Civil No. 12-1-0524-02) and *Laurel J. Mau v. Mitsunaga & Associates, Inc.* (Civil No. 12-00468) lawsuits, I ascertained the following facts:

I. FACTS AND CIRCUMSTANCES ESTABLISHING PROBABLE CAUSE

A. Summary of the Investigation

Laurel J. Mau was employed as an Interior Designer/Architect with MAI beginning in 1996. *See* Exhibit "1", Transcript of Jury Trial Day 2 dated July 15, 2014 at 27:4-6. On November 10, 2011, Mau was fired by MAI for misconduct and performing unauthorized side jobs. *See* Exhibit "8". During the investigation into her misconduct, both before and after her termination, it came to light that Mau was performing various "side jobs" during company work hours while falsely stating on her time sheets that she was working on MAI projects. Mau testified under oath as follows:

EXHIBIT A

- “Q. With regards to your side jobs, Ms. Mau, that you performed while employed at Mitsunaga & Associates, Inc., you performed them outside the course and scope of your employment; is that correct? A. Yes. Q. And with regards to your side jobs, you used MAI’s time, money, and resources to perform these side jobs; is that correct? A. Yes, e-mail and telephone. Q. E-mail, fax, time; is that correct? A. Yes. Q. You also used MAI’s name; is that correct? A. Yes.” *See* Exhibit “2”, Deposition of Laurel Mau dated July 9, 2014 at 346:14-347:3.
- “Q. [Y]ou were doing side jobs against company policy, in violation of company policy, correct? A. Yes.” *See* Exhibit “4”, Transcript of Jury Trial Day 3 dated July 15, 2014 at 105:14-16.
- “Q. [Y]ou did use Mitsunaga & Associates’ name and you put it on the permit for jobs that were not Mitsunaga & Associates’ jobs, correct? A. Yes.” *See* Exhibit “4”, Transcript of Jury Trial Day 3 dated July 16, 2014 at 142:18-21.
- “Q. So is it fair to say that you used Mitsunaga & Associates, Inc.’s, or MAI’s name, email address and business phone number to obtain building permits for jobs not related to MAI? A. Yes.” *See* Exhibit “5”, Transcript of Jury Trial Day 4 dated July 17, 2014 at 14:11-15.
- “Q. With regards to the Endo residence project, did you use MAI’s time, money, and resources to perform that project? A. Yes.” *See* Exhibit “2”, Laurel Mau Deposition dated July 9, 2014 at 332:13-16.
- “Q. With regards to the Dr. and Mrs. Alvin Fuse residence project located 1525 Ahuahu Loop, Honolulu, Hawaii 96816, that was a side job that you performed; is that correct? A. Yes. Q. Was that outside the course and scope of Mitsunaga & Associates, Inc.’s employment? A. Yes, yes. Q. And did you use MAI’s time, money, and resources to perform this project? A. Yes.” *See* Exhibit “2”, Laurel Mau Deposition dated July 9, 2014 at 332:17-333:2.

Mau admitted to performing over 13 side jobs, year after year, using MAI’s time, money, and resources. *See* Exhibits “9” and “10”.

It was also later revealed that Mau took two payments from an MAI client, Rudy Alivado, on an MAI job, one for eight hundred dollars (\$800.00) and another for two thousand dollars (\$2,000.00), and kept these cash payments for herself rather than passing them on to MAI. By deceiving MAI and falsifying her time sheets, thereby acquiring a salary she did not earn, and by deceiving Rudy Alivado into making two cash payments that she never intended to

EXHIBIT A

pass on to MAI (and never did pass on to MAI), I have probable cause to believe that Laurel J.

Mau committed the offense of Theft in the 2nd Degree by Deception.

B. Mau’s Unauthorized Side Jobs

On November 10, 2011, Mau was fired by MAI for misconduct and for acting against company policy by conducting various "side jobs" without MAI's approval, authority, or consent. See Exhibit "8". MAI's Employee Handbook states that the hours of work for employees are Monday thru Friday from 8:00 a.m. to 5:00 p.m., unless otherwise arranged with a division head. See Exhibit "11". Ignoring the rules, Mau used MAI's name, time, money, and other resources to perform "side jobs" during company work hours while billing MAI for time spent working on projects for herself and MAI's competitors.¹ See Exhibit "12". Mau would often disguise the time for her side jobs as "Construction Administration" on her MAI timesheets as shown in Table 1.

TABLE 1: LAUREL MAU’S CONSTRUCTION ADMINISTRATION (“CA”) HOURS

| YEAR | CONSTN. ADMIN (CA) HOURS ON TIMESHEETS | HR. RATE | TOTAL PD TO LM FOR CA WORK | PER W-2 WAGES REC'D FROM MAI | AVERAGE % ALLOCATED TO CA PER JOB | AVERAGE \$ ALLOCATED TO CA PER JOB | MAI DAMAGES |
|------|--|-----------------|----------------------------|------------------------------|-----------------------------------|------------------------------------|--------------|
| 2011 | 1,033 | \$35.00/\$40.00 | \$36,155.00 | \$63,992.69 | 20% | \$12,798.54 | \$23,356.46 |
| 2010 | 1,199 | \$35.00 | \$41,965.00 | \$73,384.78 | 20% | \$14,676.96 | \$27,288.04 |
| 2009 | 1,117 | \$35.00 | \$39,095.00 | \$73,384.78 | 20% | \$14,676.96 | \$24,418.04 |
| 2008 | 601 | \$35.00 | \$21,035.00 | \$64,984.56 | 20% | \$12,996.91 | \$8,038.09 |
| 2007 | 279 | \$33.37 | \$9,310.23 | \$69,246.32 | 20% | \$13,849.26 | \$(4,539.03) |
| 2006 | 429 | \$31.73 | \$13,612.17 | \$64,535.03 | 20% | \$12,907.01 | \$705.16 |

| | |
|---------------------|---------------|
| | \$ 75,062.55 |
| 1.72 Over Head Rate | \$ 129,107.59 |
| Subtotal | \$ 204,170.14 |
| 10% Profit | \$ 20,417.01 |
| Total | \$ 224,587.15 |

¹ Ms. Mau's hourly rate (effective June 10, 2007) was \$35.00 and raised to \$40.00 on November 3, 2011. MAI also paid for Ms. Mau's parking, cell phone bill, and gas. Additionally, Ms. Mau was given a \$1,000 bonus December 19, 2008, December 22, 2009, and December 18, 2010.

EXHIBIT A

See Exhibits “15”, “16”, and “17”. Given Mau’s position and projects, there was no conceivable way she performed anything even remotely related to the amount of time she allocated to Construction Administration each year. Mau consistently falsified her timesheets, year after year, billing MAI for time she spent working on side jobs, frequently for a competitor.² Furthermore, Mau’s time sheets do not reflect that she ever made up the time expended on her side jobs during MAI’s work hours by working on weekends or after hours.³ *See* Exhibits “15” and “16”.

Mau frequently worked on unauthorized "side jobs" with MAI's competitor William ("Bill") Wong, who is the Owner/Managing Member at Jenken Architecture, LLC using MAI's name, time, money and resources. *See* Exhibits “12”, “13”, “14”, “34”. In fact, Mau admitted that her own conduct, working for a competing architectural firm Jenken Architecture while she was employed by MAI, was “weird” and “unethical.” *See* Exhibit “5”, Transcript of Jury Trial Day 4 dated July 17, 2014 at 74:21-75:5. As a result of Mau’s misconduct, MAI was sued. *See* Exhibit “4”, Transcript of Jury Trial Day 3 dated July 16, 2014 at 107:4-108:3. Mau used MAI's computer/e-mail system to generate non-MAI related business and communicate with her "side job" clients during work hours while billing MAI for her time without MAI's approval, authority,

² Mau’s testimony contains a story that Mau was somehow given blanket authorization at some unidentified time -- she couldn’t even identify the year -- to do any job under \$15,000 as a side job. This “story” was a lie as Mr. Fujii never gave Mau approval to do one side job. *See* the Declaration of Aaron Fujii. Furthermore, Mr. Fujii testified at trial that Mau never even came to him about it, let alone gave her blanket authority, and that he was not in a position to give approval until 2010, in any event. *See* Exhibit “6”, Transcript of Jury Trial Day 6 dated July 21, 2014 at 76:24-78:3.

³ Mau claims that, although she did falsify her timesheets, she would sometimes “make-up” the time on weekends or after hours. However, her timesheets do not reflect any such “make-up” time, she cannot identify how many hours she stole nor how many hours she allegedly “made-up.” Mau knew she was stealing from the company, which is why she falsified the timesheets. An MAI employee, Hisako Uriu, whose desk was located next to Mau’s desk testified as follows: “[Laurel Mau] was complaining that she didn’t get a raise and she was mad, so she came to me and she complained that if the Mitsunaga & Associates didn’t give her a raise, she said she is going to give herself a raise . . . she explained that she is not going to work.” *See* Transcript of Jury Trial Day 7 dated July 22, 2014 at 41:4-14, 43:23-44:18, 55:3-4.

EXHIBIT A

or consent, which is strictly prohibited by MAI's Employee Handbook.⁴ During trial, Mau testified under oath as follows:

- “Q. Yesterday you testified regarding a personal computer, that you did not have one while you were employed at MAI; is that correct? A. Yes, that’s correct. Q. Okay. Well, is it fair to say then that all of the side jobs, all communications that you had with clients or other people working on these side jobs was done on MAI’s computer then? A. Yes, that’s correct.” *See* Transcript of Jury Trial Day 4 dated July 17, 2014 at 4:17-25.
- “Q. Okay. Yesterday you also mentioned not having a separate email account, separate and apart from the MAI email account that you had; is that correct? A. Yes, until I started an email account in maybe the summer of 2011. Q. Okay. So it would be fair to say that all emails sent to you relating to your side jobs went to the MAI email account? A. Yes, that is correct. Q. Okay. And would it be fair to say also that all emails sent from you to your clients or other people working on the side jobs came from that MAI email account? A. Yes, that’s correct.” *See* Transcript of Jury Trial Day 4 dated July 17, 2014 at 5:1-12.

By way of example, Mau performed (1) the project located at Vanguard Loft, Apt. # 505, 720 Kapiolani Boulevard, Honolulu, Hawaii for Mr. and Mrs. Darrin Sato, and (2) the project located at 1303 Nehoa Street, Honolulu, Hawaii 96822 for Allen Teshima using MAI’s time, money, and resources while falsely billing MAI for the time she spent on these projects.

However, MAI did not discover these unauthorized “side jobs” until approximately February 2013 as it continued its ongoing investigation of Laurel Mau. During her deposition on July 9, 2014, Mau testified under oath as follows:

- “Q. And did you use MAI’s time, money, and resources to perform the Loft 505 project? A. Yes. Q. And how much in compensation did you receive? A. \$900.” *See* Exhibit “2”, Deposition of Laurel J. Mau dated July 9, 2014 at 325:1-6.
- “Q. You previously testified that you did in fact use MAI’s time, money, and resources to perform this side job located at 1303 Nehoa Street; is that correct? A. Yes.” *See* Exhibit “2”, Deposition of Laurel J. Mau dated July 9, 2014 at 322:18-22.

⁴ Under the Section entitled “E-Mail” of MAI's Employee Handbook, it states “The E-Mail system is solely to conduct the firm’s business with its client and vendors.” *See* Exhibit “11”. Additionally, under the Section entitled “Moonlighting” of MAI's Employee Handbook, the company has a list of rules that must be adhered to in the event an employee chooses to make outside professional commitments, all of which Mau violated. *See* Exhibit “11”.

EXHIBIT A

Mau admitted to receiving more than \$6,000 in compensation from these side projects that she performed during work hours, using MAI's time, money, and resources, all the while falsifying her timesheets and also collecting her salary from MAI. Mau spent her working hours using MAI's computer to generate the contracts for these Projects and to obtain necessary building permit(s), used MAI's e-mail system to communicate with her side job clients, and used MAI's cell phone/landline to perform these side jobs. The following Tables relate to these side jobs and show the date of the e-mail, the time the e-mail was either sent or received by Mau, who the e-mail was addressed to, who the e-mail was sent from, and the amount of time Mau billed MAI for that day.

TABLE 2: LOFT 505

| DATE | TIME | TO | FROM | BILLED TO MAI PROJECTS | TIME BILLED |
|-------------|-------------|-----------------|-----------------|----------------------------------|--------------------|
| 10/07/11 | 11:39 a.m. | Darrin/Pamie | Laurel Mau | Kamehameha Schools/CCHDC Complex | 4 Hours/4 Hours |
| 04/05/11 | 9:39 a.m. | Laurel Mau | Napolean Pascua | Kamehameha Schools/AB-Warehouse | 4 Hours/4 Hours |
| 04/05/11 | 9:14 a.m. | Napolean Pascua | Laurel Mau | Kamehameha Schools/AB-Warehouse | 4 Hours/4 Hours |
| 04/05/11 | 9:10 a.m. | Laurel Mau | Napolean Pascua | Kamehameha Schools/AB-Warehouse | 4 Hours/4 Hours |
| 02/15/11 | 2:59 p.m. | Laurel Mau | Napolean Pascua | Kamehameha Schools | 8 Hours |
| 02/15/11 | 1:17 p.m. | Napolean Pascua | Laurel Mau | Kamehameha Schools | 8 Hours |
| 02/15/11 | 12:09 p.m. | Laurel Mau | Ed Deuchar | Kamehameha Schools | 8 Hours |
| 02/14/11 | 6:01 p.m. | Ed Deuchar | Laurel Mau | Fire Station/Kamehameha Schools | 2 Hours/6 Hours |
| 02/14/11 | 5:51 p.m. | Laurel Mau | Ed Deuchar | Fire Station/Kamehameha Schools | 2 Hours/6 Hours |
| 02/14/11 | 11:55 a.m. | Darrin Sato | Laurel Mau | Fire Station/Kamehameha Schools | 2 Hours/6 Hours |
| 02/14/11 | 11:42 a.m. | Laurel Mau | Darrin Sato | Fire Station/Kamehameha Schools | 2 Hours/6 Hours |
| 02/14/11 | 11:33 a.m. | Ed Deuchar | Laurel Mau | Fire Station/Kamehameha Schools | 2 Hours/6 Hours |
| 02/10/11 | 3:16 p.m. | Darrin Sato | Laurel Mau | Hale Wai Vista/Kalaeloa Restore | 4 Hours/4 Hours |
| 02/10/11 | 11:58 a.m. | Darrin Sato | Laurel Mau | Hale Wai Vista/Kalaeloa Restore | 4 Hours/4 Hours |
| 02/10/11 | 9:51 a.m. | Laurel Mau | Darrin Sato | Hale Wai Vista/Kalaeloa Restore | 4 Hours/4 Hours |
| 02/10/11 | 9:10 a.m. | Darrin Sato | Laurel Mau | Hale Wai Vista/Kalaeloa Restore | 4 Hours/4 Hours |
| 02/08/11 | 2:04 p.m. | Dave Gifford | Laurel Mau | Ewa Makai/Hale Wai/Kamehameha | 2/4/2 Hours |
| 02/03/11 | 4:27 p.m. | Darrin Sato | Laurel Mau | Fire Station/Hale Wai/Kamehameha | 2/2/4 Hours |
| 02/03/11 | 3:56 p.m. | Laurel Mau | Darrin Sato | Fire Station/Hale Wai/Kamehameha | 2/2/4 Hours |
| 02/03/11 | 3:49 p.m. | Darrin Sato | Laurel Mau | Fire Station/Hale Wai/Kamehameha | 2/2/4 Hours |
| 02/03/11 | 2:36 p.m. | Laurel Mau | Darrin Sato | Fire Station/Hale Wai/Kamehameha | 2/2/4 Hours |

See Exhibits "15" and "20" (E-mails related to the Loft 505 unauthorized side job).

EXHIBIT A

TABLE 3: 1303 NEHOA STREET

| DATE | TIME | TO | FROM | BILLED TO MAI PROJECTS | TIME BILLED |
|-------------|-------------|---------------|---------------|--|--------------------|
| 07/07/11 | 10:11 a.m. | Ms. Fossorier | Laurel Mau | Kihei Police Station | 8 Hours |
| 06/29/10 | 10:22 a.m. | Allen Teshima | Laurel Mau | Ewa Makai/Hale Wai/Fire Station/Kamehameha | 2/2/2/2 Hours |
| 06/28/10 | 7:10 p.m. | Laurel Mau | Allen Teshima | Ewa Makai/Hale Wai/Kamehameha | 4/2/2 Hours |
| 06/28/10 | 3:57 p.m. | Allen Teshima | Laurel Mau | Ewa Makai/Hale Wai/Kamehameha | 4/2/2 Hours |
| 06/07/10 | 3:27 p.m. | Allen Teshima | Laurel Mau | Fire Station/Ewa Makai | 4 Hours/4 Hours |
| 06/07/10 | 2:58 p.m. | Allen Teshima | Laurel Mau | Kaunakakai Fire Station/Ewa Makai | 4 Hours/4 Hours |
| 06/04/10 | 4:21 p.m. | Laurel Mau | Allen Teshima | Kihei Police Station | 8 Hours |
| 04/27/10 | 1:41 p.m. | Allen Teshima | Laurel Mau | Ewa Makai | 8 Hours |
| 02/04/10 | 5:47 p.m. | Allen Teshima | Laurel Mau | Ewa Makai/Kamehameha Schools | 4/4 Hours |

See Exhibits “15” and “24” (E-mails related to the unauthorized side job located at 1303 Nehoa St.).

C. Mau’s Theft From Rudy Alivado

During approximately October 2007 to May 2009, Mau worked an MAI project for Rudy Alivado’s residence located at 45-616 Nohomalu Place, Kaneohe, Hawaii 96744 (the “Project”). Rudy Alivado is a friend of Dennis Mitsunaga (who is the CEO/Owner of MAI). On April 18, 2014 and July 16, 2014, Mau testified in deposition and at trial that she performed the Rudy Alivado project as a “side job” and did not charge Mitsunaga & Associates, Inc. for any of her time spent on the Project. See Exhibit “1”, Laurel Mau Deposition dated April 18, 2014 at 189:3-11; see also Exhibit “4”, Transcript of Jury Trial Day 3, 161:9-22. However, as reflected in her timesheets, Mau did charge MAI for her time spent working on the Project. See Exhibit “16”. After being shown her timesheets at trial during cross-examination, Mau changed her “story” and testified that she did charge the company for her time. See Exhibit “5”, Transcript of Jury Trial Day 4 dated July 17, 2014 at 20:9-25:19.

Mau also testified that she received an unsolicited “gift” from Rudy Alivado in the amount of approximately \$2,000 in cash (which she accepted). See Exhibit “5”, Transcript of Jury Trial Day 4 dated July 17, 2014 at 27:19-28:6. Mr. Alivado testified that Mau was not given the money as a gift, but rather, that Mau demanded two separate payments, one in the

EXHIBIT A

amount of \$800 and another in the amount of \$2,000, payments that were supposed to be going to MAI. *See* Exhibit “7”, Transcript of Jury Trial Day 7 dated July 22, 2014 at 85:11-87:13. Mau specifically requested each of these amounts in cash. *Id.* In March 2014, MAI learned that Mr. Alivado was deceived by Mau to believe that he was paying MAI when Mau was in fact keeping the money for herself. Thus, not only did Mau bill her time to MAI, but she also collected approximately \$2,800 in cash from Rudy Alivado for herself. As this was an official MAI project, these payments should have gone to MAI, not Mau. Mau intentionally deceived Alivado into thinking that he was making payments to MAI, when she intended to keep the money for herself. Mau did, in fact, keep the money for herself, evidenced by her own admission of keeping the cash given to her by Rudy Alivado, and by Terri Otani’s declaration stating that no money was ever received by MAI from Mau as it related to the Alivado project. *See* Declaration of Terri Ann Otani.

II. EXHIBITS

1. Attached hereto as Exhibit “1” is a true and correct copy of excerpts of the Deposition of Laurel J. Mau dated April 18, 2014.
2. Attached hereto as Exhibit “2” is a true and correct copy of excerpts of the Deposition of Laurel J. Mau dated July 9, 2014.
3. Attached hereto as Exhibit “3” is a true and correct copy of excerpts of Jury Trial Day 2 dated July 15, 2014.
4. Attached hereto as Exhibit “4” is a true and correct copy of excerpts of Jury Trial Day 3 dated July 16, 2014.
5. Attached hereto as Exhibit “5” is a true and correct copy of excerpts of Jury Trial Day 4 dated July 17, 2014.

EXHIBIT A

6. Attached hereto as Exhibit “6” is a true and correct copy of excerpts of Jury Trial Day 6 dated July 21, 2014.

7. Attached hereto as Exhibit “7” is a true and correct copy of excerpts of Jury Trial Day 7 dated July 22, 2014.

8. Attached hereto as Exhibit “8” is a true and correct copy of correspondence from Sheri J. Tanaka, Esq. to Laurel J. Mau dated November 25, 2011.

9. Attached hereto as Exhibit “9” is a true and correct copy of the document entitled Defendant Laurel Mau’s Responses to Plaintiff Stanford H. Masui and Doretta L. Masui’s First Request for Production of Documents to Defendant Laurel Mau dated May 31, 2013, wherein Laurel Mau admitted to performing side jobs while employed by MAI.

10. Attached hereto as Exhibit “10” is a true and correct copy of the document entitled Defendant Laurel Mau’s Responses to Plaintiff Stanford H. Masui and Doretta L. Masui’s Second Request for Answers to Interrogatories to Defendant Laurel Mau dated August 5, 2013.

11. Attached hereto as Exhibit “11” is a true and correct copy of the Mitsunaga & Associates, Inc.’s Employee Handbook.

12. Attached hereto as Exhibit “12” is a true and correct copy of a letter/invoice from Laurel Mau (who is signing on behalf of William Wong from Jenken Architects, LLC) to Ms. Violet Endo Francis (a side job client) for fees.

13. Attached hereto as Exhibit “13” is a true and correct copy of Table 5 reflecting the date, time, and amount of minutes William Wong and Laurel Mau spoke to one another using MAI’s cell phone while Mau falsely billed MAI, claiming to be working on MAI Projects.

EXHIBIT A

22. Attached hereto as Exhibit "22" is a true and correct copy of the contract between Laurel Mau and Allen Teshima for the unauthorized side job located at 1303 Nehoa Street, Apartment 7, Honolulu, Hawaii 96822 dated November 18, 2009. Mau used MAI's name, time, money, and/or resources to perform this side job without MAI's knowledge or consent.

23. Attached hereto as Exhibit "23" is a true and correct copy of a check from Allen Teshima to Laurel Mau dated July 12, 2010 in the amount of \$8,029.65 for the services Laurel Mau rendered.

24. Attached hereto as Exhibit "24" are true and correct copies of e-mails regarding the 1303 Nehoa Street, Apartment 7, Honolulu, Hawaii 96822 unauthorized side job.

25. Attached hereto as Exhibit "25" is a true and correct copy of the permits Laurel Mau obtained using MAI's time, money, and resources, including the 1303 Nehoa Street, Apartment 7, Honolulu, Hawaii 96822 unauthorized side job.

26. Attached hereto as Exhibit "26" is a true and correct copy of the Department of Planning and Permitting Building Permit for the unauthorized side project located at 1303 Nehoa Street, Apt. #7, Honolulu, Hawaii 96822, wherein Laurel Mau is listed as the Building Permit Applicant and Plan Maker, using MAI's time, money, and/or resources.

27. Attached hereto as Exhibit "27" are true and correct copies of the drawings prepared by Laurel J. Mau for the project located at 1303 Nehoa Street, Apt. #7, Honolulu, Hawaii 96822.

28. Attached hereto as Exhibit "28" are true and correct copies of invoices for the project located at 1303 Nehoa Street, Apt. #7, Honolulu, Hawaii 96822, wherein Laurel Mau used MAI's name, address, and/or telephone number to obtain materials for the project.

EXHIBIT A

The foregoing all occurred in the City and County of Honolulu, State of Hawaii.

I, Chad McDonald, declare under penalty of law that the foregoing is true and correct to the best of my knowledge and belief.

DATED: Honolulu, Hawaii, October 31, 2014.

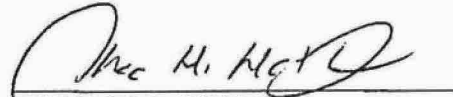

CHAD MCDONALD

EXHIBIT A

SEALED EXHIBIT 4

*Arnold Koya's Prepared Statement
For The Grand Jury*

- I am a 73 year-old man who had a STROKE in December 2020, and currently under the medical supervision of multiple doctors at Queen's Hospital. I am still recovering, BUT the stroke has affected my SPEECH and physical abilities on the right side of my body. I SLUR MY SPEECH, have difficulty finding the proper word to use, have occasionally short term MEMORY loss, and uncontrollable finger coordination. I am potentially at risk for blood clotting and likely to suffer another stroke, or heart attack without medications and under stressful situations.
- On May 5th, Michael Wheat filed a secretive and completely dishonest Motion to hold me in contempt of Court. However, he never provided me or my attorney with any notice of the date and time of the hearing as ordered by the Court. Michael Wheat failed to serve me with the Motion, until the DAY AFTER the hearing took place, to ensure that my attorney could not attend the hearing. I was NEVER personally served with any subpoena to testify at these Grand Jury Proceedings. Michael Wheat knew that I had SUFFERED A STROKE because he tapped my cell phone, along with others witnesses.
- On Thursday, May 20th at approximately 6:45 pm, I was slowly walking through the garage of my apartment with a cane in one hand and a bag in the other. All of a sudden, SEVEN (7) FBI agents dressed in camouflage uniforms, surrounded me with rifles pointed, screaming "RAISE YOUR ARMS", and roughly frisked and handcuffed me. Eventually, their actions resulted in bruises. I was so TERRIFIED; it brought back memories of VIETNAM which I honorably served in. They immediately removed all of my possessions, including my cane, phone, keys, and wallet. I informed the FBI agent that I would like to speak to my attorney, Ms SHERI TANAKA. Since I was handcuffed, the lead FBI agent took possession of my phone and dialed my attorney's phone number, which I provided to him. On speaker phone, my attorney asked where I was being taken and the FBI agent grumpily replied, "Federal Detention Center". Ms TANAKA then asked him why I was being arrested and if the FBI had provided me with a Court order, at which point the agent refused to answer my attorney and just hung up. That was the last time I spoke to my attorney until May 24th (5 days later) at the Federal Courthouse only 5 minutes before I had a hearing with a Judge. I was NEVER told why I was arrested, I was NEVER provided with an order from the court, and I was NEVER read my MIRANDA rights.
- I was then taken from my home to Federal Prison by three other FBI agents dressed as civilians. However; prior to entering the Prison facility, the FBI agent fingerprinted me in their vehicle and had my mug shots taken in the parking lot at night. At that time, I again was not told WHY I was arrested, WHY I was being taken into custody, and no MIRANDA rights were given. I found the FBI's conduct odd, given that when I finally entered the facility, I was then processed again in a similar manner. Michael Wheat intentionally arrested me on a Thursday evening to ensure that I spent the entire weekend in prison. I spent a total of five (5) days in prison, without being able to contact my attorney. FBI agents had knowledge that Ms TANAKA was my attorney and represented me, but they still attempted to interrogate me on numerous occasions without counsel. I was STRESSED OUT that I would suffer another stroke, heart attack, or blood clot, given my medical condition because I was not allowed to take any of my ten (10) daily prescribed medications issued by my doctors to Federal Prison.

- Unable to build an actual case, Michael Wheat does not care about having me testify. He just wanted to manufacture a situation where he could threaten, intimidate, harass, and terrify yet another witness. Apparently not satisfied with having surrounded RYAN SHINDO and terrifying his little kids, Michael Wheat figured he would take it to the next level by fabricating a story that would somehow require the FBI to have Seven (7) agents with rifles drawn, surround a seventy-three (73) year-old man who had a stroke, and throw him in prison for five (5) days on trumped up charges. This is ABSOLUTELY SICKENING.
- I am a “SERVICE CONNECTED” DISABLED VIETNAM VETERAN, who has never been arrested, and never been in a court room until Michael Wheat fabricated false charges against me. I have worked at Mitsunaga & Associates for over thirty-five (35) years. What questions does Michael Wheat have that was so important that he felt entitled to fabricate false charges to hold me in prison for five (5) days after I had a stroke? Please ask Michael Wheat to explain to you why he did that, and if he could provide the Grand Jury the FBI’s “BODY CAM FOOTAGE” from my arrest. Michael Wheat is clearly abusing his power as a Prosecutor.
- Michael Wheat arrested me on false charges, had me spend five (5) days in FEDERAL PRISON, has refused to tell me why I am here, and what this investigation is about.

GIVEN THE FOREGOING, I HEREBY INVOKE MY FIFTH AMENDMENT RIGHT AGAINST SELF-INCRIMINATION AND I THEREFORE RESPECTFULLY DECLINE TO ANSWER ANY FURTHER QUESTIONS.

