

**IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY**

CIV 2005 485 002270

UNDER

the Judicature Amendment Act
1972

IN THE MATTER

of a decision of the Removal
Review Authority Appeal No.
AAS45984 dated 9 August 2005

BETWEEN

H L WILFRED

Applicant

AND

**THE CHIEF EXECUTIVE OF
THE DEPARTMENT OF
LABOUR**

First Respondent

AND

**THE REMOVAL REVIEW
AUTHORITY**

Second Respondent

**AFFIDAVIT OF HARMON LYNN WILFRED
Sworn Friday the 24th day of February 2006**

Next Event Date:

Judicial Officer:

WYNN WILLIAMS & CO
SOLICITORS
CHRISTCHURCH

Solicitor: J V Ormsby

Appellant's Solicitors
Level 7, BNZ House, 129
Hereford Street, P O Box 4341,
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I, Harmon Lynn Wilfred, of Christchurch, Company Director, swear:

1. I am the Applicant in this proceeding and the Appellant in the related appeal CIV 2005 405 1617.

2. **ON** 10 December 2004 I brought an appeal to the Second Respondent pursuant to Section 47 of the Immigration Act 1987. On 9 August 2005 the Second Respondent delivered its decision which I seek judicial review of on the basis set out in the Statement of Claim filed in this proceeding. I verify the contents of the Statement of Claim as true and the copy of the Second Respondent's decision annexed thereto. I further verify that the documents disclosed by Mr Duffy for the Second Respondent in the appeal proceedings CIV 2005 405 1617 under Rule 714 of the High Court Rules are true and correct copies of the documents supplied by me.

3. **IN** order to understand the circumstances of my case, which I claim are exceptional circumstances and of a humanitarian nature which would make it unjust or unduly harsh for me to be removed from New Zealand, it is necessary to set out some of the events which have led to me being domiciled in New Zealand.

Background

4. I am presently married to Carolyn Dare Wilfred, who also resides with me in New Zealand. Carolyn is in New Zealand on an approved long term business visa to residency.

5. **MY** wife and I arrived in New Zealand in August 2001 and since that time have been lawfully in New Zealand on visitor's permits, visas, and work permits. We came to New Zealand to commence a new life together and to avoid the on-going retribution and injustices that I was personally facing in the United States legal system as a direct result of having been a government whistleblower at both the state and federal levels of the US government.

6. I have three children from previous marriages; my son, Tyler Jonathon Wilfred, born to my now ex-wife, Sandra Wilfred on 31 December 1987 and my two other children from my subsequent marriage to Dearnna Wilfred in 1990, Danielle Marie Wilfred born 16 October 1991, and Isaac Arthur Wilfred, born 6 December 1993.

El Paso County Pension Fund

7. I was divorced from Sandra Wilfred in July, 1990 after a contested two year divorce proceeding and thereafter married Dearnna Garcia Wilfred, on 11 December 1990. Approximately one year after marrying Dearnna, when our first child, Danielle, was 3 months of age I moved the entire family to Colorado Springs, Colorado, where I was initially employed as a commercial property broker. In 1992 I was employed by commercial real estate contractors to support the renovation and sale of commercial properties owned by the El Paso County Pension Fund ("Pension Fund"). At that time I had in excess of 10 years experience with commercial property brokerage, development, and construction in the greater Denver, Colorado market. In this particular instance I provided consulting services for construction management, property management and brokerage of recently purchased distressed commercial properties. In the process of leasing, restoring and selling these properties on behalf of the Pension Fund I realised that significant amounts of Pension Fund moneys were being skimmed and embezzled by the Fund Administrator, Mr Michael Witty, that the scheme also directly involved the contractors whom he was engaging. Those contractors were my contract employers.

8. In 1994 I reported this information to the District Attorney's office under District Attorney John Suthers and Assistant District Attorney Jeanne Smith. The District Attorney's office failed to conduct a proper investigation and initially no charges were brought. I continued to persist in providing evidence to the District Attorney's office and also reported the case with all of my evidence to the Colorado State Attorney General's office, again, without any action being taken. I later discovered that the District Attorney's office, through a number of its members led by DA John Suthers was involved with deliberately resisting any investigation or prosecution of the parties involved in the embezzlement scheme. In my view this was a deliberate decision calculated to cover up the embezzlement scheme.

9. As the fund was also partially funded by the Federal Government, I reported these indiscretions to the Federal Bureau of Investigation ("FBI"). I also complained about the conduct of District Attorney John Suthers and his deputy DA Jeanne Smith. Eighteen months after my initial report and evidence was submitted to the DA with no action, the FBI forced the El Paso County District Attorney's office to reopen the investigation. As a result Mr Witty was named in the embezzlement scheme and the County Treasurer,

and certain Pension Fund Board members were fired and fined. The DA's office suffered embarrassment because it had previously denied publicly that a case existed. Mr Witty was found guilty and given a prison sentence of 18 years. Annexed hereto and marked "**A**" is a copy of the transcript of my original statement to John Kramer, an investigator with the Colorado El Paso County District Attorney's office dated 9 September 1994. Annexed hereto and marked "**B**" is a copy of my letter to Special Agent David Bailey of the FBI dated 27 January 1995. Also annexed hereto and marked "**C**" is a copy of the letter dated 14 August 1995 from the District Attorney after he was made aware of my complaints to the FBI.

10. SEVERAL hundred thousand dollars of the stolen moneys were retrieved. However, additional millions reported and evidenced by me as taken by Witty's contractors remained outstanding. I continued to seek to present my detailed and documented evidence as to where the rest of the money went and who was involved, but was unsuccessful in getting the Colorado State Government or the El Paso County District Attorney's John Suthers or Jeanne Smith to take the matter further.

11. I believe that the action I took in blowing the whistle to the FBI on the El Paso County District Attorney's deliberate and prolonged cover-up of the Pension Fund embezzlement scheme; and resulting embarrassment of DA's John Suthers, Jeanne Smith and other county and state officials resulted in the District Attorney's office deliberately causing grave difficulties for me in relation to my previous and subsequent Family Court matters I later attempted to resolve in El Paso County under the same Colorado County Court jurisdiction.

International Finance

12. I had previously gained some experience in international finance through my university degree and extensive experience as a commercial property developer and desired to expand these skills. Eventually I incorporated Arcore International Funding LLC ("Arcore") in early 1996 and commenced working as an International Finance Consultant.

13. IN the summer of 1996 I was introduced to two European financial trusts, the Alpha & Omega Trust and the Bay State Trust, both of which are registered in Lichtenstein with substantial banking and contacts through the Bank of Lichtenstein and Credit Suisse Bank of Zurich, Switzerland.

14. IN 1996 I was also introduced to members of the US Central Intelligence Agency ("CIA"), through Mr Michael Austin, a CIA operative and former Navy Seal. Mr Austin engaged my services under Arcore on behalf of the CIA to act as a financial advisor and intermediary in an international finance transaction involving assistance to the country of Guatemala.

15. I was able to obtain security clearance to work as a financial contractor for the CIA because I had previously served for four years in the US military service as a weapons specialist under a Top Secret security clearance. I was with the United States Airforce from March 1969 to March 1973.

16. THE primary transaction in which Arcore was involved was known as the Mitsubishi Note transaction. This involved Mitsubishi Bank Certificate #47029, one of a number of certificates privately issued by the Mitsubishi Bank of Tokyo, Japan in 1969 on behalf of certain Central American governments. The subject certificate had an accumulated value at that time of USD 6 billion dollars. In 1996 I was told that the subject bank instrument was one the first of 11 of these certificates that had been covertly signed over to the US CIA to be transacted on behalf of Guatemala for the purpose of financing much needed humanitarian projects. As these notes were previously used to finance other covert CIA controversial arms operations, the Mitsubishi Bank of Japan only agreed to confirm the note and proceed with the first transaction on the basis that the entire transaction was to be completed privately and covertly.

17. WHEN these types of notes are issued by an international Bank, they are issued with coupons which entitle the bearer to claim interest as time passes. These instruments are then purchased by governments, usually to assist smaller nation states with the building of infrastructure. In this case the notes were originally issued to assist the governments in Central America and there were originally 36 notes in all. The CIA desired to transact these 11 notes in its control both covertly and privately. I was involved with the processing only of the first of these notes. I was told by the CIA that this transaction was to be completed privately through European trusts. This was highly unusual because governments are normally exclusively the bodies responsible for transacting such instruments. The CIA involved Michael Austin, who in turn contracted my services. I contacted the principals of the Alpha and Omega Trust, and the Bay State Trust and they contacted their respective banks and presented the opportunity. These entities are wealthy,

privately owned trusts typically contracted to privately arrange and transact major international financial deals. Mr. Sergio Arcineagas and Ms I. Marilyn Perry as the respective trustees of the Trusts combined their resources and made the arrangement with Arcore to introduce the parties and assist in coordinating the transaction for a fee of 20 million US dollars to be equally split with an entity controlled by CIA agent Michael Austin. Annexed hereto and marked “**D**” is a copy of the Bay State Trust Irrevocable Pay Order to Arcore International Funding, LLC dated 28 April 1997.

18. The Securities and Exchange Commission (“SEC”) reportedly obtained knowledge of the transaction as it was introduced to the US Federal Reserve for final deliberation and funding in 1998 and was interested in obtaining more information on the transaction. The SEC thereby commenced a public investigation and asserted that the note was not legitimate, based upon statements provided by the Mitsubishi Bank of Japan. John Hunter, from the SEC was the Assistant Chief Trial Counsel for the SEC and sought my co-operation in the investigation. I had an arranged interview with SEC representatives, including Mr. Hunter, requested by me at my attorney's office in Toronto, Canada where I attempted to provide them with all of my information evidencing that the Mitsubishi transaction was indeed legitimate and real. The SEC then refused to receive any of my documented information or proceed with the interview, returned to Washington DC and would not answer any of my or my attorney's calls or subsequent letters thereafter attempting further to submit my evidence. The investigation in which I was not involved had already resulted in an SEC complaint being filed against certain principal individuals involved in the transaction for attempting to transact what the SEC considered to be a fraudulent instrument. Their information indicated that the note was never processed. Annexed hereto and marked “**E**” is a copy of the SEC Complaint to the United States District Court for the Southern District of New York dated 5 June 1998. Annexed hereto and marked “**F**” is a copy of a facsimile recording the minutes of my interview with the SEC on 6 August 1998 dated 12 August 1998.

Threats to Life

19. **AT** the time the SEC was investigating the Mitsubishi Note Transaction I began to receive threats to my life from people and agents, whom I knew to be connected with the CIA, if I was to reveal anything of the Mitsubishi Note Transaction.

20. THESE threats were very real and I was then made aware that the CIA had been monitoring me and all of those people that it had involved in the transaction.

21. I had considered Michael Austin to be my friend but knew that if I provided too much information that my life would be in danger.

22. I am in possession of email correspondence given to me from my friend Philip Freytag which clearly contains threats to my life. Annexed hereto and marked “**G**” is an email dated 18 April 1998 containing clear instructions that I am not to admit to the deal existing. Also annexed hereto and marked “**H**” is an email from Michael Austin dated 21 April 1998 containing references to me being in jail and that if I screwed up they would go as far as to “eliminate the problem”. The email ends with an instruction that the message should be conveyed to me.

23. I was and am still genuinely concerned that I will face retribution and physical danger if I am removed from New Zealand and sent to the USA. I did decide to co-operate with those investigating the Mitsubishi Note Transaction. As a result, Ms Perry, trustee of Bay State Trust, fled to Liechtenstein. Annexed hereto and marked “**I**” is a copy of an email dated 26 July 1998 from Mike Austin to Philip Freytag recording, in Mike’s words that “Harmon has not had the balls to call me personally”. I further annex and mark “**J**” a copy of an email dated 10 November 2005 indicating that Ms Perry fled to Liechtenstein and that “There are people waiting for her to return. They want to have some words with her”. Finally annexed hereto and marked “**K**” is an email from Philip Freytag dated 12 November 1998 demonstrating that I had been informed that the “Company”, that is the CIA, was monitoring the movements of people involved in the transaction.

24. THE reality is that the Mitsubishi certificate has never been retrieved by the SEC or the CIA. If the note was in fact a fraud, then the CIA were also duped by the persons involved in the transaction. It was later reported to me by an agent of Bay State Trust that the subject bank certificate was in fact not lost, but subsequently converted to US Treasury Bills valued at 15 billion US dollars and the transaction was indeed completed covertly by the CIA.

Family Court / Custody Issues

25. DURING the same period as the above events involving the Mitsubishi transaction, in 1997 my then wife, Dearn Wilfred began to physically abuse our children beyond previous emotional abuse with physical bouts of

punishment including hitting and severe spankings. Once, she threw our daughter against a door in our home so hard that she drove the door knob into the wall. I contacted my attorney, Mr Seymour Wheelock, ("Mr Wheelock") for help and he recommended that I contact Social Services. I filed a report with the El Paso County Social Services during April 1997.

26. MR Wheelock agreed to help me and at the same time Dearnna asked me if she could spend some time away from the children and the house in order to get some rest and regain her self control. It was agreed with El Paso County Social Services to attempt to work out a private solution. As part of that private solution, Dearnna agreed to obtain professional counselling and to have Mrs Reinhard, a professional nanny, to be at the home with Dearnna during my intermittent absence on business. It was agreed that the children would continue to be monitored by Social Services.

27. DEARNA did not pursue psychological help as agreed and fired the nanny in August 1997 while I was in Canada on business. The abuse recommenced.

28. WHEN I learned of Dearnna's action, I was extremely concerned for the welfare of my children, particularly considering the high level of Dearnna's mental and emotional instability, and abusive tendencies. I realised that I needed to remove the children to safety and apply for a divorce. However, following Dearnna meeting me in Phoenix, Arizona, where I was completing some business in mid-October 1997, she asked me to take the children because of her inability to handle them. I did so and at the same time I filed for divorce. Annexed hereto and marked "L" is a copy of Mr Wheelock's letter to Dearnna dated 10 October 1997.

29. I then began the process of relocating to Stratford, Ontario, Canada with the children during the on-going divorce proceedings. This was where many of my business dealings were occurring and it was also where my then friend Carolyn Dare lived.

30. WHILE I was in the air on a return flight to Stratford, Ontario to carry on my business there, unbeknown to me an emergency Court hearing was called by Dearnna's attorney in Colorado Springs. My Colorado attorney attended on my behalf but without knowledge or sufficient notice I was unable to attend. Because I was absent at that hearing, the Judge refused to permit any testimony from witnesses in attendance on my or my children's behalf regarding Dearnna's incompetence and extreme abusive behaviour towards

the children. Instead, to my shock and dismay, I was told thereafter that the Judge awarded temporary custody of the children to Dearn.

31. THIS emergency hearing resulted in me being automatically deemed in violation of a custody order.

32. I immediately made contact and attempted to negotiate with Dearn over custody and property issues through our long standing family friend and professional mediator in Colorado, Mr. Phillip Freytag.

33. THE El Paso County District Attorney at that time, Ms Jeanne Smith, and Dearn's attorney, Mr John Ciccolella, then collaborated in bringing a charge against me in regard to the mediation in progress for criminal extortion, and also brought a charge in relation to the original violation of a custody order for not attending the emergency hearing on 17 October 1997. This enabled the District Attorney's office to seek extradition of me from Canada and to invoke the Hague Commission Treaty between Canada and the US. I remain sceptical of Ms Smith acting in good faith because she was the Assistant District Attorney at the time I complained to the FBI about her and DA John Suthers' failure to prosecute Mr Witty and others, prior to the FBI forcing the commencement of Mr Witty's ultimate prosecution that took place in 1996/97

34. ON 14 February 1998 the Canadian authorities arrived at my home in Canada, seized the children, and forced them into an unmarked Police van while they were on a walk with their nanny. They were then taken directly to the airport and immediately returned back to Colorado to their abusive mother without question or regard to Dearn's record of child abuse.

35. THE Canadian authorities then arrested me at my home during which, when I enquired as to why I was being arrested, the officer did not read me my rights and stated that he did not have any documentation or evidence from the United States as yet to confirm or substantiate any charges. He was simply executing an arrest order.

36. I was then incarcerated in the maximum security underground prison in Kitchener, Ontario for an initial period of 89 days before I was finally able to obtain bail with great resistance and objection from the US authorities on 14 May 1998. The obtaining of bail was dependent upon my revealing all details before the court of my business activities in Canada involving the CIA and the Mitsubishi note transaction because this was considered relevant to the setting of an appropriate bail sum. The revealing of such information was

completely contrary to the demands and instructions provided by the CIA; however, I had no choice. Annexed hereto and marked “**M**” is a copy of the Employment and Immigration Canada bail conditions dated 14 May 1998.

37. WHILE I was in prison, Dearna’s attorney initiated two processes against me in the Colorado Family Court. The first was a motion to waive mediation regarding our divorce because I was “incarcerated in Canada on criminal charges”. The second was her filing of an uncontested, ex parte divorce with the same reason. Unfortunately, Mr Wheelock, my Attorney, had a complaint filed against him by the then District Attorney, Ms Jeanne Smith, with the Colorado Supreme Court for his part in representing me in my divorce proceedings. It was intimated that he had committed misconduct and had assisted me in the rescue and removal of my children. Mr Wheelock was virtually chased out of the case by the Colorado authorities, who attempted to have him disbarred. He then had a nervous breakdown and was admitted intermittently to a psychiatric hospital. As a result, he was either highly impaired or completely unable to represent me during this period due to his mental and emotional difficulties. I remained incarcerated in Canada during the proceeding.

38. ON 27 April 1998, while still incarcerated in Canada with no competent legal representation in Colorado, I was declared legally divorced from Dearna by the Colorado family court. Annexed hereto and marked “**N**” is a copy of the final orders sent to me under cover of Dearna Wilfred’s attorney’s letter dated 14 May 1998 affirming the orders made on 27 April 1998.

39. ON 1 June 1998 I was in Court again in Kitchener, Ontario for an extradition hearing. Mr Justice Glithero determined the extortion charge as the primary and most substantive charge involved and allowed my extradition. It was reported during the hearing that our family mediator, Mr. Freytag had also been charged and arrested in Colorado. In fact he had not been charged or arrested at that time. When he was finally charged and arrested 3 weeks later, the charges were withdrawn by the District Attorney uncontested at the first hearing in Colorado on the grounds of insufficient evidence; but prior to that, having been committed to the extradition with no redress, I was re-incarcerated by the Canadian Judge for an additional 31 days, awaiting my extradition to Colorado.

40. FOLLOWING the decision by the Honourable Justice Glithero dated 1 June 1998, I lodged an appeal against the extradition order decision with the

Court of Appeal for Ontario through my new attorney, Mr. Alan Gold. I then made application and was released on bail in July, 1998. There followed a lengthy period when I remained in Canada on bail while gathering evidence on my case to win the appeal and ultimately eliminate the charges in Colorado. I was required by the Canadian Court to reside with Carolyn Dare as one of my guarantors for the bail sum during this period.

41. THROUGHOUT this process the welfare of my children was never considered. My wife Carolyn approached The Hague Commission, the US Embassy and other state and Federal agencies and the Colorado Department of Social Services in Colorado Springs during my incarceration in February 1998, including affidavits from key witnesses as to Dearnna's past violent and abusive behaviour towards the children. Despite my efforts, I have been prevented from having any contact with my children and in fact I have no idea where they are living.

42. FULL custody of the children was determined in Dearnna's favour on 14 September 1998 while I was in Canada appealing the extradition proceedings.

43. WHILE the appeal of the extradition proceeding was pending to the Court of Appeal for Ontario, I decided to try and resolve matters in the USA once and for all and therefore obtained a Colorado Attorney, Mr. Dale Parrish and instructed my Canadian attorney, Alan Gold, that I would be willing to abandon the Canadian appeal subject to an acceptable arrangement with the Colorado DA to re-open all family court matters and return to Colorado to challenge the charges by a motion for dismissal. Mr Parrish did reach an acceptable arrangement. Annexed hereto and marked "O" is a copy of the Notice of abandonment of my Canadian appeal.

44. THE appeal was abandoned on 31 March 2000 based upon a verbal assurance that I would be allowed to return to Colorado and appear before the Court without escort or incarceration with the understanding that I would be permitted to present my evidence and submit for a dismissal of the charges. Annexed hereto and marked "P" is a letter dated 25 January 2000 from Deputy DA Robert Harward indicating his willingness to consider my evidence for a resolution by "agreement of the parties". Preparations were then made thereafter for my return to Colorado.

45. MY Canadian attorney emphasised to Robert Harward, Deputy District Attorney, at El Paso County by written correspondence that I was specifically

ordered under the Extradition Act and in accordance with the US-Canada Extradition Treaty and the Rule of Speciality, I could only be confronted in the United States solely for the extradition offences for which I was ordered extradited and could not be detained or arrested for any other cause, including amendments made subsequent to the extradition order (if any) and listed on the information of the District Court in El Paso County, Colorado. In spite of these instructions and the DA's original assurances, the Colorado DA Jeanne Smith completely reneged on the agreement with Deputy DA Harward by:

- Ordering my re-arrest in Canada to prepare for extradition
- Provided for a Federal Marshal escort to Colorado in handcuffs and belly chains
- I was then ordered by the Colorado Court to pay for all related airfares and costs of my extradition, including the Federal Marshal escort.
- I was re-incarcerated upon arrival at the El Paso County jail with an order to transport me to another county jail on other matters unrelated to the extradition.

46. **ON** 5 April 2000 I was taken by US Federal Marshall escort from the underground Waterloo maximum security prison and transported by air to El Paso County, Colorado. Upon arrival I was incarcerated in the Colorado jail on the subject extradition matters and then ordered by transfer to Arapahoe County on other family court matters. When I produced a copy of the letter from my Canadian attorney detailing the extradition laws, the transfer order was immediately rescinded. On 6 April 2000 I was taken before a Judge, pleaded not guilty and released on a cash bond of \$10,000.00 on the condition that I paid the full costs of my extradition. I reluctantly agreed with this stipulation. I was also denied the opportunity to present my evidence with a motion for dismissal of the charges. Annexed hereto and marked "**Q**" is a copy of the bail documentation and bond receipt dated 6 April 2000.

47. **ON** 7 April 2000 I left the United States and returned to Canada until my next scheduled court date of 11 May 2000.

48. **UPON** my scheduled return to El Paso County to go before the court with a motion for dismissal, federal charges were laid and Federal Marshals were awaiting me with a sealed and sequestered arrest order in cooperation with the Colorado District Attorney for non-payment of child support. With the

extradition charges that had been laid against me in Canada and my subsequent placement in jail and bail requirements I was prohibited to work in Canada and therefore had been unable to pay the now accumulated USD 10,500 per month, that I was ordered to pay in child support that included both of my previous marriages, and thereby El Paso County had actually cooperated in seeking to lay federal charges against me for the non-payment.

49. **ON** 11 May 2000 I returned to Colorado on my own volition to comply with a Court order to attend a pre-trial hearing to finally address the extradition matters and file a motion for dismissal. However, just prior to the commencement of the hearing, a federal arrest order was unsealed at the Court house doors and I was arrested on non-payment of child support charges previously unknown to me and therefore again was unable to attend the ordered hearing in El Paso County to enter my Motion for Dismissal for the original extradition charges. Despite the original letter referencing my US – Canada Extradition Treaty rights from my Canadian Counsel and the previous failed attempt by the Colorado District Attorney to bring other charges, I was arrested by Federal Marshals and taken to Denver, Colorado before a Federal Magistrate where I learned the new charge was non-payment of child support for the previous two years; a time when I was prohibited to work due to the original extradition charges. I was ordered by the Federal Magistrate released on a \$150,000.00 cash bond. However, because I could not pay, I was detained in custody in the Denver federal prison.

50. **ON** 23 May 2000 a pre-trial conference was held before the Federal Magistrate on the federal charges regarding the back child support issues. At this time, a motion for dismissal was argued on the basis of a violation of the US - Canadian Treaty. This motion was dismissed. The matter was then put over to 12 June for presentation and indictment before a Grand Jury. Annexed hereto and marked “**R**” and “**S**” respectively are copies of the criminal dockets containing the records of complaint dated 25 May 2000 and 26 May 2000 respectively.

51. On 26 May 2000 Judge Walker Miller was presented the case for dismissal of the federal charges against me due to violation of the US-Canada Extradition Treaty. My Canadian attorneys enquired as to whether I wished to make a diplomatic protest and also file a civil suit against the US Federal Government for breach of international law. I declined on the basis that I wanted to try and get some co-operation from the authorities and did not

want to be in the position of further complicating the issue of being able to see my children.

52. JUDGE Walker Miller dismissed the federal charge of non-payment of child support on the ground of violation of the US - Canada Treaty. Annexed hereto and marked “**T**” is a copy of the Order dismissing the complaint dated 26 May 2000.

53. FOLLOWING the federal charges being dismissed a Federal Court Order was issued for my immediate release from the Federal Detention Centre. However, prior to my leaving the prison with my wife, she having been called to the front lobby to receive me, I was re-arrested, handcuffed, belly chained, and exited out of the back entrance of the federal prison by two Federal Marshals (with the Federal Court Order to release me without further detention in their possession) and was transported to the maximum security drug detention centre of the Denver City Jail for the four day weekend holiday, during which time there was no opportunity to object or appear before a judge. I was not advised on what grounds I was being arrested, nor were my rights read to me. My wife was also not advised as to where I had been taken or why. Annexed hereto and marked “**U**” is a copy of the Denver jail computer record demonstrating I was held there under order of the US Marshall with no charges being laid and no bail available.

54. ON 30 May 2000 I was transferred to the Arapahoe County Jail and on that same day was brought before the court without counsel and forced to argue my own case or be returned to jail. As a result of pleading my case and the presentation of the Federal Court Order of my release without further detention, the county judge released me, but not without ordering a \$750,000.00 bond, requiring no deposit, with the condition that I return on 29 June 2000 for a Rule 69 financial examination hearing in Arapahoe County. Annexed hereto and marked “**V**” is a copy of the Motion by my counsel to invalidate and rescind the \$750,000.00 personal recognizance bond and the requirement for the rule 69 financial examination. Annexed hereto and marked “**W**” is a copy of the Motion to vacate orders re Rule 69 proceeding.

55. EVENTUALLY the charges in the Arapahoe County were also dismissed, my passport was returned to me and I was able to return to Canada, never having been convicted of any offence but without opportunity to challenge the original extradition family court related charges with a motion for dismissal.

56. IN total I spent 144 days incarcerated on charges that were either dismissed, withdrawn or not proceeded with. This resulted from the unlawful actions of the county and federal enforcement authorities and, on occasion, the judiciary.

Marriage to Carolyn Dare

57. ON 2 August 1998 during the midst of the extradition appeal proceedings in Canada, I married Carolyn Dare at Stratford, Ontario, Canada. I first met Carolyn when I was in Canada on business on 6 June 1997 in Guleph, Ontario through my friend, and business partner, Donald Gillmore.

58. DURING the period that ensued Carolyn and I lobbied with various public bodies for an investigation into the welfare of my children, which had been facilitated by my detention on charges which were eventually dismissed or withdrawn. Eventually these exercises proved completely fruitless. I was and continue to be particularly concerned about the potential for the continuance of child abuse on the part of Dearnna Wilfred.

59. FOLLOWING my release from Denver Jail on 31 May 2000 I was able to return to Canada. At this stage, after having had so many ordeals with the authorities as I attempted to clear my name of the various charges that were brought, and after having spent so much time in prison only to have the charges dismissed or withdrawn, it was not possible for me, either physically or financially, to continue to return and resolve all outstanding family related matters in Colorado. There are no outstanding family court criminal matters against me in the USA at this time that have not been dismissed, withdrawn or expired due to the statute of limitation by inaction, although I understand from my NZ solicitor's discussions with the American Ambassador that the District Attorney in Colorado still wishes to pursue allegations that I may have allegedly breached custody orders that were in place in 1997 as this relates to the original extradition charges.

60. CAROLYN and I ultimately decided to make a fresh start in New Zealand in 2001. As the Family Court matters relating to child support are ongoing, just before leaving Canada and upon our arrival in New Zealand we had sought the appointment of a special advocate for the protection and welfare of the children and the Court agreed. This was to ensure that the children's interests were looked after and not abused and would have the opportunity to have contact with me. Annexed hereto and marked "X" is a

copy of the Motion to appointment of special advocate executed by both parties dated 19 January 2001.

61. WE were introduced to some business and local political leaders in New Zealand and completed an assessment of the investment opportunities and decided to settle in Christchurch, New Zealand. We presently reside at 68, The Esplanade, Sumner, Christchurch. Annexed hereto and marked “Y” is a copy of the certificate of title CB12F/327.

62. IN the US Air Force I trained and served as a fighter bomber and tactical and long range aircraft computer electronics and weapons specialist. My rank upon honourable discharge was Sergeant, Aircraft Weapons Specialist. My experience with computer electronics as well as my subsequent 5 year employment with IBM is what has enabled me to develop and direct a cutting edge information technology business in New Zealand so successfully.

63. MY wife, Carolyn, has extensive personal assets and investments (her “estate”) because of her interest in her family’s ownership of Dare Foods Incorporated, a global producer and manufacturer of food products. The majority of this company continues to be owned and controlled by Carolyn, her two brothers, and her father. The company turnover exceeds US\$350,000,000 annually. We decided to invest a part of her estate to establish a home and business base in New Zealand and take up investment opportunities in New Zealand. I currently manage Carolyn’s estate on her behalf. In New Zealand we have established the following companies and charitable organizations, of which I am a director or Trustee:

- a. Combined Technology NZ Limited. ("CTNZ");
 - i. <http://www.combined-tech.com>
- b. Wilfred Investments Limited;
 - i. <http://www.harmonwilfred.com/personal/business>
- c. La Famia Foundation NZ Trust; ("La Famia")
 - i. http://www.lafamia.com/la_famia/lafamiaHome/
- d. Lumina Diem Limited; and
 - i. <http://www.luminadiem.com/lumina-diem/index.cfm>
- e. Light of Day Limited

- i. No web address at present
- f. Powerline Communications Limited
 - i. <http://www.powerlincom.net/index.htm>

Annexed hereto and marked “Z”, “AA”, “BB”, “CC” “DD” and “EE” respectively are copies of the Companies Office records for each company.

64. OUR main operating company is CTNZ. This company is owned 100% by Wilfred Investments Limited, which is a company of which both myself and Carolyn are directors. Carolyn holds 49% of the share parcels in Wilfred Investments Limited and the other 51% is held by our family trust, of which Carolyn, myself and H C Trustees Limited are the Trustees. Annexed hereto and marked “FF” is a copy of the Trust Deed.

65. CAROLYN and I are also the Trustees, of La Famia together with Meri Gibson. Carolyn and I have invested in excess of NZ\$3.6 million from her estate into the New Zealand economy, primarily through CTNZ, Wilfred Investments Ltd, the purchase of the family home in Sumner and contributions to the Champion Centre and La Famia. Annexed hereto and marked “ ” is a copy of the Bank Statement dated 31 December 2001 showing NZD 3.6 million which we transferred from Carolyn’s overseas estate to New Zealand to invest once we moved here.

CTNZ

66. CTNZ is a company which is primarily involved in the distribution and marketing of cutting edge information technology products. It also has offices and/or owns subsidiary companies in Australia and Europe. The products include:

- a. VoIP Netphones;
- b. Soft Switch technology for internet voice communications
- c. Power cabling and indoor/outdoor data and voice transfer modem technology;
- d. Platforms for call control;
- e. Switching for multi-media network traffic, such as voice, video, and instant messaging.

Annexed hereto and marked “GG” are copies of promotional brochures.

67. I am the Executive Director of the Board of CTNZ. As Executive Director I oversee all new business development and company direction. As Executive Director I was instrumental in developing the CTNZ business plan which formed part of Carolyn's application for a long term business visa.

68. I have direct responsibility for Business and Product Development, Marketing, and Investment Management.

69. As Executive Director I maintain a daily interface with Damon Rutherford, the Operations Manager, to oversee daily operations and the financial performance of the company.

70. With respect to marketing I undertake the following responsibilities:

- a.** Overseeing sales force/contractors
- b.** Development of long and short term marketing strategies;
- c.** Liaison with major clients;

71. With respect to new business and product development my responsibilities include:

- a.** Assessing new business opportunities including new markets, possible joint ventures and new IT products;
- b.** Maintenance of agency relationships such as Powerline and VoIP products.

72. **CTNZ** was conceived by me and I set up the company and negotiated the distribution rights with Powerline and VoIP. I continue to maintain this function of securing new products and technology. CTNZ's latest venture is with equipment manufacturer and software developer Koncept USA (www.konceptusa.com), with offices in the USA and China.

73. **WITH** respect to finance and investment management I manage all capital requirements for the company and report to the major shareholder, Wilfred Investments Limited.

74. **AS** detailed in the affidavit of Mr Rutherford, CTNZ has seen steady growth since its inception and has already achieved several months of profitable operations. November 2005 was CTNZ's most successful month in business with turnover exceeding \$170,000.00 for the month.

75. MY wife's estate has now made contributions and loans to CTNZ in excess of \$2 million and the company has no other liabilities or third party debts and no other sources of finance. Annexed hereto and marked "**HH**" and "**II**" respectively are the CTNZ business plan dated September 2004 and a copy of the balance sheet showing Term Liability to C Dare of \$2,099,939.00 and marked "**JJ**" are copies of bank statements dated September 2004 to August 2005 showing the significant investment of my wife's estate.

76. THE company now has a significant customer base and we expect it to continue to grow and become more profitable which will require us to employ more staff and engage more contractors to fulfil our contracts. Annexed hereto and marked "**KK**" is a copy of our customer list as at January 2006. I further annex marked "**LL**" and "**MM**" our services contract with the CTNZ Director of Marketing and employment records with the IRD.

Powerline Communications Limited

77. A related company is Powerline Communications Limited which is 50% owned by CTNZ. I am a Director of the company.

78. Powerline Communications Limited develops technology for internet data transmission on outdoor power line utility grids.

79. Powerline Communications Limited has invested over \$280,000.00 in outdoor technology trials here in New Zealand. This has included a trial in Auckland with then United Networks, now owned by Vector Limited. It also includes a survey and trial conducted with Electricity Ashburton Limited. Powerline Communications Limited and CTNZ are presently considering a continuation of the Electricity Ashburton project by joint operation and is also currently developing interest in a proposed project with India's Ministry of Communications, India to provide a combination of Powerline and CTNZ VoIP technology to remote regions of India.

The Champion Centre

80. THE Champion Centre is a charitable trust administered by the Christchurch Early Intervention Trust. Its aim is to provide high quality family/whanau based early intervention services for families who have children with multi-faceted developmental delay, to educate about early intervention and to act with parents of children with development delay as advocates for adequate and appropriate community services for them and

their children. The Champion Centre is based at Burwood Hospital in Christchurch. It was incorporated in 1989 and assists children with developmental delay and special needs including Down's Syndrome, premature birth, cerebral palsy, and traumatic brain injury.

81. **WE** first became acquainted with the Christchurch Early Intervention Trust through our accountant, Mr Brett Dudley, who is a Trustee of that Trust. My wife and I strongly believe in supporting, both financially and otherwise, charitable institutions and especially those which contribute to the benefit of children and families. We have made significant financial donations to the Christchurch Early Intervention Trust in excess of \$120,000.00. We are also interested in offering management and administrative assistance where possible. Shortly after my arrival in New Zealand I was appointed to the Board of Trustees and then made Chairman of the Christchurch Early Intervention Trust. I remained Chairman until 2003. Annexed hereto and marked "**NN**" are copies of bank statements showing donations. Also annexed hereto and marked "**OO**" is a copy of the March 2003 newsletter detailing my appointment as Chairman. We are now seeking to co-ordinate the efforts of our new formed Charitable Trust, La Famia Foundation NZ Ltd, with the Champion Centre to continue to assist families of children with developmental delay.

La Famia Foundation NZ Trust

82. **CAROLYN** and I have also recently established the La Famia Foundation NZ Trust ("La Famia") which is a New Zealand IRD registered charitable Trust. This is our most recent endeavour to contribute to the local Christchurch community. La Famia was conceived by me to establish a training provider and support organisation to assist with family management and family support services for families in need. The primary objective of La Famia is to provide accountable and sustainable community sourced and family based management programmes. La Famia will provide funding and assistance in the establishment of full service La Famia Community Centres that will provide national and regional models and training programmes for family management. In order to deliver this service a full curriculum is presently being developed. Presently we have engaged:

- a.** Jim Gillanders, Operations Manager, La Famia;
- b.** Meri Gibson, Trustee;
- c.** Vaughan Hedley, Family Manager;

d. Tuku Browne, Family Manager

Annexed hereto and marked “**PP**” are copies of the foundation documents for La Famia.

83. **WE** have injected more than \$40,000.00 into the Trust to date and it has already commenced its charitable work on a test case basis and is planned to be fully operational by 1 March 2006. We expect to inject an additional \$50,000.00 over the next 12 months or as needed until government contracts and other commercial revenue opportunities are in place. This is a long term commitment to a charitable institution we have commenced in New Zealand.

Annexed hereto and marked “**QQ**” are copies of bank statements dated 4 May 2005 to 21 November 2005 showing payments made to La Famia during that period. It also shows regular payments made to the individuals referred to in paragraph 82 who are working towards establishing the operations of this Trust. Payments to Meri Gibson are listed under Calibrae Limited.

84. **IN** order to get La Famia up and running we have held meetings and made presentations to government and community organisations including:

- a. Work and Income New Zealand;
- b. Ministry of Social Development;
- c. NZ Police;
- d. Ministry of Justice;
- e. Pacific Trust;
- f. National Society on Alcohol and Drug Dependence;
- g. Ministry of Education.

Annexed hereto and marked “**RR**” and “**SS**” respectively is a copy of the initial La Famia curriculum, which is presently being developed by Jim Gillanders, and the Mission Statement, written by me.

Child Support

85. **ONCE** I left North America in 2001 and moved to New Zealand I was able to resume my employment as investment advisor to my wife’s trust and have thereby faithfully paid in excess of US \$200,000.00, in compliance with the child support orders, for over four years. When I attempted to renew my

passport in August 2004 this was declined due to what was described as “hits” on my passport as a result of the unresolved Court matters in Colorado. I was left in the untenable situation of being in New Zealand without a passport and could not continue my application in concert with my wife’s for our long term business visas to residency. I have continuously maintained contact with the Child Support Enforcement Authorities in Colorado since my arrival in New Zealand and have made every attempt to more than comply with their instructions. Annexed hereto and marked “**TT**” are copies of correspondence with the authorities commenced shortly after my arrival in New Zealand to address Child Support issues. Also annexed hereto and marked “**UU**” is a table detailing the child support payments that I have made since moving to New Zealand. Recently I obtained apparent approval for a reduction in the sum I was paying in child support from the Child Support Enforcement Authorities in Colorado.

86. **ON** 7 July 2005 my solicitor forwarded information to the El Paso County Child Support Enforcement Unit, including a financial affidavit seeking an adjustment to my child support payment. I have reason to believe that my former two wives, Dearnna and Sandra, may now have stable incomes and have remarried and my children are much older. On 27 July 2005 Child Support Services of Colorado advised that in their view the proper amount to be paid should be adjusted for my wife Dearnna from the current \$6,000 per quarter to \$50.00 per month. I wanted the sum to be adjusted by Court order so that I was no longer obligated to pay such a large sum by Court order with no accountability from Dearnna. That office forwarded documentation to my solicitor to enable a Court order to be made, but then subsequently advised on 31 October 2005 that the modification would not be proceeded with because I renounced my United States citizenship and I would therefore need to come to Colorado and directly petition the El Paso County Courts for my own modification. Ms McNee of Child Support Services explained this had been at the direction of the Deputy District Attorney of El Paso County.

87. I am very concerned that if I am removed from New Zealand to the USA that, because I will be incarcerated until I can completely clear my name, which could take some years, I will be unable to provide any child support for my children. This could lead to further abuse of the children, particularly of Danielle and Isaac who are in the care of Dearnna.

RENUNCIATION OF CITIZENSHIP

88. **IN** early 2004 I instructed Mr Allan Manco, a solicitor in Christchurch, to assist my wife and I in obtaining our long term business visas and work permits to residency.

89. **BECAUSE** my passport was to expire on 14 December 2006 and it was completely full of stamps to the extent that it was unusable for the required NZ permits and visas needed to carry on our residency here it was deemed appropriate to seek to have it renewed.

90. I was then notified by the American Consulate that my passport would not be renewed and that it would not be returned. As above stated, the reason I was given was that a routine check revealed two hits, indicating that there were unresolved matters arising out of custody and Family Court issues.

91. I was advised that I could only be issued with a temporary passport to enable my passage back to the USA to face possible charges in Colorado. I instructed Mr Manco to make further inquiry with the District Attorney's office as to these outstanding matters. Mr Manco informed me that if I returned to the USA I would be incarcerated until these outstanding matters were dealt with.

92. **BY** 1 March 2005 I had become so outraged both with US foreign policy in Iraq and elsewhere in the world, and also with the way I personally had been treated by my country of birth, that I made the decision to end my connection with the United States of America and renounce my citizenship on principle. Annexed hereto and marked "**VV**" is a copy of the document executed to effect renunciation of my United States citizenship, including my certificate of loss of nationality of the United States of America.

93. I no longer wish to be associated at all with the USA. My new home is now in New Zealand and while I continue to endeavour to make it possible for me to have contact with and /or see my children, I do not want to do so in circumstances where I will be incarcerated until I can clear charges that I believed have been either resolved or long since expired.

94. **FURTHERMORE** in a very real sense it simply was not possible for me to return to the USA because of the physical danger. There are people whom I have exposed in the government and within the CIA who would want to exact retribution. There would also undoubtedly be further difficulties with

the authorities in Colorado which could result in me being detained for charges which would ultimately be again dismissed or withdrawn.

95. I am confident that the authorities would treat me in a similar fashion to the treatment I received following my extradition to the USA in 2000 when I returned two times to be illegally mistreated and ultimately to no avail and at great expense to my wife's estate.

96. **IT** is simply not an option for me to return to a country where the authorities have violated my rights to the extent of having me placed in custody for in excess of 144 days only to have the judiciary subsequently order my release on multiple occasions. My solicitor, Mr Allan Manco, was advised by the District Attorney in Colorado that if I returned to the United States that I would be incarcerated until all outstanding family court matters are heard and resolved before two County Courts. I have every reason to believe that further spurious charges will most probably be fabricated and laid against me which could lead to another extended period of incarceration.

97. **MOST** importantly, Carolyn and I have established a home in New Zealand. We now have whanau and friends that we have been associated with for nearly 5 years during our time here. We know that we are making a real difference to the lives of New Zealanders through our contributions to charitable institutions and through employment and business opportunities.

98. **WE** would suffer significant financial detriment from our removal from New Zealand which would result in Carolyn and I having to abandon CTNZ and the other companies that we have invested millions of dollars in over the past 5 years. We would lose in excess of \$2,000,000.00 through my forced departure from New Zealand due to the forced sale of our business or a hasty attempt to move its operations offshore. Our employees would lose their jobs, and our contractors and global and local customers would suffer, as would the professionals involved in our charitable work. Moreover, as I would most probably be incarcerated, I would no longer be able to oversee the company and make investment decisions for Carolyn who would need to relocate to be close to me. Carolyn would also need to abandon the long term business visa which she has just been granted. This is at a time when the company has started to show consistent success and profit and we are finally now likely to receive a return on our investment.

99. **THE** emotional impact on my wife would be devastating as it would be on myself as we would be forced to be separated while I was placed into

custody once again. This is exacerbated by the fact that I would not be physically safe in or out of custody and my return to the USA would mean that I would be likely to face retribution from those involved in the Pension Fund embezzlement scheme, including persons such as Michael Witty, who has now been released early, and those government covert agencies and individuals involved in the Mitsubishi Note Transaction.

100. I passionately desire to remain and reside in New Zealand and know that my removal will cause significant physical, economic and emotional harm to me, Carolyn and many others we are associated with in New Zealand.

| | | |
|---------------------------------------|---|-------------------------|
| SWORN at Christchurch |) | <i>Harmon L Wilfred</i> |
| this 24 th day of February |) | |
| 2006 before me: |) | H L Wilfred |

A Solicitor of the High Court of New Zealand