



U.S. Department of Justice

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March 22, 2004

Via Facsimile and U.S. Mail

Omar Figueroa, Esq.
506 Broadway
San Francisco, CA 94133

Re: *People of the State of California v. John Parry Barlow, San Mateo Municipal
Court Case No. NM 333376A)*

Dear Mr. Figueroa:

I write to follow up on our brief conversation of March 19 and my letter dated March 18. Along with that letter, this letter sets forth the United States Transportation Security Agency's (TSA) and Department of Homeland Security's (DHS) position with respect to your subpoena to Covenant Security.

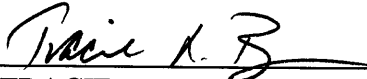
As I believe you understand, TSA and DHS (collectively, "the federal government") have a statutory responsibility to ensure that Sensitive Security Information ("SSI") is not released by any TSA employee or contractor. *See* 49 U.S.C. § 114(s); 49 C.F.R. § 1520.7; 6 C.F.R. § 5.41(c). As stated in my March 18 letter, many of the broad categories described in your subpoena raise serious security concerns of the federal government. It is my understanding, however, that Covenant Security does not actually have possession, custody or control of many documents responsive to your subpoena. Of the few responsive documents I understand to be in Covenant's possession, custody or control, there is one document that the federal government considers to be an attorney-client privileged communication: a memorandum from TSA attorneys analyzing TSA's (and thus its contractors') legal authority to perform certain of its security operations. That privileged legal analysis will not be produced.

In addition, it is my understanding that Covenant Security may have additional objections separate and apart from those of the federal government (*e.g.*, materiality and privacy concerns). Those objections will be asserted by Covenant Security's counsel.

Please feel free to contact me with any questions. I look forward to meeting you at the hearing tomorrow morning.

Sincerely,

KEVIN V. RYAN
United States Attorney



TRACIE L. BROWN
Assistant United States Attorney

cc: Linda Karlson, Esq. (TSA)
Anthony Graefe, Esq.
Jack Conneely, Esq.