John J. Conneely

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Attorney for Subpoened Non-Party, Covenant Aviation Security, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

PEOPLE OF THE STATE OF CALIFORNIA,

Case No. NM 333376

Plaintiff,

vs.

DECLARATION OF AUDREY DEANE, CUSTODIAN OF RECORDS FOR COV-ENANT AVIATION SECURITY, LLC, IN RESPONSE TO DEFENDANT'S SUBPOENAE DUCES TECUM

JOHN PERRY BARLOW,

Defendant.

[Cal. Ev. Code, § 1561]

Hearing/Produc.: 3/23/04

Time:

: 9:00 A.M.

Dept: PH

I, AUDREY DEANE, declare, as follows:

- 1. I am the duly authorized custodian of records for Covenant Aviation Security, LLC ("Covenant Security"), a third-party witness and document repository in this criminal proceeding, and, in such capacity, possess the requisite authority to verify and certify discoverable and produceable records of Covenant Security in my custody, possession or control, including those described in ¶ 4. hereof.
- 2. I make this Declaration pursuant to and in compliance with the authentication provisions of California Evidence Code, § 1561, and in response to the <u>Subpoenae Duces Tecum</u> issued by Defendant John Perry Barlow, on January 13 and 20, 2004.

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3. I have personal knowledge of the facts hereafter stated and, if called and sworn as a witness herein, I could and would competently testify thereto.

- 4. Attached hereto are true and correct copies of the following described documents responsive to Defendant's <u>Sub-poenae Duces Tecum</u>, specifically to <u>Request number 2</u>. (Documents: Reports of search of Defendant's luggage) and <u>Request number 4</u>. (Documents: identifying or recording the "time" of the "initial" search of Defendant's luggage):
- (a) Covenant Security Employee Statement of Sandra Ramos dated September 15, 2003, narrating the facts and circumstances attending her inspection of Defendant's luggage and timing the activation of the military threat alarm @ 6:36 A.M. on September 15, 2003, at Delta Airline's SFO baggage room.
- (b) Security Screening Incident Report of Donald Pyle, Covenant Security's Security Screener Supervisor (including of Sandra Ramos), dated September 15, 2003, reporting the time of the "incident" as occuring @ 6:45 A.M.
- (c) 2 page Computer Print-Out relating to the particulars and specifics of the incident, dated November 7, 2003, prepared by Donald Pyle, and recording the time of the bagactivated military threat alarm at 6:45 A.M.
- 5. The records described in ¶ 4. hereof were prepared by personnel of Covenant Security, a business, in the ordinary course of its business and it was a regular practice of the preparers of these documents, as inspector/screener and super-

vising screener, to prepare the same to evidence, memorialize, record and report incidents of search of air transportation baggage.

6. These records were made on, at or near the time of the search of Defendant's baggage on September 15, 2003, by competent witnesses: by visual, olfactory, and audio senses, each charged with the responsibility of inspecting and reviewing airline baggage of passengers as part of and in the course of their regular duties as employees of Covenant Security.

7. Response to Request No. 1. (Complaints, Disciplinary Actions, Punitive Procedures Re. Identified Screeners.)

These documents, if any, are subject to objections to be filed by our counsel by separate response, as not discoverable or produceable, on the grounds that they are not material to the defense of the underlying action and seek to invade the privacy of the named screeners.

8. Response to Request No. 3. (Training Manuals/Memoranda relating to protocols/procedures governing baggage searches.)

The Transportation Safety Administration ("TSA"), a component of the Department of Homeland Security, has made a determination that all training manuals used in the training of airport security screeners and all memoranda pertaining to the procedures and protocols for performing baggage searches constitute Sensitive Security Information ("SSI"), which Covenant Security, as an employee/contractor of the TSA, is prohibited from producing or releasing pursuant to the proscriptive provisions of 49 C.F.R. § 1520.7 (a)-(k).

In addition, a certain Memorandum responsive to this Request and in my possession as the custodian of records of Covenant Security consists of a privileged attorney-client communication from TSA attorneys analyzing TSA's [and thus its employees' and contractors' (Covenant Security's)], legal authority to perform certain of its security operations. This document will not be produced on the ground that it is a priviledged legal analysis, as per instructions from the TSA, and the attorneys for this agency, U.S. Attorney's Office, Northern District of California, per Assistant U.S. Attorney, Tracie L. Brown.

9. Response to Request No. 5. [Audio/Video Recordings, (including X-ray images) taken during, pre and post search of Defendant's luggage.]

I do not have have in my possession or custody, nor do I have under my control, any of the documents, or things: audio/video recordings or x-ray images, taken at any time, of or pertaining to the search of Defendant's luggage.

The TSA has made a determination that any audio or video recordings, including any x-ray images of or relating to the search of Defendant's luggage, constitutes SSI and has instructed and prohibited us from producing any such items pursuant to 49 C.F.R. 1520.7 (a)-(k).

I declare under penalty of perjury that the foregoing is true and correct and that I executed this Declaration this 23day of March, 2004, in South San Fancisco, California.

Audrey Deane



CMPLOYER S THEMENT SHIFT SUMMARY REPORT-COVENANT AVIATION SECURITY, LLC

Please use this form to document any significant activities that occur during your shift. Such events include equipment problems, air carrier issues, airport issues, customer complaints, and other issues that may impact operations. Items listed in this report should be discussed with other Supervisors or Management, as appropriate.

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SECURITY SCREENING INCIDENT REPORT COVENANT AVIATION SECURITY, LLC

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007-03-05

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Injury_Case_Number:
Category_Incldent:
                             Security
Department:
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Dept_Other:
Incident_Date:
                             Sept. 15, 2003
Incident Time:
Date_Notified_Inc.dent:
Notification_To:
                             Terminal Ops Mgr., TSA Screening Mgr.
                            Terminal 1
Location:
Pier:
CTX:
                            Delta bag room
Location Other:
Employees_Involved:
                            Sandra Ramos
Hour Shift Began:
Reported By:
Incident_Investigation: Unknown
Contact_Phone:
Contact_Email:
Witness:
Witness_Number:
Witness_Address:
Witness_City:
Witness_State:
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Affected_Phone:
Last_4 Digits:
Employee_Status:
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Other Status:
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Position_when_injured: Security Screener
Supervisor:
                            Donald Pyle
Mon:
Tues:
Wed:
Thur:
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Mours_Worked:
Days_per_Week:
Anyone_Injured:
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Case_Number: 091520030645...v

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Notes:

Instral_Report:

Unknown

Report propaged By:

Sandra Flores Supervisor

Preparer_Job_Title: Preparer_Phone: Preparer_Email:

Hazard_Substance:

DOT_Number:

Quantity_Substance: Env_Notifications:

192.168.0.28 aharrison

Remote Name: Remote User: Date:

Friday, 07. November 2003

Time:

17:41 -0600

Tools Equipment:

Decription_Incident:

Person involved: John Barlow (screener) 168 Franklin St. Pinedale, WY 82941 Responding LEO Alan Workinger #4040. At 0645 a bag alarmed for military. Sandra proceeded to check the bag for the military threat. The alarm threat was a battery and some wires. In the process the screener shook a large bottle of Ibuprofen. The bottle did not shake so site opened the bottle and discovered illegal drugs.

Black Garment bag alarmed (mil threat) @ 636am Began search in 1 of 2 possible threat sites (after ETD). Found large bottle of Ibuprofen tabs. Shook bottle to make sure contained tablets. No sound heard. Opened bottle to make sure bottle did not contain threat or prohibited items(s). Cotton and tame (pills) filled bottle to rim, which I thought to be suspicious. An odor of marijuana (strong) could be smelled. I asked Phil (lead) if he had same thoughts I had about odor, he agreed with me. Supervisor Don also thought I was correct. He suggested I dump the pills onto a paper towel so we could inspect contents. After doing so, plastic bags containing maxijuana were visible at bottom of bottle. I didn't remove bags but continued with search for threat item. (non-emergency LEO contacted). Blue bag w/syringes and vials also found (marked and contents unknown). Threat stems found in 2nd possible location. Items were wires and multiple batteries.

Contributing_Factors:

Recomended Action:

Contacted: Susie Foster (TSA) William Thomas-Delta Supervisor LEO-Alan Workinger Derrick Shelton-Screening Mgt. Alex Kryska-Terminal mor. Passenger John Barlo was pulled off the plane and arrested for numerous kinds of arugs.

Withers_Statement:

PROOF OF SERVICE

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2	I am a citizen of the United States, over the age of eighteen and not a party hereto. My business address is	
3	1011 Bolei Place, San Mateo, California 94402.	
4	on March 23, 2004 I caused to be served on all interested parties the following:	:
5	Kesponses and Objections of Coverant Security	
6	Declaration of Hudrey Jeans The Suppose & Supposed	•
7	By Fax Transmission on said date to the following number(s)	
8		
9	By Mail by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid and by depositing	
10	the said envelope in the United States Mail in San Mateo, Ca- lifornia on said date, addressed to the addressee(s) below:	
11	By Personal Hand-Delivery by placing a true copy thereof	
12	in a sealed envelope and causing such envelope to be delivered to the offices of the adressee(s). The sealed let were	
13	at Courthouse, Nortlew: 1050 Old Munimed. As. A.T. CA By Federal Express enclosing a copy thereof in a sealed en-	
14	velope and causing the same to be delivered to Federal Ex- press for overnight courier service and delivery to the office(s) of the addressee(s).	
15		
16	ADDRESSED TO: Omas Jegueroa, ESQ. 506 Broadway	
17	Son francisco, CA 94/33	
18	Son francisco, CA 94133	
19	Tracie L. Brown ESP.	
20	Assistane U.S. Attorney 10th Hoor, 450 Greder SiteAve Son proncises, CA 94102	
21	And naires CA 94102	
22	I declare under penalty of perjury that the foregoing	
23	is true and correct and that I executed this Declaration	
24	under the laws of the State of California this 23 day	
25	of in San Mateo, California.	
26	The T. Anely	
27	John I Conneely	
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