

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

WILLIAM T. WALTERS
a/k/a "Billy,"

Defendant.

ECF CASE

S1 16 CR. 338 (PKC)

**DECLARATION OF
PAUL H. SCHOEMAN, ESQ.**

PAUL H. SCHOEMAN, ESQ., hereby declares, pursuant to 28 U.S.C. § 1746 and under penalty of perjury, as follows:

1. I am a partner at the law firm of Kramer Levin Naftalis & Frankel LLP, counsel for defendant William T. Walters in the above-captioned matter.
2. I submit this Declaration to provide the Court with documents and information pertinent to Mr. Walters' Motion to Dismiss for Government Misconduct and for a Hearing.
3. In a letter dated July 19, 2016, counsel for the government disclosed in part the following information: "On or about May 29, 2014, [Tom] Davis was approached by agents from the [FBI] at his home in Dallas, Texas. During a discussion that ensued, Davis made the following statements, among others, to the law enforcement agents: . . . Davis stated that he never gave insider information to Billy Walters, and that he was '100 percent certain' of that fact."
4. In a letter dated June 3, 2016, counsel for the government disclosed in part the following information: "when the defendant was approached by law enforcement agents on or about June 10, 2014, he made the following statements, in sum and substance: . . . Walters stated

that the agent was a true gentleman, but that he did not wish to answer any questions without an attorney present”

5. In an application in support of an order under the Stored Communications Act dated May 12, 2016, counsel for the government affirmed various alleged facts concerning a prepaid cellular telephone, including that “DAVIS is no longer in possession of the Cellphone and cannot recall the exact number.”

6. In an FBI 302 report dated June 13, 2014, FBI agents stated in part the following information: on May 29, 2014, Phil Mickelson was interviewed by Special Agents in Dublin, Ohio, and Mr. Mickelson stated “that he had ‘done nothing wrong.’”

7. To the best of my knowledge, information, and belief, the exhibits to this Declaration are true and correct copies of the following documents. Pursuant to the Protective Order in this case, certain exhibits are redacted from this declaration and are not attached to the publicly filed version.

8. Exhibit A is a copy of [REDACTED]

9. Exhibit B is a copy of a *New York Times* article: Matthew Goldstein & Ben Protess, *Investor, Bettor, Golfer: Insider Trading Inquiry Includes Mickelson, Icahn and William T. Walters*, N.Y. Times (May 30, 2014).

10. Exhibit C is a copy of a *New York Times* article: Ben Protess & Matthew Goldstein, *Authorities Find Insider Trading Case Tied to Phil Mickelson Is Slow to Take Shape*, N.Y. Times (May 31, 2014).

11. Exhibit D is a copy of [REDACTED]

12. Exhibit E is a copy of [REDACTED]

[REDACTED]

13. Exhibit F is a copy of [REDACTED]

[REDACTED]

14. Exhibit G is a copy of an email from Michael Rothfeld of the *Wall Street Journal* to William T. Walters dated May 30, 2014, bearing production number WG 0053512. Personal identifying information has been redacted.

15. Exhibit H is a copy of a *Wall Street Journal* article: Susan Pulliam & Michael Rothfeld, *FBI, SEC Probe Trading of Carl Icahn, Billy Walters, Phil Mickelson – Insider-Trading Investigation Began in 2011 with Unusual Trades in Clorox*, Wall St. J. (May 30, 2014).

16. Exhibit I is a copy of an email chain between Tom Davis and Tim Byrne dated May 30, 2014, bearing production number DAVIS_0147334-35. Personal identifying information has been redacted.

17. Exhibit J is a copy of an email chain between Tom Davis and Tommy Barrow dated May 30-31, 2014, bearing production number DAVIS_0146575. Personal identifying information has been redacted.

18. Exhibit K is a copy of an email chain between Tom Davis and Rachel Gonzalez dated May 30-31, 2014, bearing production number DAVIS_0144982. Personal identifying information has been redacted.

19. Exhibit L is a copy of a *Wall Street Journal* article originally published on June 2, 2014: Michael Rothfeld & Susan Pulliam, *Insider-Trading Probe Hits Snag as Surveillance Is Derailed*, Wall St. J. (June 2, 2014).

20. Exhibit M is a copy of [REDACTED]
[REDACTED]
[REDACTED]

21. Exhibit N is a copy of [REDACTED]
[REDACTED]

22. Exhibit O is a copy of [REDACTED]
[REDACTED]
[REDACTED]

23. Exhibit P is a copy of [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

24. Exhibit Q is a copy of a *New York Times* article: Matthew Goldstein & Ben Protess, *Golfer Mickelson's Role Said to Be Overstated in Insider Inquiry*, N.Y. Times (June 11, 2014).

25. Exhibit R is a copy of [REDACTED]
[REDACTED]

— 26. Exhibit S is a copy of a *New York Times* article: Matthew Goldstein & Ben Protess, *Dean Foods Receives a Subpoena in an Investigation Into Mickelson's Trades*, N.Y. Times (June 23, 2014).

27. Exhibit T is a copy of a *Wall Street Journal* article: Susan Pulliam & Michael Rothfeld, *U.S. Seeks Records in Inquiry Tied to Dean Foods, Clorox*, Wall St. J. (June 23, 2014).

28. Exhibit U is an excerpt from Tom Davis's SEC Deposition Testimony in *In the Matter of Clorox* (May 18, 2015), with relevant portions underlined.

29. Exhibit V is a copy of a *Wall Street Journal* article: Michael Rothfeld, Jean Eaglesham & Christopher M. Matthews, *Trading Investigation Eyes Ex-Chairman of Dean Foods and Golfer Phil Mickelson*, Wall St. J. (Aug. 12, 2015).

30. Exhibit W is a copy of a *Wall Street Journal* article: Kara Scannell, *Lawyer Says DOJ, SEC to Probe Leaks in Rajaratnam Case*, Wall St. J. (May 26, 2010).

31. Exhibit X is a copy of a *Forbes* article: Walter Pavlo, *Rajaratnam Camp Offended By Inside Information Leaks To Media*, Forbes (Mar. 22, 2011).

32. Exhibit Y is a copy of a *Wall Street Journal* article: Gregory Zuckerman, Don Clark & Susan Pulliam, *Colleagues Finger Billionaire – Galleon Founder Pushed Hard for Stock-Trading Tips; 'Get an Edge or You're Gone'*, Wall St. J. (Oct. 19, 2009).

33. Exhibit Z is a copy of a *Wall Street Journal* article: Susan Pulliam, *The Galleon Case: Probe Widening in Galleon Case --- Prosecutors Subpoena Hedge-Fund Manager Grodin; Ties to a Witness*, Wall St. J. (Oct. 24, 2010).

34. Exhibit AA is a copy of a *Wall Street Journal* article: Susan Pulliam, Michael Rothfeld, Jenny Strasburg & Gregory Zuckerman, *U.S. in Vast Insider Trading Probe*, Wall St. J. (Nov. 20, 2010).

35. Exhibit BB is a copy of a *Wall Street Journal* article: *Preet Bharara's Methods - Did the U.S. Attorney's office fabricate evidence to smear a Wall Street target?*, Wall St. J. (Mar. 29, 2015).

36. Exhibit CC is a copy of a *Wall Street Journal* article: Michael Rothfeld, Jenny Strasburg & Susan Pulliam, *More Charges Set for Insider Probe*, Wall St. J. (Dec. 1, 2011).

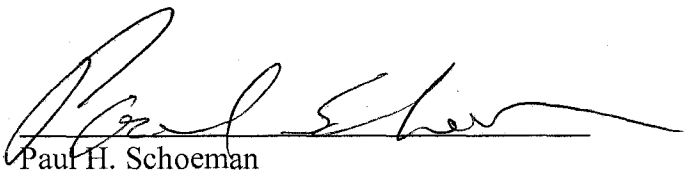
37. Exhibit DD is a copy of a *Wall Street Journal* article: Michael Rothfeld & Jenny Strasburg, *Ex-Analyst at SAC Felt Pressured for Tips*, Wall St. J. (Feb. 14, 2013).

38. Exhibit EE is a copy of a Letter from Barry H. Berke, Esq., to the U.S. Attorney's Office Re: Sanjay Valvani (April 25, 2016).

39. Exhibit FF is a copy of a Letter from the U.S. Attorney's Office to Barry H. Berke, Esq., Re: Sanjay Valvani (April 28, 2016).

40. Exhibit GG is a copy of a *Wall Street Journal* article: Christopher M. Matthews & Gregory Zuckerman, *Insider Trading Is Focus of Probe Into Visium*, Wall St. J. (April 8, 2016).

Dated: New York, New York
January 13, 2017


Paul H. Schoeman