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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF ORANGE, CENTRAL JUDICIAL DISTRICT

11  
12 **THE PEOPLE OF THE STATE OF CALIFORNIA,**  
13  
14 **v.**  
15 **LAMBERT VANDER TUIG (7/23/58),**  
16 **JONATHAN CARMAN (3/3/63),**  
17 **MARK SOSTAK (6/15/58),**  
18 **SCOTT YARD (3/19/61),**  
**SOREN SVENDSEN (2/7/65),**  
**ROBERT WALDMAN (8/13/60),**  
19 Defendants.

Case No.

**DECLARATION IN SUPPORT  
OF ARREST WARRANT**

20 **INTRODUCTION**

21 In September of 2005, the California Department of Justice ("DOJ") and the United States  
22 Securities and Exchange Commission ("SEC") learned about a "boiler room" named THE  
23 CAROLINA DEVELOPMENT COMPANY ("CDC") aka THE CAROLINA COMPANY AT  
24 PINEHURST ("CCP") that was operating in Irvine, California. CDC was a fraudulent investment  
25 scheme that sold \$52 million worth of unregistered stock to investors. Based upon information  
26 and belief, including facts obtained as a result of the DOJ and SEC investigation, evidence  
27 obtained pursuant to search warrant and through the efforts of a receiver put in place by a federal  
28 court order, the following facts are set forth in support of arrest warrants for LAMBERT

1 VANDER TUIG (“VANDER TUIG”), JONATHAN CARMAN (“CARMAN”), SCOTT YARD  
2 (“YARD”), MARK STEVEN SOSTAK (“SOSTAK”), SOREN SVENDSEN (“SVENDSEN”)  
3 and ROBERT WALDMAN (“WALDMAN”).

4 **A. EXPERIENCE AND TRAINING**

5 1. Affiant's Training and Experience

6 I, Jason Nichols, am a Special Agent with the DOJ, Special Crimes Unit (SCU), and have  
7 been so employed since November 7, 1999. Prior to my current assignment with the DOJ/SCU, I  
8 was assigned to the DOJ, Bureau of Narcotic Enforcement (BNE), Fresno Regional office and the  
9 DOJ, Advanced Training Center (ATC), Sacramento, CA.

10 I have participated in no less than 25 financial fraud investigations since my assignment to  
11 the SCU during November 6, 2006. I have conducted interviews of suspects and witnesses  
12 related to financial fraud and authored reports and search warrants as to my findings. I have  
13 authored no less than 50 search warrants for residences, businesses, banks, and various other  
14 record housing institutions related to the investigations I have conducted at the SCU.

15 The undersigned hereby declares, upon information and belief: The facts set forth herein  
16 were provided through an investigation conducted by Investigators Kathryn Holguin and Shannon  
17 Reza and reports prepared by them pursuant to their duties as investigators employed by the  
18 DOJ/SCU, which contents I believe to be true. The information is based on investor interviews,  
19 insider interviews, depositions, bank and corporate records received by DOJ pursuant to search  
20 warrant, subsequent investigation conducted by investigators employed by DOJ, and information  
21 received from the SEC and Thomas A. Seaman, the federal court appointed receiver over  
22 CDC/CCP.

23 2. Investigator Kathryn Holguin, DOJ

24 Investigator Kathryn Holguin is currently employed as a contract investigator with the  
25 DOJ/SCU and has been so employed for over five years. Prior to that she was employed as a  
26 Supervising Investigator for the State of California, Department of Corporations for twenty-five  
27 years. During this time she conducted civil and criminal investigations of a wide variety of  
28 complex corporate securities fraud schemes including stock, promissory notes and limited and/or

1 general liability partnerships involving real estate, movie deals, oil and gas operations, prime  
2 bank note schemes, Internet startup companies, and various "high tech" ventures.

3 During her career as a peace officer, Investigator Holguin has been involved in a number of  
4 federal investment fraud task forces including: the SEC Offering Fraud Task Force; the North  
5 American Securities Administrators Association (NASAA) special projects subcommittee task  
6 force; and the Boiler-Room task forces in Los Angeles, Orange and San Diego Counties. She  
7 developed and presented training programs regarding telemarketing investment fraud for the  
8 National Association of Attorneys General in Washington, D.C. and the National White Collar  
9 Crime Center in Virginia. She has testified as an expert regarding telemarketing and investment  
10 fraud targeting seniors for various United States Attorneys, and the Los Angeles County and  
11 Riverside County District Attorneys. She attained a Supervisory POST certificate, and obtained  
12 and assisted in the execution of over 250 search warrants involving investment fraud, many of  
13 which resulted in criminal convictions.

### 14 3. Investigator Shannon Reza, DOJ

15 Shannon Reza, has been a contract investigator with the DOJ/ SCU, since June 1, 2006.  
16 Her duties with the Special Crimes Unit include the investigation of multi-million dollar complex  
17 corporate securities fraud cases. She has interviewed numerous individuals who were victims of  
18 securities fraud.

19 Prior to her assignment with the DOJ she was a peace officer with the State of California as  
20 an Investigator with the Alcohol Beverage Control, the Department of Health Services and the  
21 Medical Board of California from 1993 until she resigned in 2006. During this time, she was  
22 responsible for the investigation of complex and diverse criminal and administrative cases  
23 involving insurance fraud, medical malpractice and Medi-Cal beneficiary fraud. She conducted  
24 numerous interviews of victims, witnesses and suspects, and prepared detailed written reports in  
25 reference to criminal and administrative investigations. She has testified in administrative and  
26 superior court hearings in reference to these investigations.

27 Investigator Reza obtained a Bachelor of Science Degree in Criminal Justice, completed a  
28 Basic Specialized POST Academy, and obtained an Advanced POST certificate.

1           **B. SUMMARY OF CASE**

2           From as early as 2001 through February 16, 2006, principals VANDER TUIG, CARMAN,  
3 and salesmen YARD, SOSTAK, SVENDSEN, and WALDMAN with over 50 other unlicensed  
4 salespeople, sold at least \$52 million worth of unqualified shares of common stock and  
5 promissory notes in CDC. CDC was purportedly a successful real estate development company  
6 that specialized in building luxury resorts and upscale residential world champion golf course  
7 communities on land they owned surrounding golf courses designed by Arnold Palmer, Jack  
8 Nicklaus and Greg "The Shark" Norman.

9           In order to induce the victims to invest in CDC, the defendants made false representations  
10 including: CDC was in partnership with Arnold Palmer; CDC would pay dividends from  
11 property sales revenue; overstating the amount of real estate owned outright by the company;  
12 understating the amount of CDC stock that was outstanding; that CDC was going public any day;  
13 sales commissions paid to CDC's sales force would not exceed 15%; and that investments over  
14 \$100,000 would be secured with a first trust deed on parcels of land with a value equal or superior  
15 to the investment. Additionally, the defendants failed to inform investors that the president of the  
16 company had been disciplined by the SEC for engaging in an unregistered sale of stock and fraud  
17 due to manipulating the price of stock; that CDC's stock was available for purchase at a lower  
18 price through any broker; and that CDC's stock was oversold by \$40,000,000 which diluted its  
19 value. In November of 2005, instead of going public as promised for over four years, CDC began  
20 a new fraudulent private offering to raise \$100 million.

21           On February 16, 2006, in conjunction with the execution of a DOJ search warrant, the SEC  
22 obtained a temporary restraining order in the United States District Court against CDC, CCP and  
23 officers VANDER TUIG and CARMAN for fraud in the sale of unregistered securities. The SEC  
24 also obtained an order from the United States District Court freezing VANDER TUIG and  
25 CARMAN's assets and appointing a receiver for CDC and its affiliates.

26           On February 22, 2007, an order granting summary judgment as to VANDER TUIG and his  
27 agents was issued, enjoining them from further violations of the Securities Exchange Act of 1934  
28 including: sale of unregistered securities; employing any device, scheme or artifice to defraud;

1 and obtaining money by means of any untrue statement or omission of material fact. Pursuant to  
2 the order, VANDER TUIG is liable for disgorgement of \$29,252,000 representing profits gained,  
3 and penalties in the amount of \$100,000. The court granted the SEC's motion for summary  
4 judgment against CARMAN on August 7, 2007. CARMAN was ordered to disgorge  
5 \$2,191,188.15, pay prejudgment interest of \$252,391.44 and a civil penalty of \$100,000. The  
6 court entered final judgment against CARMAN and VANDER TUIG on April 14, 2008.

7 The Receiver in this matter, Thomas Seaman ("Receiver") submitted several declarations to  
8 the United States District Court in Santa Ana, CA. The Receiver is a Chartered Financial Analyst.  
9 His review of the records of CDC and its affiliates show only a small amount of investor funds  
10 was productively employed to create future returns. Instead, investor monies were used for high,  
11 undisclosed sales commissions, "Ponzi" dividends to investors, and the personal use of principals  
12 VANDER TUIG, CARMAN and others.

13  
14 **C. APPLICABLE CRIMINAL STATUTES**

15 1. Corporations Code Section 25401 - It is unlawful for any person to offer or sell a  
16 security in this state or buy or offer to buy a security in this state by means of any written or oral  
17 communication which includes an untrue statement of material fact or omits to state a material  
18 fact necessary in order to make the statements made, in light of the circumstances under which  
19 they were made, not misleading.

20 2. Corporations Code Section 25541 - Any person who willfully employs, directly or  
21 indirectly, any device, scheme, or artifice to defraud in connection with the offer, purchase, or  
22 sale of any security or willfully engages, directly or indirectly, in any act, practice, or course of  
23 business which operates or would operate as a fraud or deceit upon any person in connection with  
24 the offer, purchase, or sale of any security, shall upon conviction be fined not more than ten  
25 million dollars, (\$10,000,000) and/or imprisoned in state prison.

26 3. Corporations Code Section 25540, subdivision (b) - Any person who willfully violates  
27 Section 25400, 25401, or 25402, or who willfully violates any rule or order under the Corporate  
28 Securities Law of 1968, adopted pursuant to those provisions, shall upon conviction be fined not

1 more than ten million dollars (\$10,000,000), or imprisoned in the state prison for two, three, or  
2 five years, or be punished by both that fine and imprisonment.

3 4. Penal Code Section 487, subdivision (a) "Grand Theft" - Any person who fraudulently  
4 appropriates property which has been entrusted to him or her, or who knowingly and designedly  
5 by any false or fraudulent representation or pretense, defrauds another person of money, labor or  
6 property of a value exceeding four hundred dollars (\$400) is guilty of grand theft, a felony.

7 5. Penal Code Section 186.11, subdivision (a)(2) - Any person who commits two or more  
8 related felonies, a material element of which is fraud, which involve a pattern of related felony  
9 conduct, and the pattern of related felony conduct involves the taking of more than \$500,000, the  
10 court shall impose an additional consecutive term of two, three or five years.

11 6. Penal Code Section 12022.6, subdivision (a)(2) - When any person takes, damages or  
12 destroys property in the commission or attempted commission of a felony with the intent to cause  
13 that taking, damage, or destruction and the loss exceeds \$200,000, the court shall impose an  
14 additional consecutive term of two years.

15 7. Penal Code Section 12022.6, subdivision (a)(3) - When any person takes, damages or  
16 destroys property in the commission or attempted commission of a felony with the intent to cause  
17 that taking, damage, or destruction and the loss exceeds \$1,300,000, the court shall impose an  
18 additional consecutive term of three years.

19 8. Penal Code Section 12022.6, subdivision (a)(4) - When any person takes, damages or  
20 destroys property in the commission or attempted commission of a felony with the intent to cause  
21 that taking, damage, or destruction and the loss exceeds \$3,200,000, the court shall impose an  
22 additional consecutive term of four years.

23 9. Penal Code Section 1203.045 - Except in unusual cases where the interests of justice  
24 would best be served if the person is granted probation, probation shall not be granted to any  
25 person convicted of a crime of theft of an amount exceeding \$100,000.

26 10. Penal Code 801.5 - Prosecution for any offense described in subdivision (c) of Section  
27 803 shall be commenced within four years after the discovery of the commission of the offense,  
28 or within four years after the completion of the offense, whichever is later.

1 11. Penal Code 803(c) - A limitation of time does not commence to run until the discovery  
2 of an offense punishable by imprisonment in the state prison, a material element of which is fraud  
3 or breach of a fiduciary obligation, including grand theft and violations of Corporations Code  
4 sections 25540 and 25541.

5  
6 **PROBABLE CAUSE FOR OFFENSE**

7 Based on my training and experience, the training and experience of DOJ Investigators  
8 Kathryn Holguin and Shannon Reza, and the facts set forth in this Affidavit, I conclude there is  
9 probable cause to believe that as early as August of 2001 through February 16, 2006, VANDER  
10 TUIG, CARMAN, YARD, SOSTAK, SVENDSEN and WALDMAN: made misrepresentations  
11 and omissions in the offer and/or sale of a security (Corp. Code, § 25401); engaged in a scheme  
12 to defraud (Corp. Code, § 25541); fraudulently misappropriated funds entrusted to them through  
13 the use of false pretenses (Pen. Code, § 487, subd. (a)), committed multiple felonies with a  
14 material element of fraud involving the taking of over \$500,000 (Pen. Code, § 186.11, subd.  
15 (a)(2)), losses of over \$3,200,000 (Pen. Code, § 12022.6, subd. (a)(4)), \$1,300,000 (Pen. Code, §  
16 12022.6, subd.(a)(3)), and \$200,000 (Pen. Code, § 12022.6, subd. (a)(2)), and a theft of an  
17 amount over \$100,000 (Pen. Code, § 1203.045, subd. (a)).

18  
19 **A. INVOLVED ENTITIES AND INDIVIDUALS**

20 **THE CAROLINA COMPANY AT PINEHURST, INC. ("CCP")** was a Nevada  
21 Corporation incorporated August 3, 2001, with Lambert "VANDER TUIG" president, located in  
22 Irvine, California. This company was never qualified to do business in California.

23 **THE CAROLINA DEVELOPMENT COMPANY, INC. ("CDC")** was also a Nevada  
24 Corporation incorporated August 3, 2001, with Lambert "VANDER TAG" director and  
25 CARMAN secretary, located in Irvine, California. This company was never qualified to do  
26 business in California. CDC made only one filing with the SEC: a "Regulation D" private  
27 placement exemption dated October 28, 2005, that states the company wants to raise \$10.15  
28 million through the sale of 4.35 million shares at \$1.50 to \$3.00 per share pursuant to a Private

1 Placement Memorandum ("PPM") dated June 30, 2004. This form was signed by "DEAN L.  
2 VANDER TAG," president of the CDC.

3 Both of these entity names appear to be interchangeable with no discernable difference:  
4 investors were told to make their checks payable to both at different times, but they received  
5 stock in CCP; both entities claimed ownership of the same properties; both entities claimed the  
6 same stock symbol "CACP." For purposes of this declaration in support of an arrest warrant,  
7 unless otherwise indicated they are collectively referred to as CDC.

8  
9 LAMBERT VANDER TUIG aka LAMBERT VANDER TAG aka DEAN L. VANDER  
10 TAG (DOB: July 23, 1958)

11 VANDER TUIG held Series 7, 63, and 65 licenses issued by the National Association of  
12 Securities Dealers ("NASD") and worked as a registered representative with various broker  
13 dealers from 1988 through 1996. He began selling stock in CCP from Orange County as early as  
14 August of 2001, and changed the spelling of his name to "VANDER TAG" in early 2004,  
15 admittedly because the SEC obtained an injunction against him for securities violations that  
16 "haunted" him. Neither Vander Tuig nor any of the other defendants were licensed by the NASD  
17 or the state of California to sell securities.

18 According to the offering material: LAMBERT "VANDER TAG" was president, CEO and  
19 director of both companies since their inception; he had significant management experience with  
20 more than thirteen years in the securities industry; the company's success was substantially  
21 dependent upon his efforts; he evaluated prospective acquisitions and oversaw investor relations;  
22 and he had been responsible for assisting the company in its capitalization and readiness for the  
23 public market.

24 In addition, VANDER TUIG signed the CCP stock certificates as president, directed the  
25 transfer of shares to investors through Holladay Stock Transfer Agent, created the offering  
26 material, managed the salespeople, personally pitched investors, and was in control of the  
27 corporate bank accounts. According to a report by the Receiver, **\$3,771,308** of investor funds  
28 were paid to or spent on behalf of VANDER TUIG.



1           JONATHAN CARMAN aka JONATHAN JENSEN (DOB: March 3, 1963)

2           CARMAN was listed with the Nevada Secretary of State as a director of CCP for the filing  
3 period of August 3, 2003 to August 3, 2004, and Director of CDC on August 31, 2005. There was  
4 no disclosure of his involvement, experience or background in the offering material. In fact, the  
5 offering material stated "Jonathan Jensen" was the vice president: Jensen handled CDC's day to  
6 day marketing; had a BS in Economics, worked as a political lobbyist in Washington DC and was  
7 named Outstanding Business Executive in Who's Who. According to CDC's corporate and bank  
8 records, there was no evidence a Jonathan Jensen ever existed at CDC.

9           According to documents and statements by employees, CARMAN was vice president in  
10 charge of the sales force: he hired and trained salespeople; provided scripts/offering material to  
11 the sales force; conducted meetings, wrote memos ("talking points") to the sales force; and  
12 received a cash "override" (commission paid to a manager on sales made by a subordinate) on  
13 their commissions. CARMAN has a background as a telemarketer, truck driver and owner of a  
14 carpet and window service company. His wife, Debra Carman, was CDC's bookkeeper.  
15 According to a report by the Receiver, **\$3,190,486** of investor funds were paid to or spent on  
16 behalf of CARMAN.

17  
18           SCOTT YARD (DOB: March 19, 1961)

19           YARD was the sales manager of CDC beginning in late 2003 and received commissions up  
20 to 35% including a 10% sales override. He oversaw a pool of salespeople and personally sold  
21 stock. YARD has a background in telemarketing investments, but has never been licensed as a  
22 securities broker. According to the Receiver, YARD received a total of **\$1,341,216.42** in  
23 commissions.

24  
25           MARK SOSTAK (DOB: June 15, 1958)

26           SOSTAK was an unlicensed salesman (hired April 28, 2005) and supervisor who received  
27 **\$463,783** in commissions and overrides during his 10 months at CDC. His title was "Senior  
28

1 Director of Investments." At one time he was licensed by the California Department of Insurance  
2 as an insurance broker.

3  
4 SOREN SVENDSEN (DOB: February 7, 1965)

5 SVENDSEN was an unlicensed salesman (hired May 20, 2005) who received **\$358,839** in  
6 commissions during the nine months he was at CDC.

7  
8 ROBERT WALDMAN (DOB: August 13, 1960)

9 WALDMAN graduated from Duke University law school in 1985, worked for a number of  
10 law firms in Los Angeles, and was in-house counsel for two companies with interests in real  
11 estate. He is a member of the California State Bar. WALDMAN started out at CDC as a salesman  
12 in September of 2004. He became "in house counsel" around March of 2005, but continued to  
13 solicit investors. He was privy to undisclosed lawsuits, letters from Pinehurst and Arnold Palmer  
14 regarding CDC's unauthorized use of their names, the SEC's investigation, and SEC filings (or  
15 lack thereof). He was also in charge of coordinating collateralization of investments over  
16 \$100,000 and knew (but did not disclose) that CDC did not have property to collateralize all the  
17 investments as represented. He was introduced as in-house counsel during investor meetings,  
18 helping to give the appearance that CDC was a legitimate company. According to the Receiver,  
19 WALDMAN received a total of **\$270,000**.

1 **B. MISREPRESENTATIONS AND OMISSIONS IN THE SALE OF SECURITIES**<sup>1</sup>

2 1. *Neither the salespeople nor the offering material disclosed to investors that VANDER*  
3 *TUIG was not using the correct spelling of his name because he had previously been found to*  
4 *have violated federal securities laws regarding a "pump and dump" scheme and was barred from*  
5 *association with any broker or dealer.*

6 Since at least September of 2004, VANDER TUIG used the aliases "Lambert VANDER  
7 TAG," or "DEAN L. VANDER TAG." CDC offering material stated VANDER TAG "has  
8 successfully taken two companies public that resulted in being very profitable for the investors."

9 Google showed no record of LAMBERT VANDER TAG. However, a Google search of his  
10 true name LAMBERT VANDER TUIG disclosed a news release which stated that on June 13,  
11 2000, the SEC issued an order against LAMBERT D. VANDER TUIG enjoining him from future  
12 violations of the Securities Act, and ordering him to pay \$61,305 in disgorgement and \$61,305 in  
13 civil penalties. The SEC's complaint, initially filed August 2, 1999, in the United States District  
14 Court, alleged:

- 15 • Between December 1995 and 1996, VANDER TUIG engaged in an unregistered  
16 offering of Fastlane Footwear stock;
- 17 • VANDER TUIG "manipulated Fastlane's stock, artificially raising the price of the  
18 security 56% from its initial sale price of \$3.12 per share to \$4.88 per share by controlling the  
19 supply for the security and creating artificial demand;"
- 20

21

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22 <sup>1</sup> Corporations Code section 25019 defines what is a security, and provides, in part,:  
23 "Security means any note; stock . . . certificate of interest or participation in any profit- sharing  
24 agreement; . . . investment contract . . . ; or, in general, any interest or instrument commonly  
25 known as a 'security;' or any certificate of interest or participation in . . . receipt for, guarantee of  
26 . . . any of the foregoing." The basic test for distinguishing a security from other commercial  
27 dealings is (1) a person entrusted money or other capital to another; (2) the person who entrusted  
28 the money or other capital to another did so with the expectation of receiving a profit, income, or  
some financial benefit from a business enterprise; (3) the failure or success of the business  
enterprise was dependent upon the managerial efforts of persons other than the person who  
entrusted his money or other capital. (*People v. Figueroa* (1986) 41 Cal.3d 714, 735-739; *People*  
*v. Smith* (1989) 215 Cal.App.3d 230, 235-238 237 [citing to *SEC v. Howey Co.* (1946) 328 U.S.  
293, 299]; *Moreland v. Department of Corporations* (1987) 194 Cal.App.3d 506, 519.)

1           •     VANDER TUIG accounted for over 96% of the shares sold during the relevant  
2 period;

3           •     VANDER TUIG used nominee accounts to engage in fraudulent "wash sale"  
4 transactions (illegal transactions an investor makes by simultaneously buying and selling a  
5 security through two different brokers, thereby creating the illusion of activity);

6           •     After inflating the price of Fastlane stock, VANDER TUIG dumped the stock,  
7 causing his nominees to sell the bulk of their shares to retail investors, after which the price of the  
8 security plummeted, reaching its 52-week low of \$1.25 per share on October 30, 1996.

9           A final judgment of permanent injunction was entered against VANDER TUIG on March  
10 27, 2000, enjoining him from violating the Securities Exchange Act including the sale of  
11 unregistered securities and fraudulent or deceptive acts. He was also barred from association with  
12 any broker dealer. VANDER TUIG still has not paid the \$137,182 in disgorgement and civil  
13 penalties.

14           In early 2005 and again around May of 2005, CDC's sales agents learned VANDER TUIG  
15 was not using the correct spelling of his name. VANDER TUIG told the salespeople the SEC  
16 brought an action against him for stock manipulation, but he had paid a fine and taken care of it.  
17 He said he changed the spelling of his name because he wanted to separate himself from that  
18 accusation and did not want to worry investors with it. VANDER TUIG told Investigator Holguin  
19 that he changed the spelling of his name because the situation with the SEC "kept haunting him."  
20

21           2. *CDC did not have authorization to use the Arnold Palmer name or likeness and was told*  
22 *repeatedly not to use the name or likeness of Arnold Palmer.*

23           Arnold Palmer's picture was on the cover of all CDC brochures and another full page  
24 picture and resume was included inside the brochures. Early investors were told CCP was "in  
25 partnership" with Mr. Palmer and he would design CDC's golf courses. Investigator Holguin  
26 contacted Jacqueline Simpson, Vice President, Legal Department for International Management  
27 Group. International Management Group has managed Arnold Palmer, Palmer Course Design  
28 Company, and all other entities associated with Arnold Palmer for many years. Ms. Simpson

1 stated VANDER TUIG, CCP and/or CDC never had permission to use Mr. Palmer's name or  
2 image in promoting CDC stock or for any other purpose, and never entered into any agreement as  
3 a partner, associate, or anything else with Mr. Palmer.

4 Ms. Simpson sent two letters to VANDER TUIG on behalf of Arnold Palmer:

5 • On July 29, 2005, Ms. Simpson faxed a letter telling VANDER TUIG to "cease and  
6 desist immediately from all references to, and images of Mr. Palmer in your company prospectus,  
7 any advertisements, and in any other unauthorized commercial manner;"

8 • On September 1, 2005, Ms. Simpson faxed another letter to VANDER TUIG and told  
9 him to cease all use of materials bearing reference to Mr. Palmer. The letter stated: "CDC is  
10 currently using Mr. Palmer's name and image without his consent (including on the website); this  
11 is an infringement of Mr. Palmer's commercial rights and common law trademark rights, a breach  
12 of the contract under which Palmer Course Design Company provided services, and a violation of  
13 securities laws; accordingly you are hereby directed to cease and desist immediately from all  
14 references to, and images of Mr. Palmer in any way."

15 In spite of these letters, VANDER TUIG continued to use Mr. Palmer's picture on the cover  
16 of the brochure and his resume within the CDC offering material until the company was placed  
17 into receivership on February 16, 2006.

18  
19 *3. Defendants made false representations about sales and revenues from properties, and*  
20 *did not disclose investor funds were the source of income for "dividend" payments (per a*  
21 *"PONZI" scheme).*

22 Sales material in 2004 represented CDC had built and sold homes and properties "in  
23 quantity" at profit margins of 50-60%, 100%, and 400%, and that it had other properties in  
24 various stages of development. CDC claimed they sold lots to Lennar Homes "to begin the first  
25 three phases at The Carolina Club" which resulted in revenues of almost \$5 million. In 2005,  
26 CDC represented it "had significant increases in both revenue and profit for the last three  
27 consecutive years." Until at least May of 2005, CDC distributed an income statement to potential  
28

1 investors that showed increasing income from 2002 to 2004: net profits of \$206,334 in 2002;  
2 \$716,671 in 2003; and \$1,525,647 in 2004.

3 CDC specifically represented it was “currently profitable with a revenue stream which pays  
4 the quarterly 3-4% per annum cash dividends.” These payments enticed investors to invest  
5 repeatedly as CDC appeared to be profitable.

6 The Receiver reviewed CDC books and records and conducted title searches. He  
7 concluded: CDC never built or sold anything; CDC only purchased a relatively few scattered  
8 vacant lots within some of the various communities they claimed to own; tax records and  
9 accounting did not reflect any transfers or purchases between CDC and Lennar Homes.

10 The Receiver confirmed around \$412,000 was distributed to investors in the form of  
11 “dividends.” The generally accepted definition of "dividend" is "money paid to stockholders,  
12 normally out of the corporation's current earnings or accumulated profits." Because CDC never  
13 built or sold anything, there were no revenue from which to pay dividends. The money investors  
14 received was in fact from other investor monies. This is a typical "Ponzi" scheme described as “a  
15 fraudulent investment operation that involves paying abnormally high returns (‘profits’) to  
16 investors out of the money paid in by subsequent investors rather than from net revenues  
17 generated by any real business.”

18 In December of 2005 (when at least VANDER TUIG, CARMAN and WALDMAN knew  
19 they were under investigation by the SEC), CARMAN admitted to the SEC and all the  
20 salespeople that CDC had not generated any revenues and “was still in the acquisition stage”  
21 buying property for future development. That was not what was stated in the CDC sales material.  
22 However, all of the defendants continued to solicit new investors until February 16, 2006, without  
23 disclosing that they knew the CDC offering materials contained misrepresentations regarding  
24 revenue and profit, and the only possible source of dividends was from investor funds.

25  
26 *4. The defendants misrepresented the amount and status of property CDC owned.*

27 Investors purchased shares because they were told CDC owned and had equity in at least  
28 six high value world championship golf course and luxury resort communities in various stages of

1 development which would produce a substantial rate of return. Offering material stated, "Since  
2 1999 CDC achieved significant recognition as quality resort owners and developers" and " has  
3 proven its ability to develop luxury properties and has strategic partnerships with national  
4 homebuilders adding value to each project." The sales people stated these properties were debt  
5 free. The offering material (second PPM) stated, "Properties will be purchased only at a  
6 substantial discount-to-value ratio to increase Book Value" (book value is generally defined as  
7 the total value of the company's assets that shareholders would theoretically receive if a company  
8 were liquidated and can indicate if a stock is under-or overpriced).

9 Investors were provided "Valuation Sheets," a one page sheet that listed properties owned  
10 by CDC, and each specific asset's "current appraised value" and "intrinsic value" (CDC defined  
11 intrinsic as the "Improved Value" less the "Improvement Expense"). Two of CDC's early  
12 properties were the "Ballymore Plantation" and "The Little River Club" - described as 400 acres  
13 with "32 golf villas pre-sold," appraised value of \$9.1 million and intrinsic value of \$28.6 million  
14 after improvements. Investigator Holguin spoke to the owners of Little River Club who advised  
15 that VANDER TUIG and/or CDC never owned any interest or villas in The Little River Club.  
16 According to the Receiver, CDC never purchased the Ballymore Plantation.

17 The December 2005 valuation sheet stated: the total appraised value of the acreage owned  
18 by CDC was approximately \$259.3 million; based on that equity and 31 million outstanding  
19 shares, the book value per share was \$6.45. Investors were allowed to purchase shares for \$3.00.  
20 According to the Receiver, by December of 2005, CDC had spent less than \$20 million in real  
21 estate investments despite the fact they had raised over \$40 million from investors at that time.

22 The Receiver reviewed all of CDC's books and records, bank statements and checks,  
23 correspondence, escrow files, real estate agreements and conducted title searches. He concluded  
24 that every single asset listed on the valuation sheets was grossly misrepresented and, in some  
25 cases, CDC did not have an ownership interest in the listed asset.

26 The properties that were misrepresented in CDC's offering materials include:  
27  
28

- 1           •     The Ranch - described as 1700 acres in Farmers Branch, Texas. It was planned for  
2 two Greg Norman golf courses and 3,000 single family residences with construction in mid-year  
3 2005. CDC did not execute an option and had no interest in this property at any time;
- 4           •     Shadow Rock in Palm Springs - described as a 600 acre resort development. CDC  
5 had no interest in this property;
- 6           •     Sandpines in Florence, Oregon. CDC made a \$20,000 earnest deposit on Sandpines,  
7 but never closed the transaction;
- 8           •     Three North Carolina developments described as 1245 total acres (The Carolina, The  
9 National and Mid-South Club). The November 2005 PPM and the CDC website stated CDC “has  
10 become the largest land owner within the gates of the Mid-South Club...the 545 acres meanders  
11 through longleaf pines.” As of December of 2005, CDC owned only 261 acres in all of North  
12 Carolina, including many lots in the personal name of CARMAN and/or VANDER TUIG. Many  
13 of these lots were used as “collateral” for victims investing over \$100,000 but were purchased for  
14 less than half that amount;
- 15          •     River Bend in North Dallas, Texas, with a “current appraised value of \$7.4 million.”  
16 CDC represented this property had "closed escrow." In fact, CDC made an earnest money  
17 deposit of \$1 million to open escrow, with a sale price of \$4 million. The sale never closed. By  
18 January of 2006, CDC was in default of the opened escrow, and the agreement provided the entire  
19 \$1 million deposit became non-refundable;
- 20          •     McHenry Ranch in Sacramento, California - described as a \$100 million acquisition  
21 with an appraised value of \$155 million. CDC made a payment of \$1 million for an option to  
22 purchase the land for \$50,000 per acre. CDC did not exercise the option and did not own any  
23 acreage in McHenry Ranch. In addition, the land is currently appraised around \$4,200 per acre;  
24 residential development is strictly forbidden in this area; and the land is preserved for agricultural  
25 use for at least 10 years;
- 26          •     Celina Bridges in Collin County, Texas. The December 2005 valuation sheet set the  
27 value of this land at \$49 million, which was a 42% increase in one month after it was purchased.  
28 CDC purchased 768 acres of raw land for \$31.8 million, of which \$23.5 million was debt (in spite



1 of the claim that CDC was debt free). CDC entered into a loan for the purchase of Celina Bridges  
2 with a loan to value ratio exceeding 75% (the loan amount was 75% of the purchase price).

3 Interest on the first trust deed was 10.75%, and the second trust deed interest was at 11.1%;

4 • Hills of Kingswood, North Dallas, Texas. The December 2005 valuation sheet stated  
5 this property is owned by CDC with an appraised value of \$16 million. CDC never owned this  
6 property. It made an earnest money deposit of \$100,000 on the property but never concluded the  
7 sale.

8 The Receiver also determined that the day he was appointed (February 16, 2006), CDC was  
9 in a "cash crunch," preventing the company from concluding real estate sales transactions. CDC  
10 was due to make an escrow deposit that day of \$5 million on the "Lake Las Vegas" project, yet  
11 there was only \$4.4 million in the bank.

12  
13 *5. For at least four years, the defendants made false statements about CDC going public in*  
14 *the very near future.*

15 According to the SEC and the California Department of Corporations, CDC took no  
16 significant steps to register or qualify any public offering of stock on a recognized exchange.  
17 Additionally, CDC had no audited financial statements; a prerequisite for any company to go  
18 public.

19 From 2001, VANDER TUIG and his salespeople told investors CDC would be going public  
20 soon. Over time, the public offering was put off numerous times for various reasons but  
21 salespeople still insisted the company was going public within weeks and investors should "get in  
22 now." CARMAN instructed one salesperson never to say the company was going public in a  
23 month, "always say 6-10 days." In a letter to investors dated October 9, 2005, VANDER TUIG  
24 stated "as planned, during the last week of September our legal counsel initiated the filing process  
25 to begin trading" and "the anticipated time frame for approval is six to eight weeks."

26 Investigator Holguin interviewed Manuel Ramirez of Ramirez International, a public  
27 accounting firm in Orange County, CA. Mr. Ramirez stated in spring or summer of 2005, he was  
28 contacted by a previous client, SOSTAK, who had just started working for CDC. VANDER

1 TUIG told SOSTAK that CDC needed an audit so SOSTAK set up a meeting with Mr. Ramirez.  
2 VANDER TUIG told Mr. Ramirez that CDC needed an audit to go public. Mr. Ramirez  
3 requested that CDC submit financials but months went by and Ramirez International did not  
4 receive any financials from CDC. Ramirez International never provided any services to CDC.

5 Investigator Holguin also interviewed Marcelo Sroka, manager of accounting firm Wertz  
6 and Company, who was hired by VANDER TUIG around the end of January of 2006 to put  
7 financials together for CDC. VANDER TUIG told Mr. Sroka that CDC did not have accurate  
8 accounting records, had not performed any bookkeeping functions since CDC's inception, and  
9 had not filed any state or federal income tax returns since its inception.

10  
11 *6. The defendants falsely represented CDC shares could be sold immediately upon going*  
12 *public.*

13 Investors were told the shares they purchased from CDC could be sold as soon as CDC  
14 went public. However, all shares distributed to CDC investors had a "legend" condition clearly  
15 stating they were "restricted" shares subject to restrictions on resale. If an investor asked about  
16 this, VANDER TUIG and CARMAN instructed the sales agents to tell investors that when CDC  
17 goes public they would be issued new, unrestricted certificates; and/or CDC would deliver  
18 paperwork allowing the restricted shares to trade immediately.

19 Scott Frost, who has been employed with the SEC for fifteen years as a staff accountant,  
20 told investigator Holguin that restricted shares cannot be sold for a minimum period of one year  
21 after a company goes public, and there is no provision in the securities laws allowing any  
22 company to issue new unrestricted certificates to trade immediately.

23  
24 *7. The defendants did not disclose CDC was already traded publicly on the "Pink Sheets"*  
25 *(an electronic quotation system for over-the-counter securities commonly known as penny stock)*  
26 *and could be bought from any stockbroker at a cheaper price.*

27 Sales material and scripts in 2004 stated the NASD had approved the trading symbol  
28 "CACP" to represent The Carolina Development Company. When the CACP stock went to \$1.75

1 on the Pink Sheets, the sales force used that as a reason for investors to buy CDC stock "at a  
2 discount" for \$1.00. CARMAN later told sales agents the symbol CACP would be used when the  
3 company actually went public but the stock was not yet trading. VANDER TUIG and CARMAN  
4 instructed the salespeople to tell their clients, if the client asked, the stock on the Pink Sheets was  
5 a "different stock."

6 SEC Accountant Scott Frost told Investigator Holguin his investigation revealed: CDC had  
7 only one class of stock and therefore CDC's shares being offered for sale on the Pink Sheets were  
8 the same shares offered and sold by CDC; during 2005, CDC's stock price on the Pink Sheets  
9 varied between \$.001 and \$1.75; in December of 2005 (when the same shares were being sold for  
10 \$3.00 by CDC) CACP stock traded at \$0.10 per share and could have been purchased from any  
11 broker.

12  
13 *8. In addition to misrepresenting real estate equity, CDC misrepresented the outstanding*  
14 *number of shares, the authorized number of shares, and accordingly, the book value of shares.*

15 Many representations regarding book value per share were made in CDC's offering  
16 material: the "Net tangible Book Value" per share "represents the amount of total assets (as  
17 shown on the Company's financial statements) reduced by the amount of total liabilities (as  
18 shown on the financial statements) and divided by the total number of shares of the Company's  
19 Common Stock issued and outstanding."

20 While the first PPM stated there were 5,471,121 shares outstanding (prior to the offering),  
21 the various undated "Valuation Summaries" provided to investors from 2003 through 2005 stated  
22 CDC had:

- 23 • 5.5 million shares outstanding, \$24.3 million in equity, therefore a book value of near  
24 \$4.41 per share;
- 25 • 6.7 million shares outstanding, \$42 million equity, book value of over \$6.00 per  
26 share;
- 27 • 7.9 million shares outstanding, \$48 million equity, book value over \$6.00 per share;

28

1           •       31 million shares outstanding, \$200.3 million equity, book value of more than \$6.45  
2 per share.

3           During this time CDC was selling the shares anywhere from \$1.00 to \$5.00.

4           The transfer agent for CDC stock was Holladay Stock Transfer ("Holladay") of Scottsdale,  
5 Arizona. Holladay handled the issuance and transfer of share certificates for CDC and maintained  
6 CDC's stock transfer records. Investigator Holguin interviewed Mr. Tom Haucks of Holladay and  
7 received all of the documents in Holladay's possession related to CDC. According to Holladay's  
8 records:

- 9           •       68,249,642 shares of CDC stock were outstanding as of July 31, 2004;
- 10          •       97,584,500 shares were outstanding as of November 22, 2005;
- 11          •       98,119,721 shares were outstanding as of December 14, 2005 (not 31 million);
- 12          •       101,854,181 shares were outstanding as of January 31, 2006.

13          In addition, all five versions of the first PPM stated there were 80 million shares authorized;  
14 the second PPM stated as of December 20, 2005, there were 100 million shares authorized.  
15 According to Holladay records, 200 million shares of common stock were authorized as of  
16 December 22, 2005.

17          Therefore, all of the representations related to book value were false because the number of  
18 shares issued and authorized were misrepresented by as much as 100 million. Since properties  
19 were not purchased or developed, the book value of the shares did not climb as represented. In  
20 addition, the PPM used through November of 2005 falsely stated the offering is for a total of  
21 \$10,150,000, yet from February of 2002 through January of 2006, CDC raised over \$50 million.

22  
23           9. *CDC used investor proceeds to pay high undisclosed sales commissions to unlicensed*  
24 *salespeople.*

25          The "Use of Proceeds" section in the first PPM estimated expenses of the offering would  
26 not exceed 10% (\$469,000) to include selling commissions, legal and accounting fees, blue sky  
27 filing fees, printing costs, and all other expenses relating to this offering. It also stated the  
28 company may pay 15% cash commissions or finder's fees plus "equity" or "stock bonus of up to

1 5%.” The second PPM dated November 2005 stated CDC may use the services of a broker/dealer  
2 licensed by the NASD, and pay commissions of up to 5% in addition to an equity bonus of up to  
3 5%, for a “total potential commission of 10%.”

4 In fact, cash commissions up to 42.5% were paid to unlicensed independent contractor  
5 salespeople and finders including: 15% cash (to most salespeople); 25% cash commission to  
6 YARD on sales he made; on top of that, overrides up to 10% were paid to sales managers  
7 including VANDER TUIG, CARMAN, SOSTAK, and YARD; plus 5-7.5% referral fees were  
8 paid (i.e. to investors) in cash or stock.

9 According to the Receiver over **\$9 million** was paid in cash commissions to CDC  
10 salespeople. None of the salespeople working for CDC were licensed to sell securities, and  
11 VANDER TUIG had been barred from association with any broker dealer.

12  
13 10. *GRAND THEFT and failure to disclose misappropriation of funds for personal use.*

14 CDC raised \$52,622,000 from hundreds of investors through the representation that the  
15 majority of investment funds (at least 85%) would be used for land acquisitions, community  
16 improvements, grading, entitlements, marketing, and “an adult community.” Instead, less than  
17 half (\$23,370,000) was spent on legitimate real estate purchases; little or no money was spent on  
18 improvements, grading, marketing or an adult community.

19 At the same time CDC was short of cash to complete pending property transactions (i.e. for  
20 Lake Las Vegas), principals VANDER TUIG and CARMAN misappropriated investor funds to  
21 pay high commissions, overhead, and to secure lavish personal lifestyles. According to the  
22 Receiver's accounting of CDC:

23 • VANDER TUIG and his spouse Jill Kraus used the company bank account as if it  
24 was their personal bank account and made payments totaling nearly \$3.8 million for such things  
25 as: Hawaiian vacations; electric gas and water bills for their residence; medical bills; church  
26 donations; swimming pool services; personal property tax bills; restaurants; \$183,000 leasing  
27 private planes; and \$50,000 down to purchase an airplane for \$1.7 million;

28

1           •       VANDER TUIG paid for many of the real estate assets with CDC funds raised from  
2 investors, but held the assets in his and his wife's name, CARMAN and his wife's name, or in the  
3 names of entities they controlled;

4           •       CARMAN and his spouse Debra Carman (CDC's bookkeeper) directly received  
5 \$2,641,075 from CDC;

6           •       CDC paid CARMAN's expenses (restaurants, church donations, hotels, concerts,  
7 BMW car payments) in the amount of \$194,497;

8           •       CARMAN used \$390,000 of CDC funds to purchase shares in an offshore insurance  
9 policy.

10  
11           **C. INSIDER INFORMATION**

12           Investigators Holguin and Reza interviewed around eight ex-employees (including  
13 salespeople) of CDC and reviewed two depositions of insiders taken by the SEC. CDC employees  
14 consistently stated: salespeople were told to follow a "script" provided by VANDER TUIG,  
15 CARMAN and YARD; they never saw any audited financial statements or actual appraisals on  
16 the properties; the salespeople knew CDC stock was being sold on the Pink Sheets under the  
17 symbol CACP; they knew VANDER TUIG and CARMAN were not using their real names in the  
18 PPM; they knew the shares were "Restricted;" and they knew (from WALDMAN) there was a  
19 "backlog" of trust deeds on properties to be used for collateral.

20  
21           **D. VICTIM STATEMENTS**

22           Due to his control of CDC, VANDER TUIG is charged as a defendant in relation to each  
23 charged victim. For the same reason, CARMAN is also a charged victim in relation to each  
24 defendant (except for Arthur Spagnol who invested prior to CARMAN's employment at CDC).  
25 The victims are arranged in this affidavit in relation to the salesperson who solicited their  
26 investment. Victims who were solicited by uncharged salespeople are combined in a section for  
27 miscellaneous victims and only VANDER TUIG and CARMAN are charged in relation to those  
28 victims.

1           SOSTAK Victims

2           Jeryl Rochelle, Orange County, invested \$150,000 (\$42,632 on May 10, 2005, \$93,867 and  
3 \$13,500 on May 12, 2005)

4           Ms. Rochelle, a retired schoolteacher, heard about CDC around April of 2005 from  
5 SOSTAK (who was her annuity salesman). SOSTAK provided a PPM dated June 30, 2004, and  
6 offering material that stated CDC held \$42 million equity in developments, and had 6.7 million  
7 shares outstanding resulting in a Book Value over \$6 per share. SOSTAK told her: CDC was a  
8 development company that purchased golf courses and the land surrounding them in the  
9 Carolinas; CDC had major building contracts with big home builders which he had personally  
10 seen; he invested in CDC; if she invested a minimum of \$150,000 within the next two weeks, she  
11 would get 150,000 shares because of a 2-1 split (\$1 per share); her investment would be  
12 collateralized with a deed of trust on a piece of land in the Pinehurst development; she would  
13 receive 4% quarterly dividends; by the end of the year, CDC would go public for at least \$4 per  
14 share; once CDC went public she could liquidate her shares; and she should invest her IRA  
15 money from the school district.

16           Ms. Rochelle decided to invest \$150,000 based on SOSTAK's representations that this was  
17 a safe investment and because she would receive a trust deed as collateral. Her Investor  
18 Certificate stated the money would be held in an attorney trust account until her deed was  
19 recorded. She contacted Sostak when she had not received the deed in a timely manner. Sostak  
20 told her he did not know why it was taking so long, but that it would be coming. Ms. Rochelle did  
21 not receive the deed of trust and promissory note until January 30, 2006 (eight months after she  
22 invested).

23  
24           Scott and Heidi Machock, Orange County, invested \$451,500 (\$110,000 wire transfer on  
25 May 16, 2005, \$65,000 wire transfer on May 16, 2005, \$150,000 check from his business  
26 Produce Apparel, Inc. on May 20, 2005, \$50,000 check from Produce Apparel, Inc. on September  
27 26, 2005, \$7,500 from Heidi Machock retirement account on October 27, 2005, \$9,000 from  
28 Scott Machock retirement account on October 27, 2005, \$10,000 personal check from Scott &

1 Heidi Machock on November 1, 2005, \$50,000 personal check from Scott & Heidi Machock on  
2 December 7, 2005)

3 Mr. and Mrs. Machock heard about CDC from SOSTAK around April of 2005. SOSTAK  
4 provided offering material (including a PPM dated June 30, 2004) and told them: SOSTAK  
5 invested \$75,000 of his own money; if Mr. Machock invested \$150,000, he would get a  
6 promissory note and deed of trust on land worth \$60,000 to demonstrate integrity; he could get  
7 his money back plus 4% at any time; an attorney was helping take the company public by the end  
8 of September of 2005; VANDER TUIG was a Christian with a Wall Street background; and  
9 SOSTAK flew on a private plane to Texas and Carolina to see their property.

10 Mr. Machock met VANDER TUIG who told him their attorneys were working on the  
11 public offering, they had "acquired" Lake Las Vegas property, and two groups of underwriters  
12 wanted to take CDC public. Mr. Machock also met SVENDSEN and YARD who told him based  
13 on the book value, he would make at least \$10 per share and in two years it would go up to \$30.  
14 Mr. Machock conducted some research and verified CDC owned land in the Carolinas. In May of  
15 2005, based on all this information from SOSTAK and VANDER TUIG, he invested \$175,000  
16 from his retirement account and \$150,000 from his corporate account (Produce Apparel, Inc.). He  
17 received a promissory note, deed of trust and shares of stock for \$1.00.

18 SOSTAK continued to tell Mr. Machock CDC was growing, acquiring new properties,  
19 getting close to going public, and the share price went from \$1 to \$2 but he could still purchase it  
20 for \$1. SOSTAK repeatedly stated he invested \$75,000 of his own money, took around \$300,000  
21 of his commission in shares instead of cash, and received only 10% in commissions. Mr.  
22 Machock began receiving dividend payments as promised. He met with YARD again (at  
23 SOSTAK's wedding), who talked about the high value of their land, different deals coming in,  
24 and that the IPO was going forward and would open at \$10 to \$12. Based on YARD and  
25 SOSTAK's representations and receipt of dividends, Mr. Machock made five additional  
26 investments through December 7, 2005, for a total investment of \$451,500.



1           Jon Levin, Orange County, invested \$200,000 (\$100,000 on November 4, 2005, \$100,000  
2 on January 13, 2006)

3           Mr. Levin heard about CDC in October of 2005, through a friend who referred him to  
4 SOSTAK. He also reviewed CDC's website. SOSTAK told Levin: SOSTAK was a partner in  
5 CDC, either the CFO or CEO of the company; "VANDER TAG," the President of CDC, was very  
6 successful; CDC acquired holdings in several different communities where they designed high-  
7 end gated community developments and golf courses with Greg Norman and Arnold Palmer; the  
8 deal had closed but SOSTAK would let him in at \$3 per share if he invested by the end of the  
9 week; CDC would be going public in January of 2006, and the book value was \$10 to \$17 a  
10 share; once CDC went public, Mr. Levin could sell his shares immediately; CDC had raised 50  
11 million dollars; and CDC acquired land at good prices because they had the capital to pay cash  
12 and therefore, they had no debt.

13           Mr. Levin was most impressed with the fact that CDC was debt free and the value of their  
14 real estate was higher than the purchase price. Based on SOSTAK's representations and the  
15 information in the offering material and on the website, Mr. Levin decided to invest. On  
16 November 4, 2005, Mr. Levin wired \$100,000 to CDC and received 33,333 restricted shares.

17           On January 12, 2006, SOSTAK told Mr. Levin there was a last minute offering to purchase  
18 more stock for \$3 a share for existing investors even though the purchase price for new investors  
19 was \$10 per share. SOSTAK reiterated the stock would be worth somewhere around \$17 and  
20 informed Mr. Levin that the SEC was in the office finalizing CDC's public offering "as we  
21 speak." The public offering would take place at the end of January or beginning of February of  
22 2006. Based on SOSTAK's representations, Mr. Levin wired an additional \$100,000 to CDC.  
23 On January 31, 2006, SOSTAK said CDC would go public by the end of February of 2006.

24  
25           Jeffrey Calentino, Orange County, invested \$100,000 (\$100,000 on November 19, 2005)

26           Mr. Calentino heard about the investment from salesman SOSTAK. SOSTAK provided a  
27 PPM dated June 30, 2004 and offering material including a valuation sheet that stated CDC had  
28 \$57 million equity in developments, 11 million shares outstanding, resulting in book value per

1 share of over \$6.00. SOSTAK said: the company was currently being audited and doing the due  
2 diligence required to go public in February of 2006; at that time the stock would be worth around  
3 \$12; and CDC was not currently making money, but was going to build homes to provide cash  
4 flow. If Calentino invested \$100,000, he would get a trust deed to secure his entire investment.

5 Based on SOSTAK's representations that his investment would be secured by a trust deed,  
6 and the information in the offering material, including the purported value of the property, Mr.  
7 Calentino decided to invest. He never received a trust deed.

8 SOSTAK's misrepresentations and omissions of material facts to the above victims include  
9 the following:

- 10 • SOSTAK never invested in CDC and never got his family to invest;
- 11 • He received \$463,783 in cash commissions and overrides in his ten months at CDC;
- 12 • He did not tell Mr. Calentino there was a long "backlog" of property to collateralize  
13 investments, even though it was common knowledge in the office and Ms. Rochelle told him she  
14 had not received her trust deed;
- 15 • SOSTAK sold stock to investor Scott Machock for only \$1 per share at the same time  
16 Mr. Levin and Mr. Calentino paid \$3 for the same stock;
- 17 • He knew, but did not tell Mr. Machock, Mr. Levin or Mr. Calentino, there was a new  
18 PPM dated November 15, 2005, to raise \$100 million that would greatly dilute all share values;
- 19 • He knew CDC had no audit done as SOSTAK introduced VANDER TUIG to  
20 accountant Manuel Ramirez in late 2005 just to do a "trench" audit;
- 21 • He had no basis on which to say CDC had made an application to go public;
- 22 • He knew the true spelling of VANDER TUIG's name (and problems with the SEC)  
23 was still not being disclosed, even though all the salespeople knew about it by the end of 2005;
- 24 • He knew by the end of 2005 (from CARMAN) that CDC had never produced  
25 revenue, and therefore the only source of dividends was investor funds.

26 ///

1           YARD Victims

2           James Beckstrom, Orange County, invested \$61,000 (\$10,000 on March 16, 2004, \$21,000  
3 on October 13, 2005, \$30,000 on January 9, 2006)

4           Mr. Beckstrom heard about CDC from YARD around March of 2004. YARD provided a  
5 PPM dated January 15, 2004 and told him: CDC made money by acquiring properties under  
6 market value; they were enhancing the value by developing and improving the property; the  
7 company would soon be a public company and YARD expected the price to be about \$7 to \$10 a  
8 share. Based on YARD's representations and the information in the offering material, he  
9 purchased 5,000 shares at \$2 per share for \$10,000 on March 16, 2004.

10           In 2005, Kirk Porter called saying YARD had been promoted to sales manager. Porter said  
11 CDC acquired more land and the stock was appreciating. Based on YARD's initial representations  
12 and Porter's representations, Mr. Beckstrom decided to invest \$21,000 on October 13, 2005, for  
13 7,000 shares at \$3 per share. Shortly thereafter he received shares and two dividend payments.  
14 During January of 2006, Porter said CDC was involved in an audit in preparation to go public;  
15 time was short as they would soon be going public. Based on these representations, Mr.  
16 Beckstrom made a final investment of \$30,000 on January 9, 2006. YARD later (after CDC was  
17 closed down) told Mr. Beckstrom he invested his commissions and personal money into CDC and  
18 lost "hard" money.

19  
20           Grant and Kremelda Smith, Maryland, invested \$65,195 (\$25,195 on April 1, 2004,  
21 \$25,000 on March 31, 2005, and \$15,000 on December 1, 2005)

22           Mr. Smith received a cold call from Lambert VANDER TUIG around 2002, and again in  
23 early 2004. VANDER TUIG told Mr. Smith he was the president of CCP, a company that was  
24 building golf course communities in North Carolina, Florida and Texas. He was looking for  
25 interested investors. VANDER TUIG sent the Smiths offering material including a PPM dated  
26 January 15, 2004, touting CCP's purchase of Ballymore Plantation and Little River. The PPM  
27 also stated CCP had the trading symbol CACP.

1 After the conversation with VANDER TUIG, the Smiths began receiving weekly telephone  
2 calls from YARD. YARD stated: CDC would be going public in January of 2005 and would be  
3 paying quarterly dividends; YARD felt so good about this venture that he invested his own  
4 money; Lennar was coming in to build the homes on their development; VANDER TUIG was a  
5 spectacular, savvy businessman with great contacts; the Smiths should use money from their  
6 IRAs to invest. Based on YARD's representations and information from VANDER TUIG and the  
7 offering material, Mr. and Mrs. Smith decided to invest \$25,194 on April 5, 2004.

8 After the Smiths made their first investment, they continuously received calls from YARD  
9 with updates on the company. YARD sent a new PPM for 3,850,000 shares to raise \$10,150,000  
10 dated August 1, 2004. YARD told them: the IPO date had been postponed until Fall 2005 because  
11 the company needed to correct their paperwork submitted to the SEC; CDC recently sold some  
12 property; CDC's stock price would soon be increasing to \$1.50 a share and they should get in  
13 before the price goes up. In the beginning of 2005, YARD sent a letter discussing the latest  
14 acquisition of the Shadow Rock development in Palm Springs stating grading was to begin  
15 February of 2005; once lots are graded they could be sold to generate substantial revenue;  
16 "revenue is the primary factor in driving higher stock values;" and CDC "will terminate the \$2  
17 offering and new stock will cost \$6 per share."

18 Based on all of the information provided by YARD, the Smiths decided to invest \$25,000  
19 on March 31, 2005. They received a 3% dividend on their investment on September 21, 2005.  
20 Sometime after the second investment, YARD advised he was so busy, Kirk Porter ("Porter")  
21 would take over and assist them with their investments. The Smiths received monthly telephone  
22 calls from Porter, who reassured them everything looked good and the market was great. Based  
23 on the continuous positive information and dividends received, the Smiths decided to make a  
24 third investment of \$15,000 on December 1, 2005. Mr. Smith planned on retiring, but is unable to  
25 do so due to the loss of their \$65,000.

26  
27 Ben Rozansky, Glencoe, IL, invested \$160,000 (\$10,000 on August 3, 2004, \$40,000 on  
28 March 3, 2005, \$10,000 on June 23, 2005, and \$100,000 on October 20, 2005)

1 In the Spring of 2004, Mr. Rozansky received a cold call from YARD representing CCP.  
2 YARD told him CCP: was a real estate development company that developed golf courses in  
3 North Carolina; was planning to go public; was selling shares for \$1.50. YARD sent CDC  
4 offering material to Mr. Rozansky including: a PPM dated January 15, 2004, that stated CCP  
5 purchased and was developing The Little River Golf Club and the Ballymore Plantation; a  
6 valuation sheet stating the company held \$9.8 million in equity, had 5 million shares outstanding,  
7 therefore book value was \$2 per share; and information that CCP had contracted builders  
8 including Lennar and Clark Homes to build 291 homes at the Ballymore Plantation. Based on  
9 YARD's representations (and those of Kirk Porter, another salesman) and the information in the  
10 offering material, Mr. Rozansky decided to invest \$10,000 on August 3, 2004. He received a  
11 dividend check of \$75.00 on January 19, 2005.

12 Mr. Rozansky received a written update from YARD around February of 2005 that stated:  
13 CCP "was going to develop Shadow Rock in Palm Springs, that would push the book value well  
14 above \$6;" included was a subscription agreement for shares at \$2 for him to "take advantage of  
15 this tremendous opportunity." The update stated that considering the "dividends paid," CDC's  
16 scheduled second quarter public offering, the North Carolina and Texas properties, and with Palm  
17 Springs pending, the \$2 per share stock price was an absolute bargain and was going fast. Based  
18 on Porter and YARD's representations, information in the offering material and the fact he had  
19 received dividend checks, Mr. Rozansky decided to invest \$40,000 on March 3, 2005, at \$1.50  
20 per share. Mr. Rozansky received another cash dividend on March 18, 2005. He invested an  
21 additional \$10,000 on June 23, 2005, at \$1 per share. In July and October 2005, he received more  
22 dividend checks and information that CDC was doing great and preparing to go public. He  
23 invested \$100,000 on October 20, 2005, at \$2.50 per share.

24 YARD misrepresentations and omissions of material fact made to the above victims include  
25 the following:

26 • YARD admitted in his deposition he knew of VANDER TUIG's problems with the  
27 SEC when he was hired. However, YARD never told the above victims the SEC sued VANDER  
28 TUIG for fraud regarding stock manipulation.

- 1 • YARD also misrepresented that he had invested his own money into CDC;
- 2 • YARD failed to disclose that CDC paid up to 42.5% in total sales commissions  
3 including 35% to YARD, plus overrides on sales made by Porter (including Mr. Beckstrom's last  
4 two investments and Mr. Smith's last \$15,000);
- 5 • YARD failed to disclose that the Little River and Ballymore Plantation properties  
6 mysteriously dropped off CDC's valuation sheet with no explanation. In fact, CDC never owned  
7 any part of Little River or Ballymore.

8  
9 SVENDSEN Victims

10 Tom Thompson, Coto de Caza, CA invested \$75,000 (\$50,000 on August 26, 2005,  
11 \$25,000 on October 21, 2005)

12 Mr. Thompson heard about CDC in May of 2005, through his friend SVENDSEN.  
13 SVENDSEN provided CDC offering material including financials, and told him: CDC would be  
14 doing joint ventures with Lennar Homes to generate revenue; Lennar tried to buy CDC, but CDC  
15 thought investors would get more money if CDC instead went public; CDC would go public the  
16 3rd or 4th quarter of 2005; and Thompson could get the shares worth \$3 for \$1.

17 In August of 2005, Mr. Thompson met VANDER TUIG who said: an investment of  
18 \$200,000 automatically secured a lot within Pinehurst development that supported the value of  
19 the investment; he had worked for a brokerage company and had taken another company public;  
20 and as far as a guarantee, he would write Mr. Thompson a check anytime he wanted his money  
21 back.

22 On August 26, 2005, SVENDSEN told Mr. Thompson he invested his own money in CDC  
23 and was going to make an additional investment of \$100,000. He also said his commission was  
24 only 5%. Based on VANDER TUIG and SVENDSEN's recommendation, and information in the  
25 offering material, Mr. Thompson handed SVENDSEN a check for \$50,000 on that day (August  
26 26, 2005). Mr. Thompson received restricted shares. When he asked about this, SVENDSEN told  
27 him that once the company went public, they would reissue unrestricted certificates.  
28

1           On September 29, 2005, SVENDSEN informed Mr. Thompson: CDC was coming out on  
2 NASDAQ within 4-6 weeks; it was delayed due to auditing and paperwork; if Thompson wanted  
3 to buy more shares he had to buy them now as CDC would be "going dark" soon. In October of  
4 2005, SVENDSEN said he just got back from touring the Pinehurst and Dallas properties with  
5 VANDER TUIG, SOSTAK and the land planner. He could get Thompson in at \$1 a share even  
6 though the shares were being sold at \$3 per share. On October 21, 2005, Thompson invested an  
7 additional \$25,000 based on SVENDSEN's representations.

8           At one point (date unknown), SVENDSEN told Mr. Thompson he had invested \$400,000 of  
9 his own money into CDC. This was very important in Mr. Thompson's decision to invest. During  
10 December of 2005 and January of 2006, he and SVENDSEN had weekly conversations.  
11 SVENDSEN said CDC was answering questions from the SEC and was dealing with issues  
12 pertaining to title of property but everything was "solid."

13           After CDC was shut down, SVENDSEN told Mr. Thompson he invested \$75,000 and the  
14 remaining \$325,000 came from his commissions. Mr. Thompson ran VANDER TUIG's name  
15 through "Google" and found out about his prior trouble with the SEC. If he had known about  
16 VANDER TUIG's problems with the SEC, he never would have invested.

17  
18           Alan Perin, Trabuco Canyon, CA invested \$129,000 (\$99,000 on November 15, 2005,  
19 \$30,000 on January 20, 2006)

20           Mr. Perin owns a flooring business and heard about the investment in July of 2005 from  
21 SVENDSEN. SVENDSEN told him: he was originally an investor, but had been working for  
22 CDC for a couple of years because it was doing so well; SVENDSEN purchased close to a half  
23 million shares in CDC; Greg Norman was part owner; CDC shares were now \$1 but would open  
24 on the public market in November of 2005 at \$3 and go to \$10-20 within the first year; each  
25 investor would be issued non-restricted stock; and if Mr. Perin invested with CDC he would get  
26 the first opportunity to bid on the flooring for the Celina Bridges project. On November 15,  
27 2005, Mr. Perin met VANDER TUIG who told him if he invested, he would absolutely get the  
28 contract to do flooring in the Celina Bridges project. That day, based on VANDER TUIG and

1 SVENDSEN's representations (especially that he had a lot of his own money invested in CDC)  
2 and the information in the offering material, Mr. Perin invested \$99,000.

3 In January of 2006, SVENDSEN pressured Mr. Perin to invest more, stating the stock was  
4 at \$5 but he could sell it to Mr. Perin for \$3. On January 20, 2006, Mr. Perin invested an  
5 additional \$30,000 based on SVENDSEN's representations. After that, SVENDSEN continued to  
6 pressure Mr. Perin to invest more, so Mr. Perin contacted FiServ (IRA Administrator used by  
7 CDC) to get forms to transfer their IRA money into CDC. FiServ contacted Mr. Perin and told  
8 him the SEC had shut CDC down.

9  
10 Shar Pourdanesh, Tustin, CA invested \$320,000 (\$50,000 on November 22, 2005, \$279,000  
11 on January 27, 2006)

12 Mr. Pourdanesh, a retired NFL player, heard about the investment from SVENDSEN in the  
13 Fall of 2005. SVENDSEN said: he had invested himself; he did not take a salary, but rather took  
14 his compensation in shares; CDC purchased and built golf courses and shopping centers that  
15 increased the value of the shares; CDC planned to go public second week of February of 2006 at  
16 estimated opening price of \$16-20 per share; this share price was based on intrinsic value of the  
17 company's worth of one billion dollars; KB Homes did not have as much money as CDC;  
18 minimum investment was \$50,000; if he invested \$250,000, he was guaranteed a parcel of land  
19 worth equal or greater than the amount of the investment; "VANDER TAG" was a genius who  
20 took another land acquisition company public, and used that money to buy CDC property free and  
21 clear; SVENDSEN and SOSTAK were top sales people with CDC and had the inside track;  
22 instead of spending \$150,000 remodeling his home, SVENDSEN was going to invest his own  
23 money with CDC as it was so safe; CDC was paying cash dividends; SVENDSEN saw CDC  
24 "breaking ground" at Lake Las Vegas.

25 Mr. Pourdanesh met VANDER TUIG who stated: he was a Christian taking a salary of only  
26 \$80,000 because he knew he would get paid on "the back end." Based on VANDER TUIG and  
27 SVENDSEN's representations and the information in the offering material, Mr. Pourdanesh  
28 decided to invest. On November 22, 2005, Mr. Pourdanesh had his sister Maryam Mojabi write a



1 check for \$50,000 on his behalf, and he received 16,667 shares at \$3.00 per share. When he asked  
2 SVENDSEN why they were marked "restricted," SVENDSEN said they were in the process of  
3 sending investors unrestricted shares.

4 SVENDSEN continued to solicit Mr. Pourdanesh stating he should invest \$250,000 so his  
5 investment would be collateralized; CDC had picked up property at Lake Las Vegas and they  
6 were breaking ground. Based on SVENDSEN's recommendations, Mr. Pourdanesh issued a  
7 personal check to CDC for \$270,000 on January 27, 2006, for 90,000 shares. He never received a  
8 Trust Deed. The loss of this money has destroyed him financially.

9  
10 Brian Davies, Orange County, invested \$78,000 (\$78,000 on December 26, 2005)

11 Mr. Davies heard about CDC through SVENDSEN around December of 2005. According  
12 to the offering material he received, including a PPM for a \$100,000,000 offering, CDC had  
13 \$200,300,000 of equity in developments, 31 million shares outstanding, and a book value over  
14 \$6.45 per share. SVENDSEN said: CDC employees were not getting paid until after the stock  
15 went public; CDC was being audited and would go public in February of 2006 at around \$15-20  
16 per share; Arnold Palmer was supporting their developments; investors could sell their shares  
17 right away, but employees had to wait a year to sell; and CDC would buy back his shares if he  
18 was not happy. On December 26, 2005, Mr. Davies went to CDC offices and met VANDER  
19 TUIG who said CDC was in the process of going public by February 1, 2006, at the latest, and the  
20 stock would open at \$18 to \$20 per share if the Sacramento deal closed. On that day, Mr. Davies  
21 handed SVENDSEN a check for \$78,000. He subsequently received 26,000 restricted shares.

22 According to CDC corporate documents and bank records, SVENDSEN was hired May 20,  
23 2005. His wife (Yani Feliciano) invested \$75,000 on June 21, 2005 and they joined funds with  
24 Judy Terrean in order to get a trust deed collateralizing their investment. Judy Terrean told  
25 Investigator Holguin she did not get the deed until September of 2005, and that just prior to  
26 September 30, 2005, she found out the property they received as "collateral" for their combined  
27 investment of \$175,000 was only worth \$44,000. She told SVENDSEN, SOSTAK and VANDER  
28

1 TUIG about this on September 30, 2005, and also told SVENDSEN that VANDER TUIG was  
2 not using his real name. Ms. Terrean demanded her \$100,000 back and received it.

3 SVENDSEN's misrepresentations and omissions of material fact made to the above victims  
4 include the following:

- 5 • VANDER TUIG was not using his real name because the SEC charged him with  
6 fraud in a pump and dump scheme;
- 7 • The value of the collateral was not as represented (especially to Mr. Pourdanesh who  
8 invested \$250,000 on January 27, 2006, to receive a trust deed);
- 9 • There were no properties available to collateralize investments;
- 10 • SVENDSON did not invest \$400,000;
- 11 • SVENDSEN received \$358,839 in cash commissions during the 9 months he was at  
12 CDC;
- 13 • He could not have seen any "breaking ground" at Lake Las Vegas because this  
14 transaction was never completed;
- 15 • He had no basis on which to state CDC was worth \$1 billion;
- 16 • In December of 2005, CDC was answering questions from the SEC and was dealing  
17 with issues pertaining to title of property. SVENDSEN also did not disclose CARMAN  
18 announced that (in December of 2005) CDC had never produced revenue.

19  
20 WALDMAN Victims

21 Delbert Reedy, Los Angeles, CA invested \$600,000 ( \$75,000 check from Sandel Products  
22 dated January 25, 2005, \$25,000 check from Sandel Products cashed February 11, 2005,  
23 \$175,000 Reedy received through escrow for his lots sold to CDC (1031 Exchange) transferred  
24 June 18, 2005, \$25,000 check from Sandel Products on June 20, 2005, \$150,000 Sandel Products  
25 check dated January 16, 2006, \$150,000 Sandel Products check dated February 3, 2006)

26 Mr. Reedy heard about CDC around the end of 2004 from an unsolicited telephone call.  
27 The salesman (he could not recall the name) told Mr. Reedy about CDC's investment strategy: an  
28 investment of \$100,000 for stock (shares are 2 for 1) was collateralized by a trust deed on land

1 worth at least twice his investment; when CDC goes public, the trust deed was exchanged back to  
2 CDC; CDC accumulated large tracts of land and developed them to increase the book value of  
3 CDC's shares; and CDC would go public for at least \$8 to \$10. If CDC did not go public or went  
4 out of business for some reason, Mr. Reedy would still have the land worth twice his investment.

5 Mr. Reedy stated he was very impressed with the strategy, as well as CDC's literature and  
6 website. The salesman told him Arnold Palmer was designing the golf courses around the land.  
7 Mr. Reedy spoke to CARMAN, CDC's vice president, who confirmed the information in the  
8 literature and what the salesman had told him.

9 Based on the representations by the salesman, CARMAN and CDC's literature, Mr. Reedy  
10 decided to invest \$100,000 (minimum required for a trust deed). Reedy was told to send his check  
11 to a trust account run by CDC's attorney, William Cannon. On January 25, 2005, he produced a  
12 check from his business account in the amount of \$75,000, and in February of 2005, he produced  
13 another check from his business account in the amount of \$25,000 both payable to William H.  
14 Cannon Trust Account.

15 Mr. Reedy began dealing with Rob WALDMAN in January of 2005. WALDMAN was  
16 general counsel for CDC and assisted Mr. Reedy in implementing the proper registration of the  
17 trust deed in Mr. Reedy's name to collateralize his \$100,000 investment.

18 In May of 2005, CARMAN contacted Mr. Reedy. CARMAN stated CDC was doing "1031  
19 Exchanges" wherein Mr. Reedy could exchange land he owned for land CDC owned, and he  
20 would not have to pay taxes on it. Mr. Reedy did not quite understand the process, so he called  
21 WALDMAN and asked him to explain it in layman's terms. WALDMAN explained the value of  
22 his property would be exchanged for stock in CDC, and his investment would again be  
23 collateralized with property in North Carolina.

24 Both CARMAN and WALDMAN told Mr. Reedy this was a great investment because  
25 CDC was going public in June of 2005 and the stock would be worth \$8 to \$10 a share.  
26 WALDMAN assured Mr. Reedy he would receive the shares for \$1 pursuant to a 2 for 1 stock  
27 split.

28

1 Based on the representations of CARMAN, WALDMAN and the offering literature he  
2 received from CDC, Mr. Reedy decided to do the exchange. With WALDMAN's assistance, Mr.  
3 Reedy transferred \$175,000 he received through escrow for his lots near Dodger Stadium, and an  
4 additional \$25,000 to make his second investment an even \$200,000. He received trust deeds on  
5 two lots in North Carolina and stock.

6 On June 17, 2005, WALDMAN faxed Reedy a letter regarding the stock split and stated  
7 "Please take care of this matter THIS WEEK, because, as I mentioned, I cannot guarantee that our  
8 imminent stock price adjustment will be deferred beyond that this week." Mr. Reedy did not  
9 receive the trust deed for this investment until November 18, 2005 (six months later).

10 Mr. Reedy stated that up to this point WALDMAN was basically acting as legal counsel  
11 explaining the collateralization and 1031 exchange process. He felt comfortable about making  
12 investments with CDC knowing WALDMAN, a licensed attorney and officer of the court, was  
13 involved with CDC on a day-to-day basis.

14 Occasionally, Mr. Reedy was contacted about purchasing his property in North Carolina.  
15 WALDMAN repeatedly told Mr. Reedy even if he could, he would not want to sell the property  
16 because CDC stock was about to go public at \$8 to \$10, and his \$300,000 investment would be  
17 worth over \$2 million.

18 In January of 2006, WALDMAN called Mr. Reedy and solicited him to invest more money  
19 in CDC. WALDMAN said that: if Reedy had any money left at all, he should invest "now"  
20 because CDC would be going public in March of 2006; the shares would be worth \$10 to \$12; the  
21 "underwriter's auditors" were at CDC which put CDC one step closer to going public; and no  
22 matter what, his investment would be collateralized with property worth at least twice his  
23 investment.

24 Based on WALDMAN's representations, Mr. Reedy decided to invest an additional  
25 \$300,000 in CDC for a total of \$600,000. On January 17, 2006, Reedy received a 10 page Fax  
26 from WALDMAN which stated: "VANDER TAG has formally signed off and approved" the  
27 \$3.00 per share price; "In order to lock you in at the \$3.00 per share price, I'll need the check for  
28 \$150,000 by January 20, 2006. The check for the remaining \$150,000 can be received anytime

1 prior to January 27, 2006;" and " I'm delighted to be able to get you 'on board,' for this further  
2 investment, especially at the \$3.00 per share price."

3 In an interview with Investigator Holguin, WALDMAN stated he was hired by CDC as a  
4 telemarketer in September of 2004. He made unsolicited "cold calls" and sold shares for 15%  
5 commission. In March or April of 2005, he became "in-house counsel" for CDC. WALDMAN  
6 stated he made "no sales" after that time, but he did attend meetings with investors as in-house  
7 counsel.

8  
9 Bruce Dinsmore, Cypress, CA invested \$150,000 (\$150,000 on April 5, 2005) Mr.  
10 Dinsmore received a cold call from WALDMAN around February of 2005. WALDMAN stated  
11 that he represented CDC, a company that was developing property in the Carolinas and in Texas.  
12 Major developments were being developed with homes, golf courses and lakes. An investment of  
13 \$150,000 or more would be secured by a deed to a piece of property. The company preferred  
14 investments of \$250,000 or \$500,000 but \$150,000 would be enough to get a deed. WALDMAN  
15 also stated that CDC was planning to go public and that VANDER TAG was well versed in  
16 running this kind of operation. WALDMAN sent Dinsmore a brochure which contained a PPM.

17 Dinsmore researched CDC on the internet. He found WALDMAN's sales presentation to  
18 be very convincing and decided to invest in CDC. He took \$150,000 out of his IRA account and  
19 had it sent to CDC on April 5, 2005.

20 Dinsmore waited a long time to receive the deed to property that was to secure his  
21 investment. He called WALDMAN on a few occasions to check the status of this deed.  
22 WALDMAN stated that the deed was coming and that the lawyers were getting the paperwork  
23 together. WALDMAN indicated that he was not involved in processing the deeds.

24 WALDMAN stated that Dinsmore could take a trip to Pinehurst to see the property that was  
25 being developed and watch the US Open. Dinsmore decided to take the trip. CDC flew  
26 Dinsmore and his wife to Pinehurst and arranged for them to stay at a house that was rented by  
27 the company. VANDER TAG and other staff members of CDC were staying at the house.  
28

1 VANDER TAG said that CDC was in negotiations with Greg Norman to design a golf course in  
2 Dallas.

3 WALDMAN's misrepresentations and omissions of material fact made to the above victims  
4 include the following:

5 • WALDMAN did not inform Reedy that there was an exchange of letters in July and  
6 September of 2005 regarding the unauthorized use of Arnold Palmer's name and likeness;

7 • WALDMAN did not disclose to either Reedy or Dinsmore that he had received a  
8 complaint against CDC from Pinehurst dated February 14, 2005, for trade name infringement  
9 including allegations of "fraudulent scheme" to sell its common stock and golf course community  
10 properties with photographs of Pinehurst's property;

11 • WALDMAN did not disclose to Reedy or Dinsmore that CDC was misrepresenting  
12 the investment in 2004: WALDMAN had handwritten sales pitches in his office stating "Hi, my  
13 name is Rob WALDMAN" - we "do luxury residential communities," our stock "has just been  
14 qualified to trade on NASDAQ," we "have Little River," and "we already built golf villas and  
15 sold them." There was also a handwritten sheet stating "not Little River" we are at odds with the  
16 owner - stress The National;

17 • WALDMAN did not disclose to Reedy or Dinsmore that VANDER TUIG was not  
18 using the correct spelling of his name because the SEC had taken action against him for a "pump  
19 and dump" scheme;

20 • WALDMAN did not disclose to Reedy or Dinsmore that the "target" dates to go  
21 public had been deferred several times: he and the CDC staff were informed late 2005 that an  
22 accounting firm had been retained "to begin the preliminary stages" or get the process going to go  
23 public, yet they had been telling investors since 2004 they were about to go public any day;

24 • WALDMAN did not disclose to Reedy or Dinsmore that he was in charge of getting  
25 the collateralization or trust deeds from attorney Cannon in North Carolina to investors: he knew  
26 there was a "backlog" or "delay" of over six months in getting the trust deeds because CDC did  
27 not own enough property; salespeople often asked WALDMAN about the backlog of deeds to  
28 collateralize investors; usually deeds were handed out in chronological order (date of investment)

1 but sometimes VANDER TUIG would ask WALDMAN to take people out of order and give  
2 them deeds first; WALDMAN knew some of the lots in North Carolina were in the name of  
3 VANDER TUIG, CARMAN or other related names;

4 • WALDMAN did not disclose to Reedy that he knew the SEC began investigating  
5 CDC in late 2005.

6  
7 Miscellaneous Victims - VANDER TUIG and CARMAN are being charged in relation to  
8 the following victims. Salespeople made the misrepresentations contained in section B of this  
9 affidavit to these victims at the direction of VANDER TUIG and CARMAN.

10 Arthur Spagnol, Murrysville, PA invested \$655,000 (\$400,000 on August 13,2001, and  
11 \$255,000 on January 9, 2003)

12 Mr. Spagnol heard about CCP in 2000 or 2001 when he received an unsolicited telephone  
13 call from Allan Chalme ("Chalme"). Chalme sent him some offering material and told him: CCP  
14 and Arnold Palmer were raising money to develop two golf courses, Little River and The  
15 Carolina; Arnold Palmer owned 25% of the shares; CCP would be going public; shares were  
16 selling for \$1 and they would be restricted for one year from date of purchase.

17 Mr. Spagnol spoke to VANDER TUIG (using the correct spelling) who told him he  
18 expected the shares to sell for \$8 per share. Based on the information in the offering material and  
19 representations by Chalme and VANDER TUIG regarding the involvement of Arnold Palmer,  
20 Mr. Spagnol invested \$400,000 on August 13, 2001, and received CCP restricted shares. Mr.  
21 Spagnol received a letter from VANDER TUIG dated August 27, 2001, stating CCP acquired two  
22 golf courses with Mr. Palmer, and they were acquiring "The Ballymore Plantation" built by Mr.  
23 Palmer in 1993. VANDER TUIG sent Mr. Spagnol a PPM dated September 1, 2001.

24 On September 14, 2001, VANDER TUIG and Chalme flew Mr. Spagnol to Carolina,  
25 showed him Little River and the Carolina properties that CCP owned, and outlined their  
26 development plans. Chalme and VANDER TUIG told him they were hiring accountants and  
27 preparing to file papers with the SEC to go public within 60-90 days. In February and May of  
28 2002, Mr. Spagnol received updates from VANDER TUIG stating: they were close to purchasing

1 the Ballymore Plantation; they would go public in the last quarter of 2002; and the Palmer Design  
2 Group was excited about their involvement with the Plantation. On January 9, 2003, Mr. Spagnol  
3 invested an additional \$255,000 based on VANDER TUIG's and Chalme's representations. As a  
4 bonus, VANDER TUIG gave Mr. Spagnol 75,000 of his own shares and 165,000 of Chalme's  
5 shares to get the shares down to \$.83 per share.

6 Mr. Spagnol continued to receive glowing updates and Newsletters from CCP (and on the  
7 website) in 2004 and 2005.

8  
9 George Hartman, Orange County invested \$100,000 (\$100,000 on February 11, 2005)

10 Mr. Hartman (retired) received an unsolicited telephone call and CDC offering material  
11 from Thomas VanderTag (VANDER TUIG's son). He subsequently met with CARMAN at  
12 CDC's office in January of 2005. CARMAN told him: "VANDER TAG is a genius" and was  
13 CEO of a successful Irvine pharmaceutical company; because of his prior success, bankers  
14 brought him deals; he got the Carolina property at a very cheap price as Arnold Palmer had forced  
15 the company into bankruptcy; CDC had a stock symbol and would be going public in May 2005;  
16 shares were \$4, but CARMAN would sell them to him at \$2 with a split; if he invested \$100,000,  
17 he would earn interest; he could opt to get his money back plus 4% interest within 10 days after  
18 CDC went public. Mr. Hartman also met VANDER TUIG who told him: he would fly him to  
19 Carolina to see the property; if he invested \$100,000, he would get interest of 4% on his money  
20 plus land worth \$100,000 as collateral.

21 On February 11, 2005, Mr. Hartman invested \$100,000 based on CARMAN and VANDER  
22 TUIG's representations and the information in the offering material including a valuation sheet  
23 stating CDC owned property appraised at \$83.9 million. He received restricted stock, a  
24 promissory note (stating if principal has not been converted to stock by September 30, 2005, the  
25 entire principal and interest was due and payable ON DEMAND thereafter) and two deeds of  
26 trust (\$50,000 each) recorded May 19, 2005. CARMAN and his wife were the "grantors" on one  
27 of the deeds. Because of the loss of their investment money, Mr. and Mrs. Hartman had to go  
28 back to work.



1           Mike Bollinger, Yucaipa, CA, invested \$53,000 (\$15,000 on September 21, 2005, \$15,000  
2 on October 4, 2005, \$3,000 on October 12, 2005, \$20,000 on January 22, 2006)

3           Mr. Bollinger is a fireman who heard about the investment through Sean Brazney at a  
4 meeting with other fire fighters. Brazney told Mr. Bollinger: CDC was in the process of going  
5 public; the SEC was reviewing paperwork for the public offering; Mr. Bollinger could get out of  
6 the investment at any time; "VANDER TAG" was an upstanding person; when the stock went  
7 public it would list at 2-3 times more; investor funds went into a trust account so if an investor  
8 wanted their money back it would be returned, therefore this was a "low risk" investment.  
9 Bollinger received a June 2005 PPM and valuation sheet that stated CDC held \$57 million equity  
10 in developments, and had 11 million shares outstanding with a book value near \$6. Mr. Bollinger  
11 invested numerous times based on Brazney's representations, information in the offering material,  
12 and the receipt of dividends. Mr. Bollinger subsequently received restricted shares in CCP, a  
13 promissory note and an interest in a trust deed on property owned by VANDER TUIG and wife  
14 Jill Kraus.

15  
16           David Kreske, Yucaipa, CA, invested \$20,000 (\$15,000 on October 6, 2005, \$5,000 on  
17 January 19, 2006)

18           Mr. Kreske is a fireman who heard about the investment from Brazney at a meeting with  
19 other fire fighters around October 2005. At that meeting (Kreske took notes) Brazney said: CDC  
20 needed the money by mid December as the IPO target date was January 1, 2006; CDC had been  
21 building homes for six years including 2,000 homes in Park City, Utah; CDC developed  
22 Pinehurst, an all gated community with \$1 million homes; investors could roll stocks into a REIT  
23 and get a home on the golf course; when they go public, stock would be 2-3 times Book Value  
24 and could be sold immediately; game plan was to push stock to \$100 a share; "VANDER TAG"  
25 had taken two companies public before. Brazney said the minimum investment of \$50,000 would  
26 be waived because they were a group of firefighters. Based on Brazney's representations and the  
27 information in the offering material, Mr. Kreske decided to invest \$15,000 on October 6, 2005.

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1           Around January 1, 2006, Brazney told Mr. Kreske they would be going public in  
2 approximately mid February when they obtained the Lake Las Vegas appraisal. Brazney also told  
3 him Lennar Homes made an offer to buy CDC. Based on Brazney's representations, Mr. Kreske  
4 invested an additional \$5,000 on January 19, 2006.

5  
6           Rodney Mascis, Upland, CA invested \$16,500 (\$16,500 on January 20, 2006)

7           Mr. Mascis is a fireman who heard about the investment from Brazney at a meeting at the  
8 San Bernardino fire station with 12-15 firefighters. Brazney said: CDC had Lake Las Vegas in  
9 escrow and other properties under development; he had invested his own money; "VANDER  
10 TAG" was experienced; CDC wanted \$50,000 but would take as little as \$15,000; CDC would  
11 provide money back anytime with 3% interest; stock would go public at \$7-8 on Valentines Day  
12 (February 14, 2006); CDC was like other large real estate developers whose stock started at \$5-6  
13 and now trades at \$50-70 per share; and it was a safe investment. He did not give Mr. Mascis any  
14 offering documents or a prospectus. Mr. Mascis decided to invest based on Brazney's  
15 representations.

16  
17           Jason Buchanan, Beaumont, CA, invested \$10,000 (\$10,000 on February 6, 2006)

18           Mr. Buchanan is a fire fighter who heard about the investment from Brazney. Brazney told  
19 Mr. Buchanan: he was so convinced CDC would go public, he put all his savings into the  
20 investment; Brazney would personally guarantee Mr. Buchanan's investment; only a certain  
21 amount of shares could be purchased prior to the initial public offering; the opportunity to invest  
22 had closed because of a deadline CDC set for going public, but he would allow Mr. Buchanan in  
23 because the funds were in transit from his IRA; and when they go public, the shares should  
24 double and could be sold immediately. Based on Brazney's representations and information on the  
25 website, Mr. Buchanan decided to invest. After he invested, he received offering material and a  
26 PPM for \$100 million dated November 15, 2005. Brazney later said there was a delay in going  
27 public because some terminated employees had made claims that CDC was doing fraudulent  
28

1 activity and that had to be cleared up first. CDC was shut down by the SEC 10 days after Mr.  
2 Buchanan invested.

3  
4 Ron Campbell, Orange County, invested \$50,000 (\$50,000 on October 6, 2005)

5 Mr. Campbell and his co-workers at Orange Coast Auto Body spoke with salesman  
6 Brazney several times, as well as CARMAN and VANDER TUIG prior to investing. Brazney  
7 provided a PPM dated June 30, 2004, and said: CDC would be going public soon; he had all of  
8 his money and his family's money invested with CDC; if Mr. Campbell invested over \$200,000  
9 the investment would be collateralized by property worth more than the investment until they  
10 went public; any investment under \$200,000 would increase the share price from \$2 to \$3 a share;  
11 if he invested \$300,000, the shares would be \$1.60; and Brazney received 10-12% commission.  
12 VANDER TUIG told Mr. Campbell: CDC developed properties in Pinehurst and bought up all  
13 the empty lots around the golf course; CDC was cash rich; within the past three months CDC's  
14 net worth increased another \$50 to \$100 million based on the value of the properties; and CDC's  
15 shares would open at \$18 to \$20.

16 Based on representations from Brazney, VANDER TUIG, and CARMAN, as well as the  
17 information in the offering material, Mr. Campbell decided to invest. Campbell and his co-  
18 workers invested a total of \$137,000 (\$50,000 from Campbell) and received stock, a promissory  
19 note and a deed of trust from "grantors" VANDER TUIG and wife Jill Kraus.

20  
21 Mary Lee, Orange County, invested \$1,525,000 (\$550,000 on May 27, 2005, \$150,000 on  
22 May 31, 2005, \$225,000 on June 23, 2005, \$600,000 on July 21, 2005)

23 Ms. Lee is a retired accountant. She heard about CDC from Craig Flournoy whom she had  
24 known casually through her church. Flournoy provided offering material including a PPM dated  
25 June 30, 2004, and a valuation sheet that showed CDC held \$48,000,000 in equity. He told Ms.  
26 Lee: he was the public relations person for CDC; that CDC purchased and developed raw land,  
27 built homes and sold them; CDC would go public in October of 2005; they were currently  
28 building homes in North Carolina; "VANDER TAG" was a Christian and was very experienced

1 in taking companies public; Ms. Lee could purchase shares for \$2 even though earlier investors  
2 paid \$3, and the shares would split so she would get them for \$1; her investment would be  
3 secured by a deed of trust; once CDC went public she could sell half her shares and double her  
4 money in just a few months; he was cashing out his IRA to invest; and CDC employees prayed  
5 for investors every morning. Based on Flournoy's representations and the information in the  
6 offering material, Ms. Lee decided to sell her IRA stocks and invest \$550,000 on May 27, 2005.  
7 She received 550,000 restricted shares. On May 31, 2005, she decided to invest another \$150,000  
8 for a total of \$700,000.

9 In June of 2005, Ms. Lee learned from her son that CDC was trading on the "Pink Sheets"  
10 and the stock was only worth \$.60. Flournoy told her VANDER TUIG explained people were  
11 trading among themselves and he told them to stop. Flournoy continued to call Lee with positive  
12 information about CDC, and said a similar company stock went to \$60 per share within two  
13 years. Based on Flournoy's representations, Lee invested an additional \$225,000 on June 23, 2005  
14 for a total of \$925,000 (for \$1 per share).

15 In July of 2005, Ms. Lee went to the CDC offices and met CARMAN and VANDER  
16 TUIG. VANDER TUIG told her: CDC was purchasing property in Sacramento, North Carolina  
17 and Las Vegas; the Las Vegas property was in a good location and he considered it to be the top  
18 property; the Sacramento property was bought at such a good price even brokers and appraisers  
19 said the property in Sacramento was a very good value; God was opening doors for CDC and for  
20 her; and CDC had a lot of property coming in that they were buying at a low price.

21 On July 20, 2005, Ms. Lee received a dividend of \$180.00. Based on this and VANDER  
22 TUIG's statements, Lee made a fourth investment of \$600,000 on July 21, 2005, for a total of  
23 \$1,525,000. Flournoy told her she would have to back date her check to July 1, 2005, in order to  
24 get the stock at \$1 a share as it had already gone up to \$3.00 to \$3.50.

25 Although the collateralization agreement stated the money would be held in trust until a  
26 grant deed was recorded, according to bank records, Ms. Lee's \$600,000 was deposited into  
27 CDC's Wells Fargo general account. Ms. Lee received restricted shares, a promissory note and a  
28 deed of trust for 7.21 acres in The Carolina recorded on September 7, 2005. This supposedly

1 secured \$950,000, but not the additional \$575,000. She was told the attorney was working on  
2 getting another trust deed but she never received it. At the end of October of 2005, Flournoy said:  
3 the SEC was doing an audit; they had hired a top auditing firm; they would go public in  
4 December 2005; and Lennar Company was interested in buying CDC.

5 Ms. Lee received a total of \$26,558 from CDC as dividend payments, but none of her  
6 principal back.

7 **E. DATE OF DISCOVERY**

8 DOJ Investigator Holguin first heard about CDC from a confidential informant on  
9 September 9, 2005. The SEC was first advised of CDC's possible civil violation of the federal  
10 securities laws around November 2005 from a prospective Utah investor. CDC was sending out  
11 dividend statements and promising to return investments upon demand until the search warrant  
12 and asset freeze on February 16, 2006.

13 **CONCLUSION AND REQUEST**

14 Based on the contents of this affidavit and your Affiant's aforementioned training and  
15 experience, your Affiant has probable cause to believe that from as early as August of 2001  
16 through February 16, 2006, in connection with the offer and sale of unqualified securities in the  
17 form of stock, promissory notes, and investor certificates to Arthur Spagnol, George Hartman,  
18 James Beckstrom, Grant Smith, Ben Rozansky, Jeryl Rochelle, Scott Machock, Jon Levin, Jeffrey  
19 Calentino, Mike Bollinger, David Kreske, Ron Campbell, Rodney Mascis, Jason Buchanan, Mary  
20 Lee, William Brady, Tad Duke, Tom Thompson, Alan Perin, Shar Pourdanesh, Brian Davies, and  
21 Delbert Reedy, Defendants VANDER TUIG, CARMAN, WALDMAN and salesmen YARD,  
22 SOSTAK, and SVENDSEN: have directly and indirectly made material misrepresentations and  
23 omissions in the sale of a security in violation of California Corporations Code 25401.

24 Beginning as early as August of 2001 through February 16, 2006, VANDER TUIG,  
25 CARMAN, YARD, SOSTAK, SVENDSEN, and WALDMAN, in connection with the offer and  
26 sale of stock and promissory notes to Arthur Spagnol, George Hartman, James Beckstrom, Grant  
27 Smith, Ben Rozansky, Jeryl Rochelle, Scott Machock, Jon Levin, Jeffrey Calentino, Mike  
28 Bollinger, David Kreske, Ron Campbell, Rodney Mascis, Jason Buchanan, Mary Lee, William

1 Brady, Tad Duke, Tom Thompson, Alan Perin, Shar Pourdanesh, Brian Davies, and Delbert  
2 Reedy, did willfully and unlawfully employ, directly or indirectly, a device, scheme, course of  
3 business, or artifice to defraud in connection with the offer, purchase, or sale of a security in  
4 violation of Corporations Code Section 25541.

5 Beginning from as early as August of 2001 through February 16, 2006 VANDER TUIG,  
6 CARMAN, YARD, SOSTAK, SVENDSEN, and WALDMAN committed grand theft a violation  
7 of Penal Code section 487, subdivision (a) in connection with the repeated offer and sale of stock  
8 and Promissory notes in CDC to Arthur Spagnol, George Hartman, James Beckstrom, Grant  
9 Smith, Ben Rozansky, Jeryl Rochelle, Scott Machock, Jon Levin, Jeffrey Calentino, Mike  
10 Bollinger, David Kreske, Ron Campbell, Rodney Mascis, Jason Buchanan, Mary Lee, William  
11 Brady, Tad Duke, Tom Thompson, Alan Perin, Shar Pourdanesh, Brian Davies, and Delbert  
12 Reedy.

13 Beginning from as early as August of 2001 through February 16, 2006, LAMBERT DEAN  
14 VANDER TUIG, JONATHAN CHARLES CARMAN, SCOTT ALLIN YARD, MARK  
15 STEVEN SOSTAK, SOREN SVENDSEN, and ROBERT WALDMAN committed two or more  
16 felonies, a material element of which was fraud, which involved a pattern of related felony  
17 conduct which involved the taking of over \$500,000 (Pen. Code, § 186.11, subd. (a)(2)).

18 Beginning from as early as August of 2001 through February 16, 2006, LAMBERT DEAN  
19 VANDER TUIG, JONATHAN CHARLES CARMAN, SCOTT ALLIN YARD, and MARK  
20 STEVEN SOSTAK took property in the commission of a felony, with the intent to cause such a  
21 taking, and the loss exceeded \$3,200,000 (Pen. Code, § 12022.6, subd. (a)(4)).

22 Beginning from as early as August of 2001 through February 16, 2006, SOREN  
23 SVENDSEN took property in the commission of a felony, with the intent to cause such a taking,  
24 and the loss exceeded \$1,300,000 (Pen. Code, § 12022.6, subd. (a)(3)).

25 Beginning from as early as August of 2001 through February 16, 2006, ROBERT  
26 WALDMAN took property in the commission of a felony, with the intent to cause such a taking,  
27 and the loss exceeded \$200,000 (Pen. Code, § 12022.6, subd. (a)(2)).  
28

1 Beginning from as early as August of 2001 through February 16, 2006, LAMBERT DEAN  
2 VANDER TUIG, JONATHAN CHARLES CARMAN, SCOTT ALLIN YARD, MARK  
3 STEVEN SOSTAK, and ROBERT WALDMAN committed a theft of an amount over \$100,000  
4 (Pen. Code, § 1203.045, subd. (a)).

5 Also, I request that bail be set for VANDER TUIG in the amount of \$52,000,000, for  
6 CARMAN in the amount of \$52,000,000, for YARD in the amount of \$8,500,000, for SOSTAK  
7 in the amount of \$4,500,000, for SVENDSEN in the amount of \$2,200,000, and for WALDMAN  
8 in the amount of \$900,000. The Orange County Uniform Bail Schedule states that the bail  
9 amount for fraud related crimes should be the presumptive bail for the top term potential for the  
10 charged crimes or the amount of the loss, whichever is higher. The requested bail is based on the  
11 amount of money that the defendants were responsible for taking from investors according to the  
12 SEC accounting (higher than the top term potential for the charged crimes), and I respectfully  
13 request that bail be set in these amounts.

14 Additionally, I request that in the event that any of the defendants seek to post bail, that  
15 they be required to demonstrate to the court that no portion of said bail or any pledge or  
16 consideration provided for such bail was feloniously obtained as required by Penal Code section  
17 1275.1. The SEC accounting indicates that over \$52 million were raised by the defendants by  
18 selling stock in CDC. The defendants should not be allowed to use those funds to post bail.

19 I, Jason Nichols, the affiant, hereby pray a warrant of arrest be issued for the arrest of  
20 LAMBERT VANDER TUIG, JONATHAN CHARLES CARMAN, SCOTT YARD, MARK  
21 STEVEN SOSTAK, SOREN SVENDSEN, and ROBERT WALDMAN, good cause being shown  
22 therefore, the crimes of fraud in the offer or sale of a security (Corp. Code, § 25401), use of a  
23 fraudulent scheme in the offer or sale of a security (Corp. Code, § 25541), felonies under  
24 Corporations Code 25540, grand theft (Pen. Code, §487, subd. (a)), the commission of two more  
25 crimes with a taking of over \$500,000 (Pen. Code, § 186.11, subd. (a)(2)), the commission of a  
26 felony with losses exceeding \$3,200,000 (Pen. Code, § 12022.6, subd. (a)(4)), \$1,300,000 (Pen.

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1 Code, § 12022.6, subd. (a)(3)), and \$200,000 (Pen. Code, § 12022.6, subd. (a)(2)), and a theft of  
2 an amount over \$100,000 (Pen. Code, § 1203.045, subd. (a)).

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I declare under penalty of perjury that the foregoing is true to the best of my knowledge.  
Executed in Sacramento, California, on this 15th day of January, 2009.

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Declarant

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