

1 GREGORY A. BROWER
2 United States Attorney
3 TIMOTHY S. VASQUEZ
4 MICHAEL CHU
5 Assistant United States Attorneys
6 333 Las Vegas Blvd. South, Suite 5000
7 Las Vegas, Nevada 89101
8 Tele: (702) 388-6336
9 Fax: (702) 388-6020

FILED ENTERED RECEIVED SERVED ON
COUNSEL/PARTIES OF RECORD
MAY 27 2009
CLERK US DISTRICT COURT
DISTRICT OF NEVADA
BY _____ DEPUTY

7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEVADA

9 -oOo-

10 UNITED STATES OF AMERICA,
11

12 Plaintiff,

13 vs.

- 14 1. JOHN M. EDWARDS,
15 2. URBAN CASAVANT,
16 3. HELEN BAGLEY,
17 4. BRIAN DVORAK,
18 5. GINGER GUTIERREZ, and
19 6. JAMES KINNEY,

20 Defendants.

SUPERSEDING INDICTMENT

02:09-CR-00132-RLH-RJJ

Violations:

- 18 U.S.C. § 371 - Conspiracy to Sell
Unregistered Securities, to Make False
Statements to SEC, to Desist from Filing
Periodic Reports, and to Commit Securities
Fraud in violation of 15 U.S.C. §§ 77e,
78ff, 78m & 78j;
15 U.S.C. § 78j - Securities Fraud;
18 U.S.C. § 1349 - Conspiracy to Commit
Securities Fraud in violation of 18 U.S.C.
§ 1348;
18 U.S.C. § 1348 - Securities Fraud;
18 U.S.C. § 1956(h) - Conspiracy to
Commit Money Laundering under
18 U.S.C. §§ 1956 & 1957
26 U.S.C. § 7201 - Tax Evasion

21
22
23 THE GRAND JURY CHARGES THAT:
24 . . .
25 . . .
26 . . .

COUNT ONE

Conspiracy to Sell Unregistered Securities, to Make False Statements to SEC, to Desist from Filing Periodic Reports, and to Commit Securities Fraud in violation of 15 U.S.C. §§ 77e, 78ff, 78m & 78j

1.
2.
3.
4. 1. Beginning on a date unknown, but not later than September 2001, and continuing to on or
5. about March 2009, in the State and Federal District of Nevada and elsewhere within the jurisdiction
6. of this Court,

7. **1. JOHN M. EDWARDS,**
8. **2. URBAN CASAVANT,**
9. **3. HELEN BAGLEY,**
4. BRIAN DVORAK,
5. GINGER GUTIERREZ, and
6. JAMES KINNEY,

10. the defendants herein, knowingly and willfully combined, conspired, and agreed with one another,
11. and others known and unknown to commit offenses against the United States, that is:

12. (a) To sell unregistered securities, to wit: stock and stock certificates of CMKM
13. Diamonds, Inc. ("CMKM"), by use of the mails, the wires, over-the-counter
14. mediums of exchange (e.g., the Pink Sheets), and other means and instruments of
15. transportation and communication in interstate commerce, in violation of Title 15,
16. United States Code, Section 77e(a)(1);
17. (b) To cause unregistered securities, to wit: CMKM stock and stock certificates, to be
18. carried through the mails and by other means and instruments of transportation in
19. interstate commerce for the purpose of the sale and delivery after the sale of said
20. securities, in violation of Title 15, United States Code, Section 77e(a)(2);
21. (c) To use the mails, the wires, over-the-counter mediums of exchange (e.g., the Pink
22. Sheets), and other means and instruments of transportation and communication in
23. interstate commerce to offer to sell unregistered securities, to wit: CMKM stock and
24. stock certificates, in violation of Title 15, United States Code, Section 77e(c);
25.
26.

- 1 (d) To make false and misleading statements in filings to the United States Securities
2 and Exchange Commission (SEC), in violation of Title 15, United States Code,
3 Section 78ff(a);
- 4 (e) To desist or fail to file CMKM's annual reports (on Form 10-KSB) and quarterly
5 reports (on Form 10-QSB); with the Securities and Exchange Commission, in
6 violation of Title 15, United States Code, Sections 78m(a) and 78o(d), and Rules
7 13a-1 and 13a-13 of the Rules and Regulations promulgated by the United States
8 Securities and Exchange Commission (codified in Title 17, Code of Federal
9 Regulations, Section 240.13a-1 and 240.13a-13); and
- 10 (f) To directly and indirectly use and employ manipulative and deceptive devices and
11 contrivances in connection with the sale of securities, to wit: CMKM stock and stock
12 certificates, by means and instrumentalities of interstate commerce and the mails, in
13 contravention of Rule 10b-5 of the Rules and Regulations promulgated by the United
14 States Securities and Exchange Commission (codified in Title 17, Code of Federal
15 Regulations, Section 240.10b-5), for purposes and with the intention of (i)
16 employing such devices, schemes or artifice to defraud, (ii) making untrue
17 statements of a material fact, and (iii) engaging in any act, practice, or course of
18 business which operates or would operate as a fraud or deceit upon other persons in
19 connection with the sale of securities, in violation of Title 15, United States Code,
20 Section 78j(b).

21
22 **Scheme, Artifice, Manner & Means**

23 2. JOHN M. EDWARDS, URBAN CASAVANT, HELEN BAGLEY, BRIAN DVORAK,
24 GINGER GUTIERREZ, JAMES KINNEY and others known and unknown, conspired to
25 fraudulently issue and sell unregistered shares of CMKM stock for purposes of enriching
26 themselves.

1 3. Towards these ends, EDWARDS and CASAVANT gained control of the publicly traded
2 corporate shell referred to as CMKM (previously known as Cyber Mark). EDWARDS,
3 CASAVANT, and others then combined to unlawfully issue hundreds of billions of shares of
4 CMKM stock without requisite restrictive legends which would have precluded sale or further
5 distribution of that stock.

6 4. The unregistered and purportedly unrestricted shares of CMKM stock were issued in
7 certificate form to EDWARDS, CASAVANT, and their nominees (including GUTIERREZ and
8 KINNEY), alter egos and aliases. The conspirators and their nominees and associates directly and
9 indirectly marketed these unregistered shares of CMKM stock in over-the-counter transactions
10 employing interstate mediums of exchange and communication. To create the appearance of an
11 active and established market for CMKM stock, and to disguise the fact that the conspirators were
12 virtually the only sellers of CMKM stock, the conspirators surreptitiously traded in CMKM stock
13 through nominees, associates, corporate alter egos and aliases.

14 5. The conspirators further spurred and sustained demand for CMKM stock through market
15 manipulation, promotional activities, false and misleading representations and omissions, and
16 deceptive practices. To conceal their scheme and fraudulent machinations from the SEC, the
17 conspirators made false statements to the SEC and avoided or failed to file quarterly and annual
18 reports with the SEC during the span from December 2002 through June 2005.

19 6. In this manner, and as part of the conspiracy, the conspirators fraudulently sold hundreds of
20 billions of unregistered and purportedly unrestricted CMKM stock to the investing public,
21 defrauding investors of more than sixty million dollars (\$60,000,000).

22 **Conduct and Devices in Furtherance of the Conspiracy**

23 **Acquisition & Control of Publicly Traded Corporate Shell**

24 7. At the threshold, the scheme required that the conspirators control a publicly traded
25 corporation. That is, the conspiracy required a public corporation registered to issue publicly
26

1 | traded securities or stock under Section 12 of the Securities Exchange Act of 1934. The
2 | conspirators found a corporate shell suited to their needs in Cyber Mark International Corp.
3 | 8. Cyber Mark had been incorporated in Delaware in 1998 and reportedly had once been in the
4 | business of designing and developing virtual reality systems and games. However, that business
5 | was defunct by 2001. As a publicly traded corporation registered under the Securities Exchange
6 | Act, Cyber Mark was required to file quarterly reports with the Securities and Exchange
7 | Commission. The quarterly report (10-QSB) filed with the Securities and Exchange Commission
8 | on or about November 18, 2002, revealed that Cyber Mark had no income or revenue during the
9 | preceding two years, and that the company's sole asset was three hundred forty-four dollars (\$344)
10 | in cash.

11 | 9. Notwithstanding that its business operations had failed and the corporate shell was dormant,
12 | Cyber Mark remained registered under the Securities and Exchange Act. Its principal, if not sole,
13 | value lay in its eligibility to publicly trade its registered stock.

14 | 10. EDWARDS, in the name of an associate or alias "Ian McIntyre," acquired control over the
15 | Cyber Mark corporate shell in or around September 2001. On April 18, 2002, EDWARDS
16 | incorporated, or caused the incorporation, of a Nevada corporation of the same name. On that same
17 | date, Articles of Conversion were filed with the Secretary of State of Nevada absorbing the original
18 | Delaware corporation into its Nevada namesake. Although "Ian McIntyre" was nominally at the
19 | helm of this corporation, EDWARDS exercised control over Cyber Mark. Among other things,
20 | EDWARDS conducted and closed the negotiations to acquire Cyber Mark; Cyber Mark's address
21 | was identified as 7500 West Lake Mead Boulevard, Suite 9627, Las Vegas, Nevada 89128---a
22 | postal drop box used by EDWARDS for many of his corporate shells, trusts, nominees and
23 | alter-egos; and EDWARDS was the sole signatory on the company's bank account.

24 | 11. Upon its incorporation in Nevada, Cyber Mark was authorized to issue up to five hundred
25 | million (500,000,000) shares of common stock of which 352,223,510 had been issued and remained
26 | outstanding. The corporation was also authorized to issue up to three million (3,000,000) shares of

1 preferred stock. There was, however, no established market for its stock and its shares held little
2 value.

3 12. Notwithstanding that Cyber Mark had no appreciable assets or value, on November 25,
4 2002, Cyber Mark agreed to acquire mining claims or interests purportedly held by five (5)
5 companies owned or controlled by URBAN CASAVANT and his family, ostensibly in exchange
6 for two million dollars (\$2,000,000) and approximately three billion (3,000,000,000) shares of
7 Cyber Mark restricted common stock with registration rights. On November 26, 2002, on the heels
8 of the agreement to purchase mineral rights or interests from CASAVANT, Cyber Mark filed an
9 Amendment to its Articles of Incorporation increasing its authorized common shares to ten billion
10 four hundred ninety-seven million (10,497,000,000).

11 13. Cyber Mark did not merge with---and has never merged with---CASAVANT's companies.
12 CASAVANT instead received a controlling share of Cyber Mark's stock in exchange for his
13 companies' purported mining interests. In this manner, CASAVANT gained control of Cyber
14 Mark. CASAVANT was thereafter appointed Cyber Mark's director, president and chief executive
15 officer.

16 14. On December 3, 2002, Cyber Mark changed its corporate name to Casavant Mining
17 Kimberlite International. In February 2004, the company took the name CMKM Diamonds, Inc.,
18 and is referred to hereinafter as "CMKM."

19

20

False Statement and Evasion of Filing Quarterly and Annual Reports

21 15. Throughout its various iterations, CMKM's common stock remained registered with the
22 Securities and Exchange Commission under Section 12 of the Securities Exchange Act of 1934
23 (codified in Title 15, United States Code, Section 78f) from 2001 until the Securities and Exchange
24 Commission ordered its deregistration on October 28, 2005.

25 16. During the span in which CMKM's stock was registered and could be publicly traded,
26 CMKM was legally required to file reports under Section 15(d) of the Securities Exchange Act of

1 1934 (codified in Title 15 of the United States Code, Section 78o(d) and implemented under
2 Section 78m). As a corporation eligible to issue registered and publicly traded securities or stock,
3 CMKM was required to file quarterly and annual reports under Title 15, United States Code,
4 Sections 78o(d) and 78m, and implementing Rules 13a-1 and 13a-13 of the Rules and Regulations
5 promulgated by the United States Securities and Exchange Commission (codified in Title 17, Code
6 of Federal Regulations, Section 240.13a-1 and 240.13a-13).

7 17. The purpose of the reporting requirements is to provide the investing public with current and
8 accurate information about an issuer to enable investors to make informed decisions. The reporting
9 requirements prescribed in the Securities and Exchange Act and implementing regulations have
10 been fashioned to protect investors from misrepresentations and manipulations in the sale of stock
11 and securities. The reporting requirements are, with limited exemptions, applicable to companies
12 which are relatively unknown or insubstantial.

13 18. As part of the conspiracy, CASAVANT filed a Form 15 with the Securities and Exchange
14 Commission on or about July 22, 2003, invoking an exemption from the statutory and regulatory
15 reporting requirements. In that form, CASAVANT asserted that CMKM was exempt from the
16 reporting requirements on the grounds that it had fewer than three hundred (300) shareholders. In
17 truth, the company then had more than six hundred (600) shareholders of record. Further, as part of
18 the continuing conspiracy, the ranks of shareholders swelled into the tens of thousands as the
19 conspirators vigorously marketed billions of shares of unregistered CMKM stock. CASAVANT
20 and the conspirators nonetheless adhered to the false statement and continued to claim an exemption
21 from the statutory and regulatory filing requirements until on or about February 16, 2005.

22 19. Despite CMKM's status as a registered and publicly traded corporation, the conspirators
23 who controlled CMKM did not file annual reports with the Securities and Exchange Commission
24 (on Form 10-KSB) for the years ending December 31, 2002, December 31, 2003, or December 31,
25 2004. The conspirators did not file quarterly reports with the Securities and Exchange Commission
26 (on Form 10-QSB) after November 18, 2002, and did not file reports for any quarter during the span

1 from October 2002 through June 2005. In the absence of periodic reports and financial statements,
2 the conspirators concealed information regarding CMKM's assets, liabilities, operations, revenues,
3 and even the number of outstanding shares. In this manner, the conspirators shielded the
4 corporation and their conduct from the Securities and Exchange Commission and the investing
5 public.

6
7 *Fraudulent Issuance of Hundreds of Billions of Shares
of Unregistered and Purportedly Unrestricted CMKM Stock*

8 20. Prior to November 25, 2002, CMKM (then known as Cyber Mark) was authorized to issue
9 five hundred million (500,000,000) shares of common stock and three million (3,000,000) shares of
10 preferred stock. More than three hundred fifty million (350,000,000) of the company's authorized
11 shares had been issued and were outstanding, leaving a margin of approximately one hundred fifty
12 million shares (150,000,000) shares in its treasury. These shares were, however, of little value.
13 Again, at the outset of the scheme, the corporation was a hollow shell with no business, no
14 revenues, and a grand total of \$344 in assets. Further, during the span of the conspiracy, CMKM
15 stock usually traded at less than a penny per share; during the period from January 1, 2003, through
16 April 19, 2005, the price of CMKM's stock ranged from a low of \$0.00013 per share to a high of
17 \$0.0135 per share, and its average price was approximately \$0.00071. At this price, the one
18 hundred fifty million (150,000,000) shares in the company's treasury might have fetched one
19 hundred six thousand dollars (\$106,000).

20 21. As part of their scheme to enrich themselves through the sale of CMKM stock, the
21 conspirators compensated for the low price of CMKM's stock by authorizing and issuing hundreds
22 of billions of shares of CMKM stock to their nominees, alter-egos, associates and straw purchasers.
23 The price per share was of little significance because the conspirators controlled the printing presses
24 and issued themselves and their nominees a seemingly endless stream of stock certificates.
25 Ordinarily, the number of outstanding shares would be reported and customers could decide
26 whether to buy CMKM stock based on full information. Because the conspirators filed a false Form

1 15, however, this enabled them to increase the number of shares without reporting to prospective
2 buyers just how many hundreds of billions of shares were truly outstanding.

3 22. Through a series of maneuvers and amendments spanning from November 2002 to August
4 2004, the conspirators increased CMKM's authorized shares from five hundred million
5 (500,000,000) to eight hundred billion (800,000,000,000).

6 (a) On November 26, 2002, on the heels of the agreement to purchase mineral rights or
7 interests from CASAVANT in exchange for two million dollars (\$2,000,000) and
8 three billion (3,000,000,000) shares of restricted common stock, the company filed
9 an Amendment to its Articles of Incorporation increasing its authorized common
10 shares to ten billion four hundred ninety-seven million (10,497,000,000).

11 (b) Approximately one week later—on December 3, 2002—another Amendment was
12 filed with the Nevada Secretary of State changing the company's name from Cyber
13 Mark International Corp. to Casavant Mining Kimberlite International. Shortly
14 thereafter, the company filed another Amendment increasing the company's
15 authorized common shares to ninety nine billion nine hundred ninety-seven million
16 (99,997,000,000)—an even one hundred billion (100,000,000,000) shares when
17 added with the three million (3,000,000) authorized preferred shares. (All of the
18 three million (3,000,000) preferred shares were subsequently cancelled and replaced
19 with common shares.)

20 (c) Successive Amendments filed in December 2003, March 2004 and August 2004,
21 increased the authorized common shares of CMKM's stock to eight hundred billion
22 (800,000,000,000) shares.

23 23. The increase from five hundred million (500,000,000) to eight hundred billion
24 (800,000,000,000) authorized shares was not an idle contrivance. As part of and in furtherance of
25 the conspiracy, HELEN BAGLEY, a collusive stock transfer agent, issued more than eight hundred
26

1 billion (800,000,000,000) shares of CMKM stock predominantly to CASAVANT's and
2 EDWARDS' nominees, alter-egos, associates and straw-purchasers.

3 24. BAGLEY owned and operated 1st Global Stock Transfer, the stock transfer agent company
4 for CMKM. Hundreds of billions of shares of stock issued by the BAGLEY to CASAVANT's and
5 EDWARDS' nominees, alter-egos, associates and straw purchasers were not registered with the
6 Securities and Exchange Commission.

7 25. Because these shares of CMKM stock were not registered with the Securities and Exchange
8 Commission, the certificates should have borne restrictive legends preventing the shares from being
9 freely sold or traded in open market transactions. A restrictive legend is a statement placed upon a
10 stock certificate disclosing, among other things, that the stock has not been registered with the
11 Securities and Exchange Commission. These registration requirements are intended to, among
12 other things, safeguard the public from the trading of stock that has been privately issued to
13 corporate underwriters, insiders and affiliates. Registration is a prerequisite to the public sale or
14 transfer of such securities under Section 5 of the Securities Act of 1933 (codified at 15 U.S.C. §
15 77e), unless the securities fall within a specified exemption. The absence of a restrictive legend on
16 a stock certificate implicitly represents that the stock has been registered with the Securities and
17 Exchange Commission or is exempt from such registration.

18 26. One such exemption has been authorized in Rule 144 of the rules and regulations
19 promulgated by the Securities and Exchange Commission. Rule 144(k) provides a safe harbor for
20 the sale of unregistered and otherwise restricted securities "sold for the account of a person who is
21 *not an affiliate of the issuer* at the time of the sale and has not been an affiliate during the
22 preceding three months, *provided a period of at least two years has elapsed since the later of the*
23 *date the securities were acquired* from the issuer or from an affiliate of the issuer." 17 C.F.R. §
24 230.144(k) (emphasis added). Rule 144(k) thus enables a person who is not an affiliate of the
25 issuer to sell restricted securities without complying with certain requirements after they have held
26 the securities for a period of at least two years. Designed to implement the fundamental purposes of

1 the Securities Act of 1933, Rule 144 is intended to prevent fraud in the sale of securities in
2 interstate commerce and "to prohibit the creation of public markets in securities of issuers
3 concerning which adequate current information is not available to the public." 17 C.F.R. § 230.144
4 (preliminary note; April 1, 2004). "In view of the objectives and policies underlying the Act, the
5 rule shall not be available to any individual or entity with respect to any transaction which, although
6 in technical compliance with the provisions of the rule, is part of a plan by such individual or entity
7 to distribute or redistribute securities to the public." S.E.C. Release No. 33-5223 (Jan. 11, 1972);
8 *see also* 17 C.F.R. § 230.144 (Feb. 15, 2008) ("[t]he Rule 144 safe harbor is not available to any
9 person with respect to any transaction or series of transactions that, although in technical
10 compliance with Rule 144, is part of a plan or scheme to evade the registration requirements of the
11 Act").

12 27. CASAVANT and EDWARDS combined and conspired with BAGLEY, the collusive stock
13 transfer agent, to issue hundreds of billions of unregistered shares of CMKM stock to their
14 nominees, alter-egos, associates and straw-purchasers in certificate form without restrictive legends
15 notwithstanding the fact that CASAVANT and EDWARDS were affiliates of CMKM.

16 28. The conspirators authorized the issuance of hundreds of billions of unregistered shares of
17 CMKM stock under the pretense that hundreds of designated nominees, alter-egos, associates and
18 straw-purchasers had purchased or earned CMKM stock more than two (2) years earlier and that
19 those shares had mistakenly not been issued at that time. As part of the scheme and conspiracy,
20 BAGLEY disregarded known and readily discernible facts and information showing that the
21 purported purchases were not supported by any consideration or evidence, and that the issuance of
22 certificates for hundreds of billions of shares of unregistered CMKM stock without restrictive
23 legends was unwarranted and unlawful.

24 29. Although BAGLEY at some point received or acquired documentation—including board
25 authorizations and attorney opinion letters—sanctioning the issuance of stock certificates without
26

1 the requisite restrictive legends, many of these documents had been forged or altered and were on
2 their face incomplete and insufficient.

3 30. For example, in December 2003, BAGLEY received and honored requests from "Ian
4 McIntyre," through EDWARDS, to issue CMKM stock even though "Ian McIntyre" had resigned
5 from Cyber Mark in November 2002, and was not an officer of CMKM (by then, CASAVANT had
6 succeeded "Ian McIntyre" as CMKM's president). An attorney opinion letter purported to endorse
7 the issuance of unrestricted shares of CMKM stock. However, although this opinion letter offered
8 in support was purportedly dated July 20, 2001, the letter referred to events occurring on July 22,
9 2001.

10 31. Other opinion letters used to justify the issuance of unregistered CMKM stock without
11 restrictions were equally dubious. For instance, BAGLEY issued stock certificates without
12 restrictive legends in late 2002 and early 2003 purportedly in reliance on brief (two-sentence)
13 opinion letters authored by a California attorney on December 5, 2002, December 30, 2002 and
14 January 22, 2003. These letters were printed on the attorney's letterhead (or a facsimile thereof)
15 bearing the name of his firm and its address in San Diego, California. However, that attorney did
16 not occupy that office until months after the letters were purportedly written. The letters were
17 evidently forged and placed in the stock transfer records months after the stock had been issued.

18 32. The majority of the opinion letters authorizing the issuance of billions of shares of
19 unrestricted CMKM stock were prepared by BRIAN DVORAK, another attorney, as part of and in
20 furtherance of the conspiracy. DVORAK initially received three hundred fifty dollars (\$350) for
21 each opinion letter that he wrote for CASAVANT and CMKM, and later was paid a retainer in
22 monthly installments of \$10,000. DVORAK additionally received suspicious payments or "loans"
23 from the conspirators. Altogether, DVORAK received at least \$495,000 from CMKM,
24 CASAVANT, EDWARDS and their associates within a one year span ending in approximately
25 November 2004. During that period, DVORAK wrote at least four hundred sixty (460) opinion
26 letters authorizing the issuance of billions of shares of CMKM stock as free-trading stock without

1 restrictions to scores of nominees and straw-purchasers. In these letters, DVORAK routinely and
2 repetitively invoked the exemption set forth in Rule 144(k) and recited without any discernible
3 grounds or limits that each of the multitude of nominees had purchased or earned the shares of
4 CMKM stock at least two (2) years earlier, but that in each instance, the shares had not been issued.
5 DVORAK then concluded that these shares should now be issued, but multiplied by the stock splits
6 and dividends that the nominees would have received had the shares been issued years ago as they
7 ostensibly should have been. In this manner, DVORAK facilitated the issuance of hundreds of
8 billions of shares of CMKM stock without restrictive legends to nominees, alter-egos, associates
9 and straw-purchasers controlled by CASAVANT and EDWARDS.

10 **33.** The premises used by the conspirators to purportedly permit the issuance of billions of
11 unregistered shares of CMKM stock without restrictive legends were laden with multiple factual
12 misstatements and logical impossibilities. Indeed, although the conspirators issued hundreds of
13 billions of shares of unregistered and unlegended CMKM stock under the pretense that these shares
14 should have had been issued in 2001 and 2002, CMKM—then known as Cyber Mark—was until
15 November 25, 2002, authorized to issue no more than 500,000,000 shares of common stock. Of the
16 authorized shares, 352,223,510 had already been issued and were outstanding leaving a balance of
17 less than 148,000,000 in the corporate treasury that could be issued. As a matter of simple
18 arithmetic, the company could not have sold the billions of shares of stock purportedly purchased by
19 the conspirators and their nominees prior to November 25, 2002.

20 **34.** This flaw did not deter the conspirators. Disregarding the facts, the law and simple
21 mathematics, the conspirators combined to issue hundreds of billions of shares of CMKM stock
22 without restrictive legends. The majority of these certificates were issued without restrictive
23 legends, enabling the conspirators to fraudulently transfer and sell billions of shares of the
24 unregistered CMKM stock.

25 **35.** In this manner, the conspirators and schemers combined to issue hundreds of billions of
26 shares of ostensibly free-trading CMKM stock. More specifically, on approximately sixty (60)

1 separate occasions during the period from December 2002 through September 2004, the stock
2 transfer agent issued hundreds of billions of unregistered shares of CMKM stock in certificate form
3 without restrictive legends to the conspirators' nominees, associates, aliases and alter egos.

4 36. In addition to the hundreds of billions of shares of CMKM stock issued to the conspirators
5 and their nominees without restrictive legends, the conspirators and their nominees and straw-
6 purchasers on occasion also received restricted shares of CMKM stock. While such restrictions
7 should have prevented the public sale of the shares of CMKM stock so designated, the conspirators
8 circumvented these prohibitions. For example, on or about March 22, 2005, EDWARDS delivered
9 multiple "Statements of Non-Affiliation" to BAGLEY purporting that various of EDWARDS'
10 nominees and straw-purchasers had held the restricted shares for more than two (2) years, were not
11 affiliated with CMKM, and did not own more than 10% of its securities. The "Statements of Non-
12 Affiliation" were submitted together with "Irrevocable Stock or Bond Powers" and "Corporate
13 Resolutions" in connection with EDWARDS' requests that BAGLEY reissue shares of CMKM
14 stock to other specified nominees without restriction. While a few of the "Statements of Non-
15 Affiliation" were completely typed or mechanically printed, most were generic forms containing
16 blank spaces in which EDWARDS entered by hand the date ("3-22-05"), the name of the nominee
17 or straw-purchaser, the certificate number and the number of shares. EDWARDS or his associates
18 forged many, if not all, of the signatures on the "Statement of Non-Affiliation" forms.

19

20

Shuffling and Dealing Share Certificates

21

22 37. As part of and in furtherance of the conspiracy, BAGLEY issued hundreds of billions of
23 unregistered shares of CMKM stock without restrictive legends to nominees, alter-egos, associates
24 and straw-purchasers designated by CASAVANT and EDWARDS. GINGER GUTIERREZ and
25 JAMES KINNEY were two nominees and recipients of billions of shares of CMKM stock. While
26 GUTIERREZ and KINNEY were affiliated with CASAVANT, most of the nominees, alter-egos,

26

1 associates and straw-purchasers were controlled by EDWARDS. A majority of the purportedly
2 free-trading stock was issued to EDWARDS' nominees, alter-egos, associates and straw-purchasers.

3 38. GUTIERREZ, KINNEY and other of CASAVANT's associates and nominees received
4 scores of CMKM stock certificates from BAGLEY. EDWARDS, again, received a majority of the
5 fraudulently issued CMKM stock in the form of sheaves of unlegended stock certificates from
6 BAGLEY. Altogether, the conspirators received more than 400,000,000,000 unregistered and
7 ostensibly unrestricted shares of CMKM stock as part of the scheme and conspiracy.

8 39. EDWARDS shuffled the shares of CMKM stock among his many nominees, alter-egos and
9 straw-purchasers. EDWARDS directed BAGLEY to cancel certain share certificates and re-issue
10 the CMKM shares to other of the multitude of nominees and alter-egos that he controlled. To effect
11 the transfer of shares among his entities and nominees, EDWARDS typically—but not
12 always—executed "Irrevocable Stock or Bond Power" and "Corporate Resolution" forms.

13 (a) EDWARDS signed scores of such forms in bulk before employees of Wells Fargo
14 who stamped the documents with that financial institution's Medallion Signature
15 Guarantee attesting to his signature (but not the contents of the forms).

16 (b) EDWARDS usually completed the blank forms by hand to identify the stockholder
17 corporation or entity that was surrendering its shares, the number of shares
18 surrendered, and the certificate number. Remarkably, although EDWARDS on
19 occasion failed to complete the forms and omitted this critical information, the
20 collusive stock transfer agent accepted these forms and effected the requested
21 transactions.

22 (c) EDWARDS' represented in these "Irrevocable Stock or Bond Power" and
23 "Corporate Resolution" forms that the shareholder entities were duly organized
24 corporations. EDWARDS executed these forms under the pretense that he was
25 authorized to do so as the "Secretary" of the nominee corporation. In fact, few of
26

1 EDWARDS' nominees were lawfully organized corporations or had any
2 recognizable existence.

3 (d) EDWARDS on occasion also forged signatures on the "Irrevocable Stock or Bond
4 Power" and "Corporate Resolution" forms and similar documents. After signing the
5 documents in bulk before a Wells Fargo employee for purposes of obtaining a
6 Medallion Signature Guarantee, EDWARDS thereafter altered and superimposed
7 characters or script upon his obscure signature to forge signatures attributed to his
8 nominees and straw-purchasers.

9 40. As part of the scheme and in furtherance of the conspiracy, EDWARDS, CASAVANT, and
10 their nominees, associates and alter-egos opened multiple accounts at brokerage houses.
11 EDWARDS, again, handled the greatest number of CMKM shares. Beginning in September 2002,
12 EDWARDS opened at least thirty-two (32) brokerage accounts at a broker-dealer in Las Vegas,
13 Nevada. Of this number, EDWARDS opened twenty-six (26) of the accounts under the names of
14 trusts for which he was the sole trustee, and he opened five (5) of the accounts under the names of
15 corporations which he controlled. The address listed for thirty (30) of the thirty-two (32) accounts
16 was a mail receptacle used by EDWARDS at "7500 West Lake Mead Boulevard, Suite 9627, Las
17 Vegas, Nevada." EDWARDS also used his personal social security number as the tax identification
18 number for twenty-nine of the accounts. EDWARDS and his associates also opened several
19 accounts with a broker-dealer in Florida.

20 41. In the manner described above, CASAVANT and EDWARDS combined and conspired with
21 one another and others to cause sheaves of CMKM share certificates to be issued to their nominees,
22 alter-egos, associates and straw-purchasers for which these conspirators and their associates had
23 opened brokerage accounts. While CASAVANT's nominees and associates received tens of
24 billions of unregistered shares of CMKM stock, EDWARDS actively handled and dealt hundreds of
25 billions of unregistered shares of CMKM stock. CASAVANT's associates received and transferred
26 unregistered shares of CMKM in a similar fashion. The absence of restrictive legends made it

1 falsely appear that the shares were registered free-trading stock and enabled EDWARDS and
2 CASAVANT to sell hundreds of billions of unregistered shares of CMKM stock on the open
3 market. In this manner, the conspirators introduced and sold hundreds of billions of unregistered
4 and purported unrestricted shares of CMKM stock in the market.

5

6

Manipulation of Market & Promotion of CMKM Stock

7 42. Notwithstanding authorizing and issuing eight hundred billion (800,000,000,000) shares of
8 stock, CMKM remained a hollow corporate shell. Although purportedly a multinational diamond
9 exploration and mining company, CMKM had few assets and did not conduct regular mining
10 operations and did not commercially produce or sell any diamonds. For that matter: CMKM did not
11 conduct regular or meaningful business operations; CMKM did not maintain comprehensible books
12 or records; and CMKM did not even have an office, but instead shared CASAVANT's home in Las
13 Vegas, Nevada. Despite its pretenses as an international diamond mining business, CMKM did not
14 engage in any productive mining activities and did not commercially produce or sell any diamonds.
15 Rather, CMKM's sole product was the billions of shares of stock issued as part of the conspiracy
16 and scheme.

17 43. Upon receipt of the hundreds of billions of shares of unregistered and ostensibly free-trading
18 CMKM stock without any restrictive legends, EDWARDS, CASAVANT, GUTIERREZ,
19 KINNEY, and their associates set about creating a market and demand for these securities as part of
20 the conspiracy. Despite the fact that CMKM did not conduct regular business or appreciable
21 mining, did not commercially produce any diamonds, and had no revenues, the conspirators
22 combined to introduce and sell hundreds of billions of shares of CMKM stock to the investing
23 public in, and using instruments of, interstate commerce.

24 44. To create the appearance of an active and established market for CMKM stock, and to
25 disguise the fact that the conspirators were the primary sellers of CMKM stock, the conspirators

26

1 surreptitiously traded in CMKM stock through nominees, associates, corporate alter egos and
2 aliases.

3 (a) For example, as part of the conspiracy, EDWARDS opened more than thirty (30)
4 brokerage accounts at a single brokerage firm in Las Vegas, Nevada. These accounts
5 were not held in EDWARDS' name, but were instead assigned to trusts,
6 corporations, and other entities and aliases controlled by EDWARDS. EDWARDS
7 thereafter deposited hundreds of forged, altered and fraudulently issued CMKM
8 stock certificates into these brokerage accounts, often physically carrying bundles of
9 certificates into the offices of the brokerage firm. These stock certificates
10 represented in aggregate over fifty billion (50,000,000,000) shares of CMKM stock.

11 (b) EDWARDS additionally combined with BAGLEY and others to issue over seventy
12 seven billion (77,000,000,000) shares of CMKM stock to five entities controlled by
13 their associates in Florida.

14 (c) As part of the conspiracy, CASAVANT also marketed billions of additional shares
15 of unregistered and purportedly unrestricted CMKM stock through GUTIERREZ,
16 KINNEY and other nominees, alter-egos, associates and straw-purchasers.

17 45. The volume of the trading activity generated by the conspirators sparked interest in CMKM.
18 CMKM's filing of a false Form 15, and its failure to file reports and make obligatory disclosures
19 fueled speculation regarding CMKM stock. In the absence of any meaningful information or
20 reports, the investing public lacked information needed to accurately assess CMKM's business
21 operations. In this vacuum, false reports and misinformation took root.

22 46. The conspirators planted and cultivated misleading representations regarding CMKM's
23 activities and value. Even while declining to file any quarterly or annual reports on CMKM's
24 behalf with the Securities and Exchange Commission, the conspirators issued numerous false and
25 misleading press releases. For example:

26

- 1 (a) In or about December 2002, the conspirators and schemers issued a press release
2 claiming that CMKM "was sponsoring a representative office in Antwerp, Belgium"
3 to promote "the Casavant diamond brand." This claim is entirely unsubstantiated.
4 Moreover, the conspirators failed to disclose that the company had not yet found or
5 produced any diamonds and "the Casavant diamond brand" had no actual product.
- 6 (b) In February 2003, the conspirators and schemers announced that CMKM owned an
7 "ancient Chinese jade collection" which had been appraised by a noted expert in the
8 field and was valued at more than fifty million dollars (\$50,000,000). In truth, there
9 is no evidence to support the claim that CMKM owned such a collection, and the
10 expert that purportedly appraised the mythical collection did not, in fact, conduct
11 such an appraisal, nor had any dealings with CMKM.
- 12 (c) In early 2004, the conspirators and schemers issued a series of press releases on
13 behalf of CMKM culminating in the announcement of a "kimberlite ore discovery"
14 in a March 2004 release. Kimberlite is a type of igneous rock in which diamonds are
15 occasionally found. The releases were embellished with the representation that
16 "[t]he new kimberlite discovery" had been named after CASAVANT's wife.
17 However, in truth, while CMKM had an attenuated interest in mining claims that
18 may contain kimberlite deposits, CMKM did not make any new kimberlite
19 discoveries nor engage in meaningful exploration.

20 47. The conspirators also combined misleading press releases with orchestrated stock
21 maneuvers to stoke investor interest. The conspirators' combined tactics were vividly illustrated by
22 the charade which they orchestrated regarding CMKM and U.S. Canadian Minerals (referred to by
23 the acronym "UCAD").

- 24 (a) In a series of press releases beginning in or about July 2004, the conspirators and
25 schemers represented to the investing public that U.S. Canadian Minerals,
26

1 | purportedly a mineral exploration company, had acquired a substantial stake in
2 | CMKM.

3 | (i) On July 18, 2004, U.S. Canadian Minerals announced that it had agreed to
4 | purchase five percent (5%) of CMKM's mineral claims in exchange for seven
5 | million five hundred thousand dollars (\$7,500,000) and had acquired an
6 | option to purchase an additional ten percent (10%) for an additional fifteen
7 | million dollars (\$15,000,000). (These representations and simple
8 | mathematics tended to lead the investing public to conclude that CMKM's
9 | mineral claims had a value of approximately one hundred fifty million dollars
10 | (\$150,000,000).)

11 | (ii) On July 27, 2004, a press release was issued proclaiming that CMKM
12 | "Receives First \$3,000,000 from UCAD Option." This release continued that
13 | U.S. Canadian Minerals had purchased an additional two percent (2%) of
14 | CMKM's mining interests. It elaborated that CASAVANT was "thrilled that
15 | UCAD has begun exercising its option as this frees additional cash for our
16 | expanding operations and explorations."

17 | (iii) On September 28, 2004, U.S. Canadian Minerals announced that it had
18 | purchased an additional one and sixty-six one hundredths (1.66%) interest in
19 | CMKM for two million five hundred thousand dollars (\$2,500,000).

20 | (b) U.S. Canadian Minerals was actually merely another corporate shell controlled by
21 | the conspirators. Previously known as "E-Bait Incorporated" and "Barrington Food
22 | International, Inc.," this corporate shell did not take the name "U.S. Canadian
23 | Minerals" until January 2004. Although this company was purported to have
24 | acquired a substantial stake in CMKM in exchange for millions of dollars in July
25 | 2004, it had reported no income during the six (6) months ending on June 30, 2004, a
26 | total of one thousand three hundred twenty one dollars (\$1,321) cash on its books,

1 and losses of over two million five hundred thousand dollars (\$2,500,000). In short,
2 without outside investment, it was in no position to make a multi-million dollar
3 investment in CMKM.

4 (c) This investment came from CASAVANT, albeit in secret. U.S. Canadian Minerals
5 quarterly report (Form 10-KSB) for the quarter ending September 30, 2004,
6 represented that the company had received funding by issuing three million two
7 hundred thousand (3,200,000) shares of its common stock in exchange for
8 approximately fifteen million five hundred thousand dollars (\$15,500,000). But it
9 was not until January 8, 2007 that U.S. Canadian Minerals provided further
10 information regarding the source of those funds, when it eventually filed a report for
11 the period ending December 31, 2004. In that belated report, U.S. Canadian
12 Minerals revealed that it had received its funding from CASAVANT and his family
13 and associates. In fact, U.S. Canadian Minerals actually received all of its funds
14 from bank accounts held by CASAVANT, CASAVANT's wife, and P.A. Holdings,
15 Inc.—a private company owned and controlled by CASAVANT. CASAVANT had
16 received those funds from EDWARDS, and the funds represented a portion of the
17 proceeds from the sale of CMKM stock issued to EDWARDS and his nominees.
18 The U.S. Canadian Minerals' investment was a sham, and the funds paid to CMKM
19 merely represented recycled proceeds from the conspirators' and schemers'
20 fraudulent sale of unregistered CMKM stock lacking restrictive legends that would
21 have precluded such sales. What is more, the funds which U.S. Canadian Minerals
22 ostensibly paid to CMKM were promptly returned to CASAVANT and his alter ego
23 P.A Holdings.

24 48. In this same vein and in furtherance of the conspiracy, EDWARDS, CASAVANT and other
25 conspirators orchestrated similar machinations regarding an entity known as St. George Metals, Inc.
26

1 (a) On or about September 2, 2004, the conspirators and schemers issued a press release
2 that tended to lead the investing public to believe that CMKM had received a
3 substantial investment from a separate company. More particularly, that press
4 release announced that CMKM had "finalized a joint venture agreement where St.
5 George Metals, Inc., will purchase a 5% unencumbered and absolute interest in any
6 and all mineral claims held by CMKM Diamonds, Inc. in consideration for
7 \$10,000,000 US Dollars." The press release further stated that CMKM had received
8 \$2,500,000 with "three additional payments of \$2,500,000 anticipated within the
9 next 30 days."

10 (b) In actuality, St. George Metals, Inc., was a corporate shell controlled by EDWARDS.
11 St. George Metals was incorporated in Nevada in 1994. In July 2004, an
12 amendment was filed appointing a new resident agent and president for the
13 corporation. Although EDWARDS was not listed as an officer or agent of St.
14 George Metals, EDWARDS paid the Secretary of State fees related to these filings
15 through his Wells Fargo checking account. EDWARDS additionally opened a bank
16 account at Wells Fargo bank under the name of St. George Metals.

17 (c) Further, the millions of dollars that St. George Metals purportedly invested in
18 CMKM was routed through the bank account that EDWARDS had opened for St.
19 George Metals, these funds were derived from proceeds that EDWARDS and his
20 nominees had previously received from the sale of purportedly unrestricted CMKM
21 stock. Further, CASAVANT transferred millions of dollars of these funds to his
22 personal and alter ego accounts and converted them to his personal purposes.

23 The St. George Metals press release and machinations were without substance and merely another
24 example of the facade constructed by the conspirators to create and sustain a market for the billions
25 of shares of unregistered and purportedly unrestricted CMKM stock that they had obtained from the
26 collusive stock transfer agent.

1 49. The conspirators and schemers generated further interest in CMKM's stock by sponsoring
2 racing teams and through internet promotions. Coordinated by CASAVANT, GUTIERREZ,
3 KINNEY and their associates, CMKM sponsored "CMKXtreme"—a team of motorcycle, truck
4 and "funny car" drag racers. Traveling across the country to participate in a series of races, the
5 CMKXtreme vehicles bore the company's stock symbol, "CMKX," and banners, billboards and
6 shirts were emblazoned with promotional messages (e.g., "Got CMKX?").

7 50. The conspirators and schemers also cultivated a market for CMKM stock through internet
8 activities designed to generate and sustain public interest and speculation in the company. Among
9 other things, CMKM maintained a promotional website, as well as websites for its racing team,
10 through which it sold and distributed promotional items emblazoned with slogans such as: "SOON!
11 CMKX.net;" "I'm a CMKX.net Boardaholic;" and "To DA Moon! CMKX.net." Further, at least
12 eight (8) internet message boards focused on CMKM. In a webcast in October 2004, CASAVANT
13 falsely represented that CMKM was "ahead of schedule" in preparing periodic reports, and that the
14 company was also "ahead of schedule" and "drilling 24/7" in Canada.

15 51. The marketing of billions of shares of CMKM stock, the failure to file reports or make
16 meaningful disclosures, misleading press releases, racing promotions, and cultivation of an internet
17 community, all combined to create a market for the CMKM stock notwithstanding that the company
18 was in actuality a hollow corporate shell. Fueled by the conspirators' promotional activities and the
19 unending issuance of new unrestricted shares, the conspirators sustained demand for CMKM stock
20 until mid-2005.

21

22 *Proceeds from the Fraudulent Sale of Unregistered CMKM Stock*

23 52. The conspirators' and schemers' market manipulations and promotions created and briefly
24 sustained a market for CMKM stock. Approximately 40,000 investors purchased CMKM stock in
25 market transaction during the course of the fraudulent scheme. While CMKM shares usually traded
26 at less than a penny per share (during the period from January 2003 to April 2005, CMKM stock

1 traded in a range from a low of \$0.00013 per share to a high of \$0.0135 per share with an average
2 price of \$0.00071 per share), the low price per share was offset by the astounding volume of shares
3 traded. The trading volume of CMKM stock exceeded one hundred million shares per day on four
4 occasions during the first eight months of 2003. Moreover, during the period from August 2003 to
5 April 2005, the volume of trade in CMKM stock frequently exceeded one billion shares—and
6 sometimes exceeded two billion shares—per day.

7 **53.** EDWARDS, CASAVANT, and their coconspirators, associates and nominees were the
8 primary sellers of CMKM stock.

9 (a) From March 2003 through May 2005, EDWARDS sold more than two hundred fifty
10 nine billion eight hundred ninety million (259,890,000,000) shares of purportedly
11 unrestricted CMKM stock in hundreds of transactions through the accounts held in
12 the names of his nominees at a Nevada brokerage firm. EDWARDS sold this stock
13 at an average price of approximately \$0.00021 per share. These voluminous sales
14 generated proceeds of more than fifty-three million dollars (\$53,000,000).

15 EDWARDS directed the brokerage firm to transfer the proceeds to multiple bank
16 accounts which EDWARDS controlled. EDWARDS also shared a portion of the
17 proceeds with CASAVANT.

18 (b) EDWARDS, abetted by BAGLEY, also issued over seventy-seven billion
19 (77,000,000,000) shares of CMKM stock to five entities based in Florida controlled
20 by EDWARDS' associates. The sale of a portion of this stock generated proceeds of
21 more than six million five hundred thousand dollars (\$6,500,000). EDWARDS'
22 associates wire transferred approximately two million two hundred thousand
23 (\$2,200,000) to EDWARDS and three hundred forty-four thousand dollars
24 (\$344,000) to BAGLEY, while distributing substantial sums to other of EDWARDS'
25 associates and retaining approximately six hundred forty-eight thousand dollars
26 (\$648,000) of the proceeds for themselves.

- 1 (c) During the period from 2003 through 2005, GINGER GUTIERREZ, one of
2 CASAVANT's nominees and associates, received and sold almost eighteen billion
3 (18,000,000,000) shares of purportedly unrestricted CMKM stock. In this instance,
4 DVORAK prepared opinion letters and BAGLEY issued stock certificates without
5 restrictive legends on the patently false premise that GUTIERREZ had earned the
6 shares in 2001; in truth, GUTIERREZ was not associated with CMKM in 2001.
7 Additionally, CMKM was only authorized to issue five hundred million
8 (500,000,000) shares until late 2002.) GUTIERREZ received approximately three
9 million one hundred thousand dollars (\$3,100,000) from the sale of CMKM stock.
10 She gave approximately one million one hundred thousand dollars (\$1,100,100) of
11 the proceeds back to CASAVANT.
- 12 (d) During the period from 2003 through 2005, JAMES KINNEY, another of
13 CASAVANT's nominees, received and sold approximately sixty one billion four
14 hundred million (61,400,000,000) shares of CMKM stock. Once again, DVORAK
15 prepared opinion letters and BAGLEY issued stock certificates without restrictive
16 legends on or based on the pretense that KINNEY had earned the shares in 2001.
17 However, KINNEY did not become involved with CMKM until 2002. Further, as
18 noted above, CMKM was only authorized to issue five hundred million
19 (500,000,000) until late 2002.) KINNEY realized more than six million seven
20 hundred thousand dollars (\$6,700,000) from the sale of CMKM stock. KINNEY
21 transferred approximately three million four hundred thousand dollars (\$3,400,000)
22 of these proceeds back to CASAVANT.
- 23 (e) In addition to marketing CMKM shares issued to them individually, GUTIERREZ
24 and KINNEY also sold CMKM stock through Part-Time Management, Inc., a
25 corporate shell created by or for CASAVANT. In 2004, this entity sold
26 approximately nine billion (9,000,000,000) shares of CMKM stock that the collusive

1 transfer agent had issued to it without restrictive legends. Part-Time Management
2 realized more than one million nine hundred thousand dollars (\$1,900,000) from the
3 sale of these ostensibly free-trading shares of CMKM stock. CASAVANT received
4 approximately one million two hundred thousand dollars (\$1,200,000) of these
5 proceeds.

6 **54.** As part of and in furtherance of the conspiracy, the conspirators and their nominees and
7 associates continued to sell CMKM stock even after that corporation was deregistered in October
8 2005.

9 **55.** EDWARDS, CASAVANT and other conspirators used proceeds from the sale of CMKM
10 stock to perpetuate the scheme. The proceeds not only were applied towards operational and
11 advertising expenses, the funds were (as discussed above) used in the well-orchestrated charade
12 involving purported multi-million-dollar investments in CMKM by U.S. Canadian Minerals and St.
13 George Metals. Further, the conspirators shuffled the proceeds from the sale of CMKM stock
14 through multiple accounts at banks in the United States and, eventually, to foreign nations for
15 purposes of concealing the nature and source of those funds and shielding them from criminal
16 forfeiture and civil judgments.

17 **56.** As part of and in furtherance of the conspiracy, JOHN M. EDWARDS, URBAN
18 CASAVANT, HELEN BAGLEY, BRIAN DVORAK, GINGER GUTIERREZ, JAMES KINNEY
19 and others known and unknown, conspired and combined to fraudulently market hundreds of
20 billions of shares of unregistered CMKM stock without restrictive legends which would have
21 prohibited sale of those securities. By their false statements and evasion and failure to file
22 quarterly and annual reports, the conspirators concealed from the SEC and the investing public the
23 nature of their scheme, their issuance of hundreds of billions of unregistered CMKM shares without
24 restrictive legends to themselves, and their ensuing trading in hundreds of billions of shares of
25 unregistered CMKM stock. As a further part of the conspiracy, the conspirators fraudulently
26 created and cultivated a market for CMKM stock through misrepresentations, market

1 manipulations, and misleading promotional activities and press releases. In this manner, the
2 conspirators combined to sell unregistered CMKM stock lacking requisite restrictive legends to
3 investors for more than sixty million dollars (\$60,000,000).
4 All in violation of 18 U.S.C. 371.

5 **COUNT TWO**

Securities Fraud in violation of 15 U.S.C. § 78j

6 1. The foregoing allegations are re-alleged and incorporated by reference as though fully set
7 forth herein.
8 2. Beginning on a date unknown, but not later than September 2001, and continuing to on or
9 about March 2009, in the State and Federal District of Nevada and elsewhere within the jurisdiction
10 of this Court,

11 **1. JOHN M. EDWARDS,**
12 **2. URBAN CASAVANT,**
13 **3. HELEN BAGLEY,**
14 **4. BRIAN DVORAK,**
5. GINGER GUTIERREZ, and
6. JAMES KINNEY,

15 the defendants herein, aiding and abetting one another and others known and unknown, unlawfully,
16 willfully and knowingly, by use of means and instrumentalities of interstate commerce and the
17 mails, directly and indirectly did use and employ manipulative and deceptive devices and
18 contrivances in connection with the purchase and sale of a security, in contravention of Rule 10b-5
19 (17 C.F.R. Section 240.10b-5) of the Rules and Regulations promulgated by the United States
20 Securities and Exchange Commission, and did (a) employ a device, scheme and artifice to defraud;
21 (b) make untrue statements of material facts and omit to state material facts necessary in order to
22 make the statements made, in light of the circumstance under which they were made, not
23 misleading; and (c) engage in acts, practices and a course of business, which would and did operate
24 as a fraud and deceit upon prospective investors in connection with the purchase and sale of a
25 security.

26

1 All in violation of Title 15, United States Code, Section 78j(b) and Title 18, United States Code,
2 Section 2.

3
4 **COUNT THREE**

5 *Conspiracy to Commit Securities Fraud in violation of 18 U.S.C. § 1349*

6 1. The allegations contained in Count One are re-alleged and incorporated by reference as
7 though fully set forth herein.

8 2. During the period from approximately July 30, 2002, through in or about October 2005, in
9 the State and Federal District of Nevada and elsewhere within the jurisdiction of this Court,

- 10 **1. JOHN M. EDWARDS,**
11 **2. URBAN CASAVANT,**
12 **3. HELEN BAGLEY,**
13 **4. BRIAN DVORAK,**
14 **5. GINGER GUTIERREZ, and**
15 **6. JAMES KINNEY,**

16 the defendants herein, knowingly and willfully combined, conspired, and agreed with one another,
17 and others known and unknown, to commit an offense under Chapter 63 of Title 18 of the United
18 States Code, that is, to execute a scheme and artifice (1) to defraud investors, prospective investors
19 and the investing public in connection with the securities and stock of CMKM Diamonds, Inc.
20 ("CMKM"), and (2) to obtain money and property by means of false or fraudulent pretenses,
21 representations and promises in connection with the sale of CMKM securities, in violation of Title
22 18, United States Code, Section 1348.

23 3. At all times material to this indictment, CMKM was an issuer of a class of securities
24 registered under Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) and was legally
25 required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.
26 78o(d)) and implementing statutes and regulations.

All in violation of Title 18, United States Code, Section 1349.

COUNT FOUR

Securities Fraud in violation of 18 U.S.C. § 1348

1
2 1. The foregoing allegations are re-alleged and incorporated by reference as though fully set
3 forth herein.

4 2. During the period from on or about July 30, 2002, through in or about October 2005, in the
5 State and Federal District of Nevada and elsewhere within the jurisdiction of this Court,

- 6
7 **1. JOHN M. EDWARDS,**
8 **2. URBAN CASAVANT,**
9 **3. HELEN BAGLEY,**
4. BRIAN DVORAK,
5. GINGER GUTIERREZ, and
6. JAMES KINNEY,

10 the defendants herein, aiding and abetting one another and others known and unknown, executed,
11 and attempted to execute, a scheme and artifice (1) to defraud investors, prospective investors and
12 the investing public in connection with the securities and stock of CMKM Diamonds, Inc.
13 ("CMKM"), and (2) to obtain money and property by means of false or fraudulent pretenses,
14 representations and promises in connection with the sale of CMKM securities, in violation of Title
15 18, United States Code, Section 1348.

16 3. At all times material to this indictment, CMKM was an issuer of a class of securities
17 registered under Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) and was legally
18 required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.
19 78o(d)) and implementing statutes and regulations.

20 All in violation of Title 18, United States Code, Sections 1348 and 2.

COUNT FIVE

Conspiracy to Commit Money Laundering in violation of 18 U.S.C. § 1956(h)

21
22
23 1. The foregoing allegations are re-alleged and incorporated by reference as though fully set
24 forth herein.

1 2. Beginning on a date unknown, but not later than November 2002, and continuing to in or
2 about March 2009, in the State and Federal District of Nevada and elsewhere within the jurisdiction
3 of this Court,

- 4 1. JOHN M. EDWARDS,
- 5 2. URBAN CASAVANT,
- 6 5. GINGER GUTIERREZ, and
- 6 6. JAMES KINNEY,

7 defendants herein, knowingly and willfully combined, conspired, and agreed with one another, and
8 others known and unknown, to commit the following offenses under Title 18, United States Code,
9 Sections 1956 and 1957:

- 10 (a) To conduct financial transactions, in and affecting interstate and foreign commerce,
11 involving the proceeds of specified unlawful activities, to wit: fraud in the sale of
12 securities, with the intent to promote the carrying on of such specified unlawful
13 activities, and knowing that the property involved in the transactions represented the
14 proceeds of some form of unlawful activity, in violation of 18 U.S.C. §
15 1956(a)(1)(A)(I);
- 16 (b) To conduct financial transactions, in and affecting interstate and foreign commerce,
17 involving the proceeds of specified unlawful activities, to wit: fraud in the sale of
18 securities, knowing that the transactions were designed in whole or in part to conceal
19 and disguise the nature, source, ownership, and control of the proceeds of such
20 specified unlawful activities, and knowing that the property involved in the
21 transactions represented the proceeds of some form of unlawful activity, in violation
22 of 18 U.S.C. § 1956(a)(1)(B)(I); and
- 23 (c) To knowingly engage in monetary transactions, that is the deposit, withdrawal and transfer
24 of funds and monetary instruments by, through or to a financial institution, in or affecting
25 interstate or foreign commerce, in criminally derived property of a value greater than
26

1 \$10,000, such property having been derived from specified unlawful activities, to wit: fraud
2 in the sale of securities, in violation of Title 18, United States Codes, Section 1957.
3 All in violation of Title 18, United States Code, Section 1956(h).

4 **COUNT SIX**
5 *Tax Evasion in violation of 26 U.S.C. § 7201*

6 1. The foregoing allegations are re-alleged and incorporated by reference as though fully set
7 forth herein.

8 2. On or about February 14, 2005,

9 **2. URBAN CASAVANT,**

10 a defendant herein, then a resident of Las Vegas, Nevada, did willfully attempt to evade and defeat a
11 large part of the income tax due and owing by him to the United States of America for the calendar
12 year 2004, by failing to claim income received in that year to the Internal Revenue Service as
13 required by law, by failing to pay to the Internal Revenue Service such income tax, and by
14 concealing his income from the stock and securities of CMKM Diamonds, Inc., by using nominees
15 to conceal and disguise his interest in the shares and the proceeds, and by routing proceeds to
16 accounts of nominees, corporate alter egos, and other entities which he controlled, concealing and
17 disguising the source and ownership of the funds.

18 All in violation of Title 26, United States Code, Section 7201.

19 . . .
20 . . .
21 . . .
22 . . .
23 . . .
24 . . .
25 . . .
26 . . .

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

FORFEITURE ALLEGATION ONE
Conspiracy to Commit Securities Fraud

1. The allegations of Counts One and Three of this Indictment are hereby realleged and incorporated herein by reference for the purpose of alleging forfeiture pursuant to the provision of Title 18, United States Code, Section 981(a)(1)(C); Title 18, United States Code, Section 1956(c)(7)(A); Title 18, United States Code, Section 1961(1)(D); and Title 28, United States Code, Section 2461(c).

2. Upon a conviction of the felony offenses charged in Counts One and Three of this Indictment,

- 1. JOHN M. EDWARDS,
- 2. URBAN CASAVANT,
- 3. HELEN BAGLEY,
- 4. BRIAN DVORAK,
- 5. GINGER GUTIERREZ, and
- 6. JAMES KINNEY,

defendants herein, shall forfeit to the United States of America any property constituting, or derived from, proceeds traceable to a conspiracy, in violation of Title 18, United States Code, Section 371, to commit violations of Title 15, United States Code, Sections 77e, 78m, 78o, 78j, and 78ff; and a conspiracy, in violation of Title 18, United States Code, Section 1349, to commit violations of Title 18, United States Code, Section 1348, up to \$60,000,000 in United States Currency.

3. If any property being subject to forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), as a result of any act or omission of the defendants –

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or

1 e. has been commingled with other property that cannot be divided without
2 difficulty;
3 it is the intent of the United States of America to seek forfeiture of any properties of the defendants
4 up to \$60,000,000 in United States Currency.

5 All pursuant to Title 15, United States Code, Sections 77e, 78m, 78o, 78j, and 78ff; Title 18,
6 United States Code, Section 981(a)(1)(C); Title 18, United States Code, Sections 1348 and 1349;
7 Title 18, United States Code, Section 1956(c)(7)(A); Title 18 United States Code, Section
8 1961(1)(D); Title 28, United States Code, Section 2461(c); Title 18, United States Code, Section
9 371; and Title 21, United States Code, Section 853(p).

10 **FORFEITURE ALLEGATION TWO**
11 **Securities Fraud**

12 1. The allegations of Counts Two and Four of this Indictment are hereby realleged and
13 incorporated herein by reference for the purpose of alleging forfeiture pursuant to the provision of
14 Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section
15 2461(c).

16 2. Upon a conviction of the felony offenses charged in Counts Two and Four of this
17 Indictment,

- 18 **1. JOHN M. EDWARDS,**
19 **2. URBAN CASAVANT,**
20 **3. HELEN BAGLEY,**
21 **4. BRIAN DVORAK,**
22 **5. GINGER GUTIERREZ, and**
23 **6. JAMES KINNEY,**

24 defendants herein, shall forfeit to the United States of America any property constituting, or derived
25 from, proceeds traceable to violations of Title 18, United States Code, Sections 1956(c)(7)(A) and
26 1961(1)(D), to commit violations of Title 15, United States Code, Section 78j and Title 18, United
States Code, Section 1348, up to \$60,000,000 in United States Currency.

1 3. If any property being subject to forfeiture pursuant to Title 18, United States Code,
2 Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), as a result of any act or
3 omission of the defendants --

- 4 a. cannot be located upon the exercise of due diligence;
5 b. has been transferred or sold to, or deposited with, a third party;
6 c. has been placed beyond the jurisdiction of the court;
7 d. has been substantially diminished in value; or
8 e. has been commingled with other property that cannot be divided without
9 difficulty;

10 it is the intent of the United States of America to seek forfeiture of any properties of the defendants
11 up to \$60,000,000 in United States Currency.

12 All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United
13 States Code, Section 2461(c); Title 15, United States Code, Section 78j; Title 18, United States
14 Code, Sections 1956(c)(7)(A) and 1961(1)(D); Title 18, United States Code, Section 1348; and Title
15 21, United States Code, Section 853(p).

16 **FORFEITURE ALLEGATION THREE**
17 **Conspiracy to Commit Money Laundering**

18 1. The allegations of Count Five of this Indictment are hereby realleged and
19 incorporated herein by reference for the purpose of alleging forfeiture pursuant to the provision of
20 Title 18, United States Code, Section 982(a)(1).

21 2. Upon a conviction of the felony offenses charged in Count Five of this Indictment,

- 22 **1. JOHN M. EDWARDS,**
23 **2. URBAN CASAVANT,**
24 **5. GINGER GUTIERREZ, and**
25 **6. JAMES KINNEY,**
26 . . .

1 defendants herein, shall forfeit to the United States of America any property involved in violations
2 of Title 18, United States Code, Section 1956(h), or property traceable to such property, up to
3 \$60,000,000 in United States Currency.

4 3. If any property being subject to forfeiture pursuant to Title 18, United States Code,
5 Section 982(a)(1), as a result of any act or omission of the defendants –

- 6 a. cannot be located upon the exercise of due diligence;
7 b. has been transferred or sold to, or deposited with, a third party;
8 c. has been placed beyond the jurisdiction of the court;
9 d. has been substantially diminished in value; or
10 e. has been commingled with other property that cannot be divided without
11 difficulty;

12 it is the intent of the United States of America to seek forfeiture of any properties of the defendants
13 up to \$60,000,000 in United States Currency.

14 All pursuant to Title 18, United States Code, Sections 982(a)(1) and (b); Title 18, United
15 States Code, Section 1956(h); and Title 21, United States Code, Section 853(p).

16
17 **FORFEITURE ALLEGATION FOUR**
Conspiracy to Commit Money Laundering

18 1. The allegations of Count Five of this Indictment are hereby realleged and
19 incorporated herein by reference for the purpose of alleging forfeiture pursuant to the provision of
20 Title 18, United States Code, Section 981(a)(1)(A); and Title 28, United States Code, Section
21 2461(c).

22 2. Upon a conviction of the felony offenses charged in Count Five of this Indictment,
23

24 **1. JOHN M. EDWARDS,**
2. URBAN CASAVANT,
25 **5. GINGER GUTIERREZ, and**
6. JAMES KINNEY,
26 . . .

1 defendants herein, shall forfeit to the United States of America any property involved in a
2 transaction or attempted transaction, in violation of Title 18, United States Code, Section 1956(h),
3 or property traceable to such property, up to \$60,000,000 in United States Currency.

4 3. If any property being subject to forfeiture pursuant to Title 18, United States Code,
5 Section 981(a)(1)(A) and Title 28, United States Code, Section 2461(c), as a result of any act or
6 omission of the defendants –

- 7 a. cannot be located upon the exercise of due diligence;
- 8 b. has been transferred or sold to, or deposited with, a third party;
- 9 c. has been placed beyond the jurisdiction of the court;
- 10 d. has been substantially diminished in value; or
- 11 e. has been commingled with other property that cannot be divided without
12 difficulty;

13 it is the intent of the United States of America to seek forfeiture of any properties of the defendants
14 up to \$60,000,000 in United States Currency.

15 All pursuant to Title 18, United States Code, Section 981(a)(1)(A); Title 28, United States
16 Code, Section 2461(c); Title 18, United States Code, Section 1956(h); and Title 21, United States
17 Code, Section 853(p).

18 **FORFEITURE ALLEGATION FIVE**
19 **Conspiracy to Commit Money Laundering**

20 1. The allegations of Count Five of this Indictment are hereby realleged and
21 incorporated herein by reference for the purpose of alleging forfeiture pursuant to the provision of
22 Title 18, United States Code, Section 981(a)(1)(C); and Title 28, United States Code, Section
23 2461(c); and Title 18, United States Code, Sections 1956(c)(7)(A) and 1961(1)(B).

24 . . .
25 . . .
26 . . .

1 2. Upon a conviction of the felony offenses charged in Count Five of this Indictment,

- 2 **1. JOHN M. EDWARDS,**
3 **2. URBAN CASAVANT,**
4 **5. GINGER GUTIERREZ, and**
5 **6. JAMES KINNEY,**

6 defendants herein, shall forfeit to the United States of America any property constituting, or derived
7 from, proceeds traceable to a conspiracy, in violation of Title 18, United States Code, Section
8 1956(h), up to \$60,000,000 in United States Currency.

9 3. If any property being subject to forfeiture pursuant to Title 18, United States Code,
10 Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), as a result of any act or
11 omission of the defendants –

- 12 a. cannot be located upon the exercise of due diligence;
13 b. has been transferred or sold to, or deposited with, a third party;
14 c. has been placed beyond the jurisdiction of the court;
15 d. has been substantially diminished in value; or
16 e. has been commingled with other property that cannot be divided without
17 difficulty;

18 it is the intent of the United States of America to seek forfeiture of any properties of the defendants
19 up to \$60,000,000 in United States Currency.

20 . . .
21 . . .
22 . . .
23 . . .
24 . . .
25 . . .
26 . . .


1 All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United
2 States Code, Section 2461(c); Title 18, United States Code, Section 1956(h); Title 18, United States
3 Code, Sections 1956(c)(7)(A) and 1961(1)(B); and Title 21, United States Code, Section 853(p).

4 **DATED:** this 27 day of May 2009.

5 **A TRUE BILL:**

6 /S/
7 FOREPERSON OF THE GRAND JURY

8 GREGORY A. BROWER
9 United States Attorney

10 

11 TIMOTHY S. VASQUEZ
12 MICHAEL CHU
13 Assistant United States Attorneys

14
15
16
17
18
19
20
21
22
23
24
25
26

Indictment, Information, Complaint

2:09-cr-00132-RLH-RJJ *SEALED* USA v. Edwards et al

SEALED

United States District Court

District of Nevada

Notice of Electronic Filing

The following transaction was entered on 5/27/2009 at 4:35 PM PDT and filed on 5/27/2009

Case Name: USA v. Edwards et al

Case Number: 2:09-cr-132

Filer:

Document Number: 7

Docket Text:

SEALED SUPERSEDING INDICTMENT as to John M. Edwards (1) count(s) 1s, 2s, 3s, 4s, 5s, Urban Casavant (2) count(s) 1s, 2s, 3s, 4s, 5s, 6s, Helen Bagley (3) count(s) 1, 2, 3, 4, Brian Dvorak (4) count(s) 1, 2, 3, 4, Ginger Gutierrez (5) count(s) 1, 2, 3, 4, 5, James Kinney (6) count(s) 1, 2, 3, 4, 5. (AXM)

2:09-cr-132-1 No electronic notice will be sent because the case/entry is sealed.

2:09-cr-132-2 No electronic notice will be sent because the case/entry is sealed.

2:09-cr-132-3 No electronic notice will be sent because the case/entry is sealed.

2:09-cr-132-4 No electronic notice will be sent because the case/entry is sealed.

2:09-cr-132-5 No electronic notice will be sent because the case/entry is sealed.

2:09-cr-132-6 No electronic notice will be sent because the case/entry is sealed.

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1101333072 [Date=5/27/2009] [FileNumber=4282155-0] [4505b47e48a12edfb6772f96cf40d48bb6293b11d6ae692119d1d60ded6078a008aac50e05b4b2074711a1904d9642b9996c9bb734947f320d56212feb7ff019]]