

AFFIDAVIT

I, Isaac J. DeLong, being duly sworn, hereby depose and state:

1. I am a Special Agent with the Federal Bureau of Investigation and have been so employed since December of 2001. I am currently assigned to a White Collar Crime Squad based out of the Westwood Federal Building. My primary responsibility has been to investigate securities fraud violations. I attended over 640 hours of training at the FBI Academy at Quantico, Virginia. Prior to becoming an FBI Special Agent, I was employed for approximately two years as a licensed securities broker.

2. This affidavit is made in support of a criminal complaint against and in support of an application for a warrant to arrest THOMAS S. HUGHES ("HUGHES") for criminal contempt of court, in violation of 18 U.S.C. § 401, and securities fraud in violation of 15 U.S.C. §§ 78j(b), 78ff, 17 C.F.R. § 240.10b-5, and 18 U.S.C. § 2.

3. The information contained in this Affidavit is based upon my personal knowledge, as well as information obtained during this investigation from other sources, including:

(a) other FBI agents, representatives of the United States Securities and Exchange Commission (the "SEC"), and other personnel involved in this investigation; (b) statements made or reported by various witnesses with personal knowledge of relevant facts; and (c) my review of corporate documents and business

records obtained during the course of this investigation, as well as summaries and analyses of such documents and records that have been prepared by others. Because this Affidavit is submitted for the limited purpose of establishing probable cause to arrest HUGHES, I have not set forth each and every fact I have learned in connection with this investigation. Where conversations and events are referred to herein, they are related in substance and in part, where figures and calculations are set forth herein, they are approximate.

4. Based upon the facts set forth below, and on my experience and expertise, I believe there is probable cause to believe the following:

a. HUGHES is the subject of a Permanent Injunction issued April 6, 2000, by the United States District Court for the Central District of California. The injunction prohibits HUGHES from, among other things, making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in the light of circumstances under which they were made, not misleading, in connection with the purchase and sale of securities. The injunction was issued against HUGHES in connection with his activities at a company called eConnect, Inc. ("eConnect").

b. HUGHES, an officer of eConnect, has violated the Permanent Injunction by making false statements and material

omissions to induce individuals to invest in eConnect. Specifically, HUGHES has issued and/or approved press releases for immediate distribution which either: 1) contained materially false representations about eConnect and its business operations which HUGHES knew to be false; 2) contained misleading information about eConnect which HUGHES knew to be misleading; or 3) knowingly omitted material information.

#### PRIOR SEC INVESTIGATION

5. On March 23, 2000, the Securities and Exchange Commission ("SEC") filed in the United States District Court for the Central District of California (the "District Court") a Complaint For Permanent Injunction And Other Relief in the case Securities and Exchange Commission v. eConnect and Thomas S. Hughes, Civil Action No. 00-02959-MMM (RCx). I have read the complaint and other documents filed in the case, through which I learned the following:

a. eConnect's common stock was and still is registered with the United States Securities and Exchange Commission ("SEC") and publicly traded on the National Association of Securities Dealers Automated Quotation ("NASDAQ") system.

b. The complaint alleged that eConnect, HUGHES and others violated federal securities laws in the issuance of false and misleading press releases which artificially boosted the

price of eConnect stock.

c. On March 23, 2000, HUGHES was personally served with the summons and complaint referred to above.

d. HUGHES consented to the entry of a judgment against him in the SEC case. HUGHES's Consent to Entry of Judgment of Permanent Injunction and Other Relief was signed by HUGHES on April 3, 2000, and filed with the District Court on April 4, 2000.

e. On April 7, 2000, a Judgment of Permanent Injunction and Other Relief Against Defendant Thomas S. Hughes was entered by the District Court. Thereafter, on July 17, 2001, HUGHES was deposed in connection with the civil complaint and injunction by attorneys at the SEC. I have reviewed a transcript of that deposition, and in it, HUGHES acknowledged that he has received and reviewed a copy of the Permanent Injunction entered by the District Court, and that he understood that the Injunction required HUGHES to comply with all federal securities regulations. Specifically, HUGHES understood that the Injunction required him to issue press releases that are "one hundred percent, . . . completely true and bona fide."

f. Section II of the Judgment of Permanent Injunction and Other Relief Against Defendant Thomas S. Hughes provides, in part, that HUGHES and his agents are permanently restrained and enjoined from "employing any device, scheme or artifice to

defraud;" "obtaining money or property by means of any untrue statement of material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or "engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser." A copy of the Permanent Injunction is attached to this Affidavit as Exhibit A.

#### RECENT PRESS RELEASES ISSUED BY HUGHES

6. On July 30, 2002, I spoke with Marianne Wisner, an attorney with the SEC Office of Enforcement in Los Angeles, California. Wisner advised me that HUGHES, acting in his capacity as president of eConnect, has recently issued numerous press releases, several of which were either false or misleading, or both. HUGHES began issuing those press releases on July 9, 2002. Wisner also stated that, since the press releases were issued, the value of eConnect stock had risen approximately 500 percent at one point, and that the trading volume for the stock had skyrocketed until trading was suspended on July 25, 2002. Trading was suspended by the SEC in order to prevent further manipulation of eConnect stock.

#### CURRENT INVESTIGATION

7. Since the issuance of the press releases by HUGHES, eConnect and others, the SEC and the FBI have initiated an

investigation of the veracity of the information contained in the press releases, as well as other conduct related to the value of eConnect stock. During the course of the investigation I have reviewed all of the press releases referred to in this Affidavit. Furthermore, HUGHES was the subject of a deposition taken by SEC attorney Robert Tercero on August 1, 2002 (the "SEC deposition"). I have reviewed the full preliminary transcript of that deposition.

8. On July 30, 2002, I reviewed the SEC's files in connection with that agency's investigation of HUGHES. As a result of that review, I learned that beginning on July 9, 2002, and continuing through at least July 23, 2002, HUGHES, in his capacity as president of eConnect, approved, reviewed and/or prepared a number of press releases that were issued to the public. Among those press releases were several that contained false and/or misleading information as set forth below.

THE MISLEADING \$20 MILLION BOND TRANSFER PRESS RELEASES

9. On July 9, 2002, eConnect announced on its website that it had received a \$20,000,000 investment in AA rated Asset-Backed bonds from a company called Pacific Nakon International ("Pacific Nakon"), and that eConnect would be using the assets derived from that transaction toward meeting listing requirements for the American Stock Exchange.

10. On July 10, 2002, a press release was issued

by eConnect and Pacific Nakon, claiming that \$20,000,000 worth of Asset-Backed Bonds had been transferred to eConnect for the purposes of developing Asian markets.

11. I have read the July 10, 2002 \$20 million bond press release issued by Pacific Nakon and eConnect, as well as the July 9, 2002, website posting. In preparation for the SEC deposition, HUGHES was required by the SEC to submit certain documents to the SEC in support of each press release. I have reviewed each of these documents. From the SEC deposition of HUGHES, the press release, and the documents purportedly supporting the press release, I have learned the following:

a. Pacific Nakon filed a form SB-2 with the SEC, in an attempt to get the \$20,000,000 in bonds registered. A form SB-2 is an application form that must be filed and approved by the SEC under the Securities Act of 1933 for a bond to be tradeable on the open market. This registration application was rejected by the SEC because the SB-2 "failed in numerous material respects to comply with the requirements of the Securities Act of 1933." It was rejected on April 11, 2002, in the form of a letter to Pacific Nakon from the SEC. HUGHES failed to indicate in the press release or on the eConnect website that: 1) the bonds were unregistered, or 2) the bond registration was specifically rejected by the SEC.

b. The terms of the Pacific Nakon bonds were also not

disclosed in the July 10, 2002, press release. While the face value of the bonds is \$20 million, in fact they are worth substantially less. The bonds were to earn interest at a rate of 8.5 percent per annum, and payable in arrears. Thus, contrary to the representations in the press release and the website posting, the bonds did not have a present value of \$20 million, based on the fact that they were unregistered, and therefore nontransferable, and were not redeemable, if ever, until the year 2009.

c. HUGHES admitted in the SEC deposition that he participated in the drafting of the press release and approved the posting of the information on eConnect's website.

d. A review of the bonds themselves reveal that they are not registered. HUGHES admitted to knowing that the form SB-2 had been rejected in the SEC deposition.

e. In the SEC deposition, HUGHES further stated that he did almost no due diligence to determine if the bonds were AA rated. HUGHES stated that he put the AA rating for the bonds at issue on the eConnect website because he had thought that because the letters AA appeared in the bond's CUSIP number, that that meant that they were AA rated. A CUSIP number is a unique identifying number issued by a rating service, such as Standard & Poor's, that enables a particular bond to be tracked. A CUSIP number is not equivalent to the rating for a bond.

f. HUGHES, in the SEC deposition, testified that he had read the form SB-2 filed by Pacific Nakon around July 3, 2002, which was one week prior to the issuance of the press release. The SB-2 explicitly states the bonds are not rated.

g. Lamar N. Jensen is the president of Pacific Nakon. Mr. Jensen was deposed by SEC attorneys Marianne Wisner and Patrick Hunnius on July 31, 2002. During his deposition, Jensen testified that he specifically told HUGHES that the bonds were not AA rated.

h. On July 12, 2002, Standard & Poor's suspended the CUSIP number for the bond issued by Pacific Nakon because the "issue seemed suspicious based on telephone calls from participants in the securities industry questioning the validity of the security and from information in the offering document of Pacific Nakon that was similar to information in offering documents of other issuers in previously submitted CUSIP requests that seemed suspicious."

12. Prior to the issuance of the July 10, 2002, press release, eConnect's stock was trading at an average of \$.0048 per share. Following the issuance of this press release on July 10, 2002, eConnect's stock price rose approximately 125 percent, to \$.009 per share. Moreover, trading volume for eConnect's stock increased approximately 385 percent, from 14.9 million in volume to approximately 57 million in volume on July 10, 2002.

THE MISLEADING RELEASES REGARDING STOCK REPURCHASES

13. On July 11, 2002, eConnect announced on its website that it had "now begun a stock repurchase program that will continue on a steady ongoing basis" and "the company's current strong financial position allows the implementation of the repurchase program without adversely impacting internal investment, implementation, and growth plans. The actions that the company has taken, regarding reducing the shares in the float as of July 22 and the current action of a share buy back program, are being done to enhance shareholder value." On July 12, 2002, Pacific Nakon issued a press release regarding eConnect's stock repurchase program. This press release contained the exact same language that had appeared the day before on eConnect's website. This press release was approved by HUGHES and eConnect was listed as a source for the press release itself.

14. I have read the July 12, 2002 press release regarding the stock repurchase program. This press release announced that "eConnect has now begun a stock repurchase program that will continue on a steady ongoing basis." In the SEC deposition, however, HUGHES admitted to the following:

a. That there was no such stock repurchase program, only an intention to start one.

b. That HUGHES put the information about the stock repurchase program on eConnect's website.

c. That HUGHES approved the press release and eConnect paid for its issuance.

15. On July 11, 2002, eConnect's stock had a closing price of \$.011 per share, with a trading volume of 32.9 million. Following the issuance of the press release on July 12, 2002, eConnect's stock price increased to \$.019 per share, and the trading volume increased to 55.5 million.

THE MISLEADING VICK WHOLESALE \$964,000

PURCHASE ORDER PRESS RELEASE

16. On July 19, 2002, eConnect and Vick Wholesale Equipment Lease issued a press release stating that Vick Wholesale Equipment Lease had made a \$964,000 purchase order with eConnect for eCashPads, eConnect's primary product.

17. I have read the July 19, 2002 Vick Wholesale \$964,000 Purchase Order press release. The press release stated that the \$964,000 was in exchange for 20,000 eCashPads. Of these 20,000 eCashPads, 5,000 were to be shipped "immediately." This press release contained a link to vickwholesale.com in two different locations: in the text of the release, and also at the bottom. I have also read the documents provided by HUGHES during the SEC deposition that allegedly support the press release. From these documents I have learned the following:

a. HUGHES knew that the website of vickwholesale.com, a legitimate company, had nothing to do with Vick Wholesale

Equipment Lease, and admitted to this in his deposition. HUGHES stated that he was careful to put into the press release that the company making the purchase from eConnect sells products of the "type seen" at vickwholesale.com. Thus, I believe that by including the links to vickwholesale.com, HUGHES intentionally included misleading information in the press release regarding the alleged purchase order.

b. On July 31, 2002, I reviewed declarations provided by Karen and Michael Vick, principals of vickwholesale.com. Both deny knowing or having any sort of business relationship with HUGHES, eConnect, or Doug Montgomery, principal of Vick Wholesale Equipment Lease. Also, Karen and Michael Vick both state that they have been contacted by members of the public in connection with the purchase order referenced in the July 19, 2002, press release.

c. HUGHES admitted in his deposition that he approved the draft of this press release including the appearance of the URL vickwholesale.com twice.

d. HUGHES, acting as president of eConnect, paid for the press release.

e. HUGHES testified in the SEC deposition that only 1,600 eCashPads had been shipped the week of July 31, 2002, and not 5,000 as had been mentioned in the press release.

18. On or about July 30, 2002, Doug Montgomery, the signatory to the purchase order referred to in the press release, contacted SEC attorney Marianne Wisner. At that time, Mr. Montgomery informed Wisner that his company had indeed made a purchase order for eCashPads from eConnect. I have subsequently learned through further investigation that Mr. Montgomery is under indictment in the District of the Northern Mariana Islands for conspiracy to commit wire fraud and wire fraud, in violation of 18 U.S.C. §§ 371 and 1343, for his participation in a scheme to defraud the Bank of Saipan and its investors.

19. On July 19, 2002, eConnect's stock price rose from \$.012 per share to \$.015 per share, a 25 percent increase. Trading volume for that stock decreased from 75 million to 45 million shares.

20. Prior to the purported purchase order of \$964,000, eConnect's total revenues for the entire quarter ending on March 31, 2002, was approximately \$8,000. Thus, a purported purchase order for \$964,000 concerning eConnect's primary product, an eCashPad, would materially alter eConnect's total revenues, a figure material to investors and potential investors in eConnect securities.

#### SECURITIES FRAUD SCHEME

21. Beginning on or before July 9, 2002, and continuing until at least July 23, 2002, HUGHES knowingly and willfully and

with the intent to defraud, directly and indirectly, in connection with the purchase and sale of eConnect stock: 1) employed a scheme to defraud, 2) made untrue statements of material fact and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, and 3) engaged in acts practices and courses of business that operated as a fraud and deceit, as set forth in paragraphs nine through twenty of this Affidavit.

21. Between on or about July 9, 2002, and continuing to at least July 23, 2002, in furtherance of the fraudulent scheme described above, HUGHES caused the use of the means and instrumentalities of interstate commerce, and the facilities of a national securities exchange, in connection with the purchase and sale of eConnect stock in that he caused the issuance of numerous false and misleading press releases to the public over the internet.

CONCLUSION

23. Based upon the facts set forth in this affidavit and upon my experience and expertise, I believe there is probable cause to believe that HUGHES is in violation of the Permanent Injunction issued by the District Court. I further believe that HUGHES's actions in issuing the false and/or misleading press releases constitute violations of 18 U.S.C. § 401, contempt of court, and 15 U.S.C. §§ 78j(b), 78ff, 17 C.F.R. § 240.10b-5, and 18 U.S.C. § 2, securities fraud.

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ISAAC J. DELONG  
SA Federal Bureau of Investigation

Subscribed and sworn to before me  
on this \_\_\_\_ date of August, 2002

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CHARLES F. EICK  
UNITED STATES MAGISTRATE JUDGE