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DECLARATION OF DOUGLAS M. MILLER

I, Douglas M. Miller, hereby declare as follows:

1. I am an Assistant United States Attorney for the Central District of California. I am one of the prosecutors assigned to the matter of United States v. Enrique Faustino Aguilar Noriega, et al., CR 10-1031(A)-AHM.

2. On June 27, 2011, I discovered that I had failed to turn over FBI Special Agent Susan Guernsey's October 14, 2010 grand jury testimony despite having been previously ordered by the Court to do so. As I explained to the Court that day, my failure to turn over the transcript was not intentional or designed to hinder the defendants' ability to prepare for trial. Rather, it was a serious mistake for which I sincerely apologize.

3. Agent Guernsey appeared before the grand jury on four separate occasions (Sept. 8, Sept. 15, Oct. 14, and Oct. 21, 2010). Her first and second appearances were in connection with the return of the original indictment. Her third and fourth appearances were in connection with the return of the first superseding indictment. My examination of Agent Guernsey during her first appearance (Sept. 8) lasted approximately two hours and produced an 85-page transcript. Agent Guernsey's second appearance (Sept. 15) was primarily to present the indictment (i.e., confirm the allegations were true and correct to the best of her knowledge). She was only asked a few remaining questions by the grand jurors. The second appearance lasted approximately 20 minutes and produced a 17-page transcript. Agent Guernsey's third appearance (Oct. 14 -- the one I failed to turn over) did not begin until 4:19 p.m. As a result, I was only able to ask

1 Agent Guernsey introductory questions before ending the
2 proceedings approximately 20 minutes later (4:43 p.m.). The
3 third appearance produced a 19-page transcript. Agent Guernsey's
4 fourth and final appearance (Oct. 21) began with Agent Guernsey
5 going back over her testimony from her third appearance. She
6 then completed the rest of her examination. The fourth
7 appearance lasted approximately three hours and produced a 77-
8 page transcript.

9 4. This case moved at an incredibly fast pace, and
10 involved intense motion practice that started almost immediately.
11 The case required that I focus my attention on a myriad of
12 different and often pressing issues all at once. However, it was
13 never a part of the government's original trial strategy to call
14 Agent Guernsey as a witness.

15 5. On January 24, 2011, the Court ordered me to file a
16 copy of Agent Guernsey's grand jury testimony in camera after the
17 defendants filed a Brady motion seeking those materials. The
18 Court said it was not going to read the grand jury testimony or
19 make any decision as to whether it needed to be turned over until
20 the defendants could make more of a showing they were entitled to
21 it. On January 27, 2011, I filed Agent Guernsey's two lengthy
22 appearances before the grand jury on September 8 and October 21
23 with the Court, but failed to file or recall her brief
24 appearances before the grand jury on September 15 and October 14.

25 6. The next time I can recall focusing on Agent Guernsey's
26 grand jury testimony was in March 2011, when I asked Agent
27 Guernsey to review her grand jury testimony to find any
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1 statements that she made to the grand jury relating to the
2 defendants' motions to suppress their statements. On March 24,
3 2011, I turned those statements over to the defendants.

4 7. On March 25, 2011, the defendants asked the Court to
5 order that all of Agent Guernsey's grand jury testimony be turned
6 over, not just those statements related to the suppression
7 motions. That same day, the Court ordered me to provide another
8 copy of Agent Guernsey's grand jury testimony to the Court so
9 that if she testified at the suppression hearing the Court could
10 determine if her grand jury testimony needed to be disclosed.
11 When a second copy of Agent Guernsey's grand jury testimony was
12 being prepared, I realized that I had not included the September
13 15, 2010 grand jury testimony in the January 27, 2011 in camera
14 filing. On or about March 28, 2011, I provided the Court with
15 Agent Guernsey's September 8, September 15, and October 21 grand
16 jury testimony.

17 8. On April 13, 2011, the defendants filed a motion to
18 compel the production of all of Agent Guernsey's grand jury
19 testimony based on the excerpts they had received on March 24,
20 2011. On April 15, 2011, before the government filed its
21 opposition to that motion, the Court ordered me to turn over all
22 of Agent Guernsey's grand jury testimony by the end of the day.
23 On April 15, 2011, I provided the defendants with copies of the
24 same binder I had provided to the Court on or about March 28,
25 2011, which contained Agent Guernsey's September 8, September 15,
26 and October 21 grand jury testimony.

27 9. On April 20, 2011, the government called Agent Guernsey
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1 as a witness at trial. I had no involvement in Agent Guernsey's
2 preparation as a witness.

3 10. On June 27, 2011, Mr. Handzlik contacted me via
4 telephone and asked me for a transcript of the comments I made to
5 the grand jury on October 14, 2010. As Mr. Handzlik was
6 explaining to me why he wanted the transcript, he was having
7 trouble finding a statement I made during Agent Guernsey's
8 October 21, 2010 grand jury appearance. Mr. Handzlik told me he
9 would find the statement and call me back. After Mr. Handzlik
10 hung up the phone, I began reviewing the comments Ms. Mrazek made
11 to the grand jury on October 14 to see why Mr. Handzlik would be
12 calling to ask for the transcript post-trial. I noticed that Ms.
13 Mrazek made reference to Philip Spillane and Agent Guernsey
14 testifying before the grand jury that day. After reading this, I
15 examined the area of my desk where I had stored all of the grand
16 jury testimony and other documents relating to this case, but did
17 not see any October 14 transcript for Agent Guernsey.

18 11. I then contacted one of the grand jury clerks in my
19 office to see if Agent Guernsey had, in fact, testified on
20 October 14 and, if so, whether I had received the transcript.
21 The grand jury clerk confirmed that Agent Guernsey had testified
22 before the grand jury on October 14 and that a 19-page transcript
23 had been provided to me. Upon confirming this, I began a more
24 thorough search of my desk, including searching areas where I had
25 stored the grand jury transcripts for other cases. I eventually
26 found Agent Guernsey's October 14 testimony underneath several
27 documents relating to an entirely different case. When I found

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1 the transcript, I immediately provided it to Mr. Handzlik and
2 filed a copy with the Court.

3 12. I declare under penalty of perjury under the laws of
4 the United States of America that the foregoing is true and
5 correct to the best of my knowledge and belief. Executed this
6 4th day of September, 2011, at Los Angeles, California.

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9 /s/ Douglas M. Miller
10 DOUGLAS M. MILLER

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DECLARATION OF NICOLA J. MRAZEK

I, Nicola J. Mrazek, declare as follows:

1. I am a Senior Trial Attorney in the Department of Justice, Criminal Division, Fraud Section. I am one of the attorneys assigned to the prosecution of United States v. Aguilar, et al., CR 10-1031(A)-AHM.
2. On October 14, 2010, I attended grand jury proceedings in connection with the aforementioned case. The original plan for our allotted grand jury time that day was to present a lay witness and Special Agent Susan Guernsey. However, because of time constraints, the day was nearly finished when the testimony of the lay witness was complete.
3. I know from review of the grand jury transcripts for that day that Agent Guernsey was presented to the grand jury and gave an introduction to the case over the course of approximately 20 minutes. To this day, however, I do not have an independent recollection of her testifying. I do not know why I do not have a recollection of this testimony and can only suggest that the testimony was, brief, repetitious of previous testimony, and introductory in nature. I may have turned my attention to other matters.
4. It was never part of the government's original trial strategy to call Agent Guernsey as a witness. However, there was always a possibility her testimony would become necessary, as trials are inherently unpredictable. The government's position consistently with defense counsel was that if the government ever decided that Agent Guernsey would be called as a witness, her grand jury testimony would be produced.
5. The government's trial strategy had not changed when the Court ordered the production of Agent Guernsey's grand jury testimony to the defendants. Assistant United States Attorney Douglas M. Miller was the prosecutor who had received the grand jury transcripts and was in charge of their disclosure. I did not know that only three of four transcripts were produced. From my discussions with AUSA Miller, it was my understanding that he promptly disclosed the all the grand jury testimony as ordered. There was never any discussion by anyone about withholding any transcript. Every conversation I have had with AUSA Miller and all others involved in this case leads me to believe that the failure to disclose the transcript was completely inadvertent.
6. After the disclosure of the then-known transcripts of Agent Guernsey's testimony, because of certain Court rulings and defense decisions, the government decided to call Agent Guernsey for the limited purposes of providing an additional link in the chain of custody for the admission of certain documents from the Lindsey Manufacturing search warrant and attesting the authenticity of the records received via subpoena from Lindsey Manufacturing.
7. My preparation of Agent Guernsey was quite brief because the decision to call her was made toward the end of trial and there were many pressing matters occurring simultaneously. We did discuss portions of her grand jury testimony referenced in

defense pleadings DE 458 and DE 463 but did not go through the three transcripts I had copies of in full. I did not realize that another transcript existed. Agent Guernsey never gave any indication that she knew another transcript existed, and, to my knowledge, she did not know that another transcript existed at the time of her testimony.

8. The failure to disclose this transcript, while unintentional and inadvertent, was also a serious mistake. I deeply regret that I did not do more to keep track of the grand jury testimony that was given and ensure that all transcripts were produced as ordered.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

DATED: September 4, 2011.

/s/
NICOLA J. MRAZEK

DECLARATION OF JEFFREY A. GOLDBERG

I, Jeffrey A. Goldberg, declare and state as follows:

1. Since 2003, I have been an Assistant United States Attorney with the United States Attorney's Office for the Eastern District of New York. In 2008, I became a Senior Trial Counsel. On January 18, 2011, I began an extended detail with the Department of Justice's Fraud Section (and specifically with the Foreign Corrupt Practices Act Unit) in Washington, D.C. At or around that time, I was assigned to participate in the trial of United States v. Aguilar, et al., 10-CR-1031(A)-AHM.

2. I had no involvement in the Aguilar case prior to January 2011, and I had no role in maintaining the related grand jury transcripts. I also had no role, specifically, in the mid-trial production to the defendants (on or about April 15, 2011) of Special Agent Susan Guernsey's grand jury testimony. The Aguilar trial concluded on May 10, 2011. On June 27, 2011, I was informed by my colleagues that an October 14, 2010 transcript of grand jury testimony by Agent Guernsey had been identified, and that the transcript had not been previously disclosed to the defendants. Prior to being informed of this development, it was my understanding that all of Agent Guernsey's grand jury testimony had been disclosed on or about April 15, 2011. Indeed, none of my colleagues ever said or did anything to indicate an awareness on their part that some of Agent Guernsey's grand jury testimony had not been disclosed at that time.

3. During trial, after the government decided to call Agent Guernsey as a witness, the responsibility for preparing Agent Guernsey for her testimony was undertaken by my colleague, Nicola J. Mrazek. My involvement in that effort was mainly limited to one short meeting during which I asked Agent Guernsey some of the questions that I expected she would be asked on cross-examination. At no time during that meeting — or at any other time — did Agent Guernsey ever say or do anything to indicate an awareness on her part that some of her grand jury testimony had not been disclosed to the defendants on April 15, 2011.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief. Executed on this 4th day of September, 2011, in Washington, D.C.

/s/ Jeffrey A. Goldberg

Jeffrey A. Goldberg