UNITED STATES OF AMERICA

Before the

SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

AUGUST 12, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-15764

In the Matter of

GARY L. MCDUFF,
Respondent

DECLARATION OF GARY L. MCDUFF

I, GARY LYNN MCDUFF, do hereby declare under penalty of perjury, in accordance with 28 USC § 1746, that the following stated facts are true and correct, and further that the facts in this affidavit are based on my personal knowledge of the events and occurrences stated herein.

1. I was born on October 17, 1954 in Baytown, Texas. I presently reside in Beaumont, Texas at the Low Security Federal Prison on Knauth Road.

2. From 1977 to 2012 I worked in residential subdivision development and private banking.

3. I attended college for two years after graduating high school. I once held a Texas license to sell life insurance (1991-1993). I have held no other state or federal licenses of any type.

4. In 2001 I was employed by Secured Clearing Corporation which was owned by Terrance de'Ath of London, England (now deceased). I was not an owner of any stock in that

company. Mr. de'Ath sold his shares to Sir George Brown of Belize in 2005. Mr. Brown retained me as an employee until his death in 2007 when the corporation ceased operating. I was a Director of Secured Clearing. (Director as in manager, not as in Board of Directors.) RX 33, p.14-40780.828 ¶ 25-26, RX 34, RX 35.

5. In late 2002 Mr. de'Ath, through Secured Clearing Corporation, advanced venture capital to Gary Lynn Lancaster to form a Fund that was completed on March 17, 2003. Mr. Lancaster was employed as a Private Wealth banker in the Trust Department of US Bank in La Jolla, California when he was first introduced to me in 2001 by one of his trust clients, Lynn Hodge. RX 26, GLM Exhibit 63.

6. Mr. Lancaster represented to me that he held multiple securities licenses and had over twenty years of business experience. I introduced Mr. Lancaster to Mr. de'Ath.

7. Mr. de'Ath instructed me to ask Mr. Lancaster to fly to London for meetings where they would negotiate the terms of a business agreement. I did not attend that meeting or any other business meeting with Mr. Lancaster and Mr. de'Ath. See Norman Reynolds deposition excerpts referenced in the brief. See (RX 62)

8. The result of the London meeting, was that Mr. Lancaster would form, own, and manage the Lancorp Financial Fund Business Trust (Lancorp Fund) using venture capital provided by Mr. de'Ath's Secured Clearing Corporation. RX 33 ¶ 9 of p. 14-40780.822. (Hereinafter referred to as Lancorp Fund I.)

9. I was never an officer, director, employee, trustee, agent, owner, "control person" or "associated" with the Lancorp Group, the Lancorp Fund I, Mr. Lancaster or any entity owned, managed, operated or controlled by Mr. Lancaster. See Quilling June 15, 2016 Hearing testimony transcript and DOE Tabs 36 and 37 generally.

10. I was never authorized by Mr. Lancaster to represent the Lancorp Fund I nor did I represent Lancorp Fund I in any capacity. See Lancaster's depositions. DOE Tab 36 and 37.

11. I never had signature authority over any Lancorp Fund I accounts or Lancorp Group accounts of any type, or any other entity owned, managed, or controlled by Mr. Lancaster, nor were any Lancorp funds ever under my custody or control. I never received any Lancorp funds. I never transferred any Lancorp funds. I never possessed any Lancorp funds. I never had any fiduciary obligation regarding Lancorp funds.

12. I was not authorized by Mr. Lancaster to distribute Lancorp Fund I Subscription Agreements and Private Placement Memorandums (PPM) nor to accept money from prospective investors/subscribers on behalf of the Lancorp Fund I, therefore, I did not.

13. I did not know where Mr. Lancaster held bank accounts for the Lancorp Group or Lancorp Fund I other than US Bancorp Piper Jaffray reflected in the Lancorp Fund I Memorandum.

14. I do not recall seeing a Lancorp Fund I check, nor did I see Mr. Lancaster sign a Lancorp Fund I check.

15. I do not recall seeing Mr. Lancaster's signature on any check for the Lancorp Fund I or for any entity which Mr. Lancaster owned, controlled or was employed by.

16. I never visited the Lancorp Fund I offices or any office of any company owned, operated, managed or controlled by Mr. Lancaster, other than my initial meeting in 2001 with Mr. Lancaster at US Bank, La Jolla, California, where he was employed.

17. The Lancorp Fund I began, as I understand it, accepting investor subscriptions on March 17, 2003. All subscribers' money was held in escrow until May 14, 2004 when the first

shares of Lancorp Fund I were sold and the Fund went effective. (See ONESCO cases - referenced in the brief.)

18. Robert Reese contacted me by telephone after the Lancorp Fund I had been completed. That would have been in July of 2003. Approximately four months after Mr. Lancaster began accepting subscriptions for Lancorp Fund I shares. He introduced himself as a financial planner with a number of long-time clients he advised regarding their investments. And that Mr. de'Ath's associates in London, Alan White and S.S. Gangar of the Chartered Accountancy firm of Dobb White & Co., had suggested he call me to ask questions about my knowledge of Mr. Lancaster's newly formed Fund (the Lancorp Financial Fund Business Trust I formed March 17, 2003), his professional reputation and how to contact him to get more information. I answered his questions based on my past meeting with Mr. Lancaster at U.S. Bank. I had been advised by U.S. Bank representatives, Mr. Lancaster's co-workers, and supervisors, that he was their (U.S. Bank) representative and expert involving high net worth clients in U.S. Bank's La Jolla office (RX 26). I advised Mr. Reese the basis of my answers. I am certain of when Mr. Reese first contacted me for the following reason. De'Ath provided the start-up capital to Lancaster for Lancorp Financial Fund Business Trust I (Lancorp I) because it was anticipated the refunds from Overseas Development Bank & Trust CDs would be maturing and those proceeds would be invested in the Lancorp I. These were proceeds that belonged to Mr. de'Ath's clients. However, due to Overseas Development Bank & Trust going into receivership and settlement taking two years, funding for Lancorp I would be delayed. That is why Mr. de'Ath sent one of his investors Robert Reese to inquire of me what I knew about Lancaster. The investors came from Robert Reese to invest into Lancorp I. Other than personal family friends of myself (parents, uncles) and others they (my family and friends) are the only

ones I told about Lancorp I. Mr. Lancaster had expected funds to be directed to him from each ODBT depositor within 90 days. If Mr. Lancaster failed to launch the Fund I and go effective within the time specified in the PPM, he would be required to return all the subscribers money and close-down the Fund I permanently. To alleviate that potential problem for Mr. Lancaster, Mr. de'Ath called on Mr. White and Mr. Gangar to encourage their investment advisor clients in the U.S. and ask them to consider directing their clients to Mr. Lancaster's Lancorp Fund I. One of those persons was Robert Reese. That is how and why he first contacted me.

19. The extent of my relationship with Mr. Reese consisted of him calling me from time to time in 2003-2004 to ask me questions his clients asked him about the Lancorp Fund I. Since most of his questions were legal in nature, I directed him to Mr. Norman Reynolds who was legal counsel for the Lancorp Fund I from approximately February 2003 until approximately July 2004. Subsequently to that time he dealt with Lancaster directly. See emails, RX 54.

20. I did not know Mr. Reese, prior to the calls from him in 2003-2004, nor did I know any of his clients or the means by which he acquired them.

21. In 2001 I was introduced to Frances Lynn Benyo by Rev. Levoy Dewey, when I was employed by Overseas Development Bank & Trust. Ms. Benyo instructed her broker; Retirement Accounts, Inc. (RAI) to purchase a CD from that bank after I told her how to contact the bank. Her CD matured in 2002 and her money was returned to her broker RAI. See RX 2, 3, 5, and 6.

22. My next communication with Mrs. Benyo was in March 2003 over the telephone. My father, John McDuff, had been a friend of Levoy Dewey for almost 50 years. My father told Levoy Dewey, also a minister, about his investment into Lancorp Fund I and advised that Levoy might be interested. Levoy contacted Ms. Benyo directly. Ms. Benyo told me that Levoy

Dewey had contacted her directly and recommended that she call me to find out how to reach Mr. Lancaster and obtain information about the Lancorp Fund I. I told her how to contact Mr. Lancaster, and what documents she could expect to receive from him. I provided her with the names of the documents based on what Mr. Lancaster had sent to my parents when they subscribed to purchase Lancorp Fund I shares. See RX 41, 42 and 43.

23. I did not know when Ms. Benyo invested in the Lancorp Fund I or how much she invested.

24. I did not provide Ms. Benyo with any Lancorp Fund I documents in person, by mail, fax, email or any other means. I did tell her that only Mr. Lancaster was permitted to send her such information.

25. Ms. Benyo did call me and confirm that she had contacted Mr. Lancaster, who answered her questions to her satisfaction sufficiently for her to decide to invest with him. I did not have any further communication with Ms. Benyo until after Mr. Lancaster notified her that the Lancorp Fund I had been placed in the hands of a Receiver.

26. My last telephone contact with Ms. Benyo was in 2006. Ms. Benyo confirmed that Mr. Lancaster had distributed a memo to all investors advising them that he had been ordered to cease all communications with Lancorp Fund I investors and instruct them to contact the Receiver Michael Quilling.

27. I discovered in late 2013 that Ms. Benyo had invested directly in the Megafund on recommendation of Rev. Levoy Dewey. RX 41.

28. Personal friends and neighbors, Kevin and Salena Herring, introduced me to their relative Jay Biles. In February 2004, Mr. Herring arranged for Mr. Biles to meet me at a restaurant in Houston. The Herrings were aware of my 1993 conviction. In 2003, perhaps from

reading the website or we may have told her directly, we informed all our social friends about the government's conduct as it related to me. See RX 17, 46 and 47.

29. Mr. Biles' questions of me were similar in nature as those asked by Ms. Benyo. I told him what I knew of Mr. Lancaster's background and how to contact him. I never met with or spoke to Mr. Biles after the first meeting referred to above. He did not recognize me at the criminal trial.

30. I did not know if, when or how much money Mr. Biles invested in the Lancorp Fund I, until I saw the Receiver's investor lists in late 2013 and early 2014 (post criminal trial).

31. Until late 2013 I was unaware of the 21 ONESCO cases. Pursuant to my understanding the 21 United States District Courts made findings that no shares of the Lancorp Fund I dated March 17, 2003 were sold before May 14, 2004, and all such sales were executed by Mr. Lancaster. O.N. Equity Sales Co (ONESCO) was the broker-dealer that employed Lancaster at the time.

32. I received no commission from the Lancorp Fund I directly or indirectly in relation to the sales of Lancorp Fund shares.

33. Through a private investigator in 2014 I confirmed that Mr. Lancaster was listed as an Investment Advisor Representative on the NASD-FINRA website holding multiple securities licenses, during the times when Lancorp Fund I shares were sold, and that the SEC had not revoked those licenses until August 10, 2006 by the NASD District No. 4 Department of Enforcement. RX 67.

34. Based on Mr. Lancaster's representation to me in 2001, I believed that Mr. Lancaster was a holder of multiple securities licenses one of which was that of an Investment Advisor under his series 65 license. RX 67.

35. My next to last communication with Mr. Lancaster by any means was a telephone call in early 2006 when he informed me that the SEC and the Receiver had ordered him to cease talking to all his Lancorp Fund I investors including me because I was employed by Secured Clearing Corp and Mr. de'Ath who had invested venture capital into Lancorp Group to form Lancorp Fund I.

36. On June 7, 2006, I moved to Cuernavaca, Mexico (near Mexico City) to continue my employment with Secured Clearing Corporation.

In 2008, the SEC filed a civil complaint against me, Robert Reese and Gary Lancaster claiming we were jointly liable for Lancorp Group's loss to Megafund of Lancorp Fund I money ($9,365,000.00). Both Gary Lancaster and Robert Reese called me in Mexico, where I had been living and working since June 2006. They informed me of the suit filed against all three of us. Lancaster informed me that he had not been in contact with me since the Megafund closure because Michael Quilling had instructed him not to speak to me. He made it clear to me that he felt betrayed by the SEC and Quilling for designating him as a victim of the Megafund from 2005 to 2008 and receiving his full cooperation - then turning on him in 2008 claiming he was a perpetrator of the fraud along with Stan Leitner, James Rumpf and Bradley Stark - when he was clearly not. He told me he could no longer speak to me or Mr. Reese. That was the last time I spoke to Mr. Lancaster. Prior to that phone call, I had not spoken to Mr. Lancaster since the last quarter of 2005, or first quarter of 2006.

Upon learning of the SEC filed complaint (3:08-cv-526-L) I contacted David Deaton at the Jackson Walker Law Firm and requested that he make copies of all the documents given to Norman Reynolds by Mr. de'Ath when Mr. Reynolds flew to London to meet him in 2002. Mr. Deaton informed me that Mr. Reynolds had taken all those documents with him in 2003 when he

left the Jackson Walker Law Firm and moved to the Glast, Phillips & Murray Law Firm. The only document Mr. Deaton could locate was the electronic version of the Avenger Fund and the Cash Management Agreement Mr. Reynolds and he had worked on together for Mr. de'Ath in 2001 and 2002.

I contacted Norman Reynolds, at the Glast, Phillips, & Murray Law Firm, and told him what Mr. Deaton had said about the documents I needed to send to the SEC to clear up their obvious misunderstanding of the truth - who, what, when and where - in relation to the Lancorp Fund I business model source being Mr. de'Ath (deceased) and not me. Mr. Reynolds told me that he had not taken any of the documents related to Mr. de'Ath's projects from the Jackson Walker Firm when he left because Mr. de'Ath had not said he wished to change firm representation. All he took was his work product on The People's Avenger Fund and the Lancorp Fund I of 2003 because he was hired by Mr. Lancaster (and not Mr. de'Ath) to work on those entities, and Mr. Lancaster had elected to follow him to the new law firm. Mr. Reynolds speculated saying it was possible that the Jackson Walker Firm may have destroyed any documents he left behind.

Mr. de'Ath died at age 77 in 2008. With Mr. de'Ath no longer living and both attorneys - Deaton and Reynolds - who had done work for Mr. de'Ath's Secured Clearing Corporation - telling me they no longer had the documents which I needed to send to the SEC as proof that the allegations were wrong, I could see no way to present a clear and incontrovertible defense. The attorneys for MexBank had no understanding of U.S. laws and suggested the matter be presented to someone trained in U.S. law for guidance. A client of MexBank (Wayne Bevan) visiting Mr. Trejo and Mr. Noriega suggested they turn the matter over to Gordon Hall. Gordon Hall was

contacted and asked to travel to Mexico City to meet with the MexBank lawyers and myself. Mr. Hall brought law professor Jack Smith with him. This took place in 2010. See RX 68.

Gordon Leroy Hall from Arizona, and Jack Smith from Ohio traveled to Mexico City to meet with the Chairman, CFO and attorneys for MexGroup (formerly MexBank). The meeting lasted for three full days. I was present for all three days. The purpose for the meeting was to discuss the best way to resolve the legal matters brought against me by the SEC, which also mentioned MexBank in the U.S. Court filings.

I was asked to explain to Hall and Smith my past efforts to obtain proof [from the Jackson Walker Law Firm in Houston (attorney David Deaton) and Glast Phillips & Murray Law Firm in Houston (attorney Norman Reynolds)] why they had created the 2003 Lancorp Fund I, for Mr. Lancaster. I explained how my (deceased) boss Terence de'Ath had extended venture-capital to Lancaster to form that Fund and how its business model had been adopted from a "Cash Management Agreement" (CMA) created in 2000 by the Washington DC law firm of Covington & Burling for Citibank and a New York brokerage firm named Emerging Market Securities. And how the Lancorp Fund was intended by Mr. de'Ath to provide Mr. Lancaster a means by which he could accept retirement money from ERISA approved trustees and then use that money to participate in underwriting syndications, or security sales for a fee or profit. Mr. de'Ath also agreed to have his network of financial planners direct their clients to Mr. Lancaster. Mr. Lancaster could - as a Fund Manager - then join the pre-existing group of money managers whom Mr. de'Ath coordinated syndication participations for.

All of the documents given to attorney Norman Reynolds by Terrence de'Ath explained these matters in detail. Upon Mr. Reynolds' return from England with those documents, I met with Mr. Reynolds several times as he used them to construct the 2003 Lancorp Fund I for Mr.

Lancaster. Mr. Reynolds had already constructed a larger Fund (named Avenger Fund) for Mr. de'Ath and Mr. de'Ath sent me to Mr. Reynolds' office often in relation to matters involving the Avenger Fund.

The business idea as I understood it was that the 2003 Lancorp Fund I was to be a junior fund to the larger Avenger Fund and together they would participate in syndications to earn fees and profits due to each syndication member, coordinator and offeror.

In late 2004, Mr. de'Ath sold his shares of Secured Clearing Corporation to Sir George Brown in Belize City, a retired Chief Justice of the Supreme Court of Belize, knighted by Her Majesty, Queen Elizabeth II. As an employee of Secured Clearing, I had a new boss to take instructions from. One of the first things Mr. Brown did was to sell Secured Clearing's venture-capital repayment rights owed to it by the Lancorp Group (owned by Mr. Lancaster) to MexBank in Mexico City (owned by Eduardo Trejo) and purchase 1% of MexBank's common stock.

As of January 2005, the Lancorp Group had made no venture-capital repayments via profit participation to Secured Clearing Corporation or any other party associated with Secured Clearing. Secured Clearing Corporation had an initial (2003) 50/50 profit participation plan which Mr. Lancaster negotiated with Mr. de'Ath to a 60/40 in Lancaster's favor. Secured Clearing never participated in any Lancorp profit before selling those rights to MexBank in 2005. Mr. Lancaster further negotiated a 35/65 in his favor related to his venture-capital repayment obligation which had been vested from Secured Clearing to MexBank. See DOE Tab 44 and 45.

I explained how MexBank had received its 35% share of Lancorp Group earnings. Those two months' payments came from Megafund. Megafund had misrepresented its legitimacy entirely. The misconduct of the Megafund operator and its contract partners had brought the

SEC, IRS and FBI into the mix. Men named James Rumpf and Bradley Stark, whom I knew nothing about, were blamed for the losses of Megafund and Lancorp money.

After hearing me tell the history of the events I was aware of, Eduardo Trejo told them of the agreement he had reached with Sir George Brown in late 2004 which resulted in Secured Clearing Corporation getting 1% ownership of MexBank and MexBank getting the (venture-capital repayment via profit-sharing) rights in Lancorp Group from Secured Clearing Corporation. And that for reasons never presented to MexBank, the SEC and the Lancorp Group receiver, appointed by the federal court on recommendation of the SEC, had wrongly concluded that MexBank and myself were somehow aware of whatever wrong was done by Mr. Lancaster and Mr. Leitner. And finally that the COO for MexBank (Adolfo Noriega) had sent the SEC a formal notice in 2006 offering to assist them in the Megafund investigation in relation to freezing any money it had received from Megafund, but the SEC never responded to that offer. RX 16

It was 2010 and both Terrence de'Ath and Sir George Brown had died of natural causes related to age. Mr. Trejo told me that with the passing of those men, his knowledge base of the specific type of syndications they had many years of experience in was lost to him. He (Mr. Trejo) had experience in property lending and private banking, not financial syndications. Mr. Trejo wanted to know how to defuse the SEC and the U.S. Attorneys office in Plano Texas from prosecuting me for conduct of others I did not know or was not aware of and had no control over. He said he simply wanted to know how to set the record straight and end the misunderstanding by the SEC so the criminal and civil charges against me would be dropped. And so that the SEC would be properly informed as to the contract reason MexBank had received profit participation from Lancorp Group legitimately. Mr. Trejo expressed concern that all the efforts on MexBank's part to help had been rebuffed by the SEC. He told them that he had even paid the expenses of a

private investigator - Stephen Coffman - to travel to the SEC Fort Worth Office and present the facts accurately. I do recall him saying that Mr. Coffman had even requested the SEC send him a subpoena so that his statements would become part of the investigative record and contain accurate information about Gary L. McDuff and about who owned MexBank. To my knowledge, Mr. Coffman went to the SEC offices under subpoena and gave a statement or sworn deposition. However, I have never been provided with a copy of it. At that time, DOE attorney Julia Huseman was conducting the investigation of the Megafund matter. RX 69.

After hearing the history and facts outlined above, Gordon L. Hall and Jack Smith (who had been recommended to MexBank by someone that knew Sir George Brown before his passing) proposed a remedy. For three long days they presented what they described as the doctrine of "offer and acceptance" protected by private contract law rights vested to every U.S. citizen by the Constitution. Their counsel to me and to MexBank was persuasive in theory. It was like nothing I had heard before. It sounded unconventional to me, but they insisted it was done in commerce all the time and fully recognized by the U.S. Treasury. Holding themselves out to be - not lawyers or attorneys - but trained in the practice of contract law as protected by the United States Constitution. They explained that a U.S. citizen (me) could offer a private bond-backed by my promise to pay - to the plaintiff in any civil or criminal action, as consideration to set-off and settle any claim by the government, which by statute declares that the penalty for a violation is either "a fine; a term of imprisonment; or both." That by offering to pay any charge (allegation) with a bond presented to the plaintiff and provided the plaintiff retains the bond tendered - and does not return or reject it - then the legal binding principles of "offer and acceptance" control, and any obligation between the parties is by law deemed "discharged, set-off and settled."

To support their proposal, they allowed me to contact one of their clients in Austin, Texas, by the name of Don Robinson who had followed their advice and used his private bond to settle a criminal charge against him. He told me that the "a fine" language in the criminal statute is what allowed him to offer to settle with the government by paying the "fine" with his private bond, instead of being subjected to "a term of imprisonment, or both." Mr. Robinson made it very clear to me that the AUSA on his case was not interested in the facts of the case, but very interested in the settlement offer which was accepted. He tendered his private bond to the CFO of the court (as I too later did) who kept it, and an in camera hearing with the judge and prosecutor followed where he was released without serving a prison term or supervised release. He had a conviction though. And according to him the private bond is what had ended the controversy and settled the case. He told me he had followed Mr. Hall and Mr. Smith and Mr. Brandon A. Adams' instructions not to argue or contest anything. But instead to steadfastly stand on the private settlement agreement he had completed by tendering the unrejected bond as payment to the plaintiff (the United States of America).

Those men explained to me that because I was a U.S. citizen, I had the ability to settle the entire matter as a "third-party-intervener" regardless who was actually liable. And that by doing that I would be acting in honor and not dishonor. They told everyone in attendance for those three days that - not Mexican citizens but - U.S. citizens like me, could discharge any debt owed to or claimed by the U.S. government by presenting them with a private bond equal to the claim/charge including any interest due. And by doing that the claim against me by the SEC and United States of America would be paid in full. As would any debt owed by any other party named in the complaint and indictment. To do this, they would charge me $32,000 USD. They would process it all through the Court of International Claims Arizona Division, conducted by a

member adjudicator of the International Adjudicators Association (IAA). The documents they produced reflected Brandon Adams and Benton Hall as the IAA adjudicators for the civil and criminal case. They sent me documents to sign. I returned them signed and they filed them with the courts.

Mr. Hall and Mr. Smith and Mr. Adams assured me that because the civil and criminal courts had kept and not rejected the private bonds I gave each court that these matters (cases) (charges) had been settled and I would be "discharged" (released) without any further obligation in either case. Things did not go as they assured me they would.

The courts did not acknowledge the receipt of the private bonds I sent them. They did nothing in response. They did keep them though. The bonds were not returned to me. It was Mr. Adams who told me not to be concerned. The settlement agreement had conveyed to me a power of attorney by the plaintiff (the United States of America Department of Justice) to execute any "order" necessary to discharge any further obligation on my part to the plaintiff, because my paid and accepted (plaintiff-kept) bond had paid-off and settled the claim owed to the plaintiff. The only thing that needed to be done was to file a "motion to dismiss" the indictment signed with permission of the representative of the plaintiff. Mr. Adams explained that the settlement agreement had been reached with Eric Holder as attorney for the plaintiff. And part of that settlement was the granting of a specific and limited power of attorney to execute any document necessary to discharge set-off and settle the claim/charge against me. Mr. Adams provided me with the documents to send to Eric Holder informing him that the authority to execute the motion to discharge/dismiss via POA would be used unless he objected to me doing it that way. Three notices were sent certified mail to Mr. Holder per Mr. Adams' instructions. When no objection came back, I filed the supplied motion to dismiss. I was fully persuaded by Mr. Adams, Mr.

Hall, and Mr. Smith that I had properly obtained legal permission to sign the motion to dismiss. The deficiency of the legal basis touted by Hall, Smith and Adams, which they convinced me to follow has become glaringly apparent. It was not the law. It is not the law. And its only effect was to cause me to not participate at all in the criminal proceedings resulting in a conviction for something I did not do, nor have the power to do. They themselves have since been charged and convicted for dispensing bogus defenses and misapplications of the law for substantial legal fees to others like myself who believed them also. RX 28.

37. I discovered post-trial in 2014 that the records maintained in Washington, D.C. headquarters of the SEC reflected that Gary Lancaster filed the appropriate Form D filing with the SEC for Lancorp I as verified to me verbally by attorney Norman Reynolds in 2003 when he confirmed same to Mr. de'Ath. See Lancaster's FORM D filing. RX 27.

38. I discovered in post-trial (March 2013) "discovery" that Mr. Lancaster had formed a second Lancorp Fund in June of 2005. I had no knowledge of its creation or any of the activities it engaged in or persons involved with that Fund. It was named Lancorp Financial Fund Business Trust II. In review of DOE evidence and criminal trial evidence provided by the DOE I discovered that Quilling had only identified Lancorp Fund II (which was not associated with me) in the criminal trial. I only knew about Lancaster forming Lancorp Fund I. Lancorp Fund I was filed with the SEC. Lancorp Fund II was not filed with the SEC according to SEC and EDGAR filing databases. (Searches conducted by Kyle Kemp, *esq*. and Shiloh McDuff - mailed to me.) RX 54.

39. I discovered during trial (March 2013) that Mr. Lancaster had created a Cash Management Agreement dated August 31, 2005 I had never seen and was unaware of its existence. Post-trial I discovered the SEC had taken depositions wherein Mr. Lancaster

confirmed he, without assistance of anyone, created several of those "Agreements" using the documents created by attorney Norman Reynolds as a template.

40. I discovered in post-trial (March 2013) that the June 1, 2005 Lancorp Fund II PPM and the August 31, 2005 Cash Management Agreements, which I had no knowledge of, were used in conjunction with transactions Mr. Lancaster engaged in with entities contracted with or owned or controlled by Robert Tringham, whom I did not know and was unaware of his existence. RX 48.

41. Upon being taken into custody on May 24, 2012, and transported to Fannin County Jail in Bonham, Texas (the Sherman Division, Eastern District of Texas Federal District Court hold-over pre-trial facility) I was arraigned and ordered detained pending trial. Approximately two weeks prior to trial an FBI agent (Mr. Smith) delivered a binder containing the exhibits the government intended to rely on at trial. I looked through the binder and noticed it contained no transcripts of anyone I knew to be involved in the Megafund or Lancorp Fund. It contained uninformative documents that shed no light on what government witnesses would say about me.

42. On February 21, 2014, the Commission mailed to me, at the Fannin County jail, the Order Instituting Proceedings.

43. On March 11, 2014, another letter from the DOE was mailed to me C/O Fannin County Jail where I was being held on the related criminal case. It offered to allow me to inspect and copy the DOE's files related to this matter, provided I did so at the SEC Fort Worth, TX Office. The letter offered no provision to allow me to see the files myself unless I could get myself there. I was incarcerated and unable to attend that office and inspect the files. No offer to bring the files to me was made by the DOE. GLM Exhibit 1.

44. On July 7 and 8, 2014, the DOE allowed my mother, Vivian McDuff (age 83), to attend the DOE Fort Worth offices in my stead to examine the DOE investigative files consisting at that time of "16 legal boxes, containing thousands of pages and additional stacks of transcripts." Though she examined the files on my behalf, she did not have the necessary understanding of relevant matters to know what documents were exculpatory and needed for my defense.

45. Again, I contacted David Deaton with the Jackson Walker Law Firm and asked him to search for something I knew he would have kept because Mr. de'Ath hired him (not Reynolds) to do a special opinion of the Texas banking laws. Mr. de'Ath requested an opinion on what was required to open an administration office in Texas that provided no commercial banking services to its customers. Mr. Deaton remembered. On searching his archives, he found that opinion as well as ALL the documents he previously thought Mr. Reynolds had taken with him when leaving the firm. Those documents provide the accurate history of where the Lancorp Fund I business model originated BEFORE I became involved with Mr. de'Ath, Secured Clearing Corporation, First Global Foundation, Value Asset Management, Southern Trust Company, Belize, or anyone involved prior to 2000. It is my understanding that Mr. de'Ath had semi-retired in 1996 from a 30-year banking career specializing in fixed income product syndications. The Jackson Walker Law Firm has been the custodian of these records, opinions and transaction documents since 2002 to present, and that fact is confirmed in Mr. Deaton's affidavit. See RX 37, 37-A with Exhibits A-O.

46. On July 10, 2014, DOE attorney J. L. Frank sent a letter to my mother informing her that the documents she had "marked for copying" had been redacted. GLM Exhibit 2.

47. On July 20, 2015, the DOE mailed me a copy of its "DOE_SUPP_APP" pages 001 through 443 which it filed with the ALJ court in support of its Motion for Reaffirmance of Summary Disposition after Remand. It contained documents, or versions of documents I had never seen or been provided prior to that by the SEC, U.S. Attorney's Office or the DOE.

48. From the time of my May 2014 arrival at the BOP FCC Beaumont (LOW) prison, I have encountered consistent disregard for receiving (or sending) any legal documents in or out of this facility. I have also been punished multiple times for - receiving legal mail sent to me by my family (as I am *pro se*); possessing my legal documents in my cubicle (3-man cube) in a locker approved by the former warden; possessing plastic storage boxes containing my legal papers - given to me by my Unit Manager to keep under my bed; and asking to make a legal call to my appellant attorney who had formally requested me to be allowed to make a legal call on that day. In all I was sanctioned a total of eleven months by an oppressive Counselor (Mr. Landry). He took away my - telephone, email, visitation, and commissary. In addition, he moved me into the punishment cell/cub #17 for 11 months and 20 days. That cell is opposite the toilets used by 150 men 24 hours a day. The attached "Appendix" to my Declaration identified as "Exhibit GLM-4" contains the BOP forms (BP-8, BP-9, BP-10, BP-11) required by the prison to follow their administrative remedy procedure. They chronicle each incident of the BOP which hindered my ability to access the courts and present a full and fair defense in the civil, criminal, and DOE follow-on proceeding. All my proceedings were and continue to be at some stage of the appeal process. All BOP appeals were resolved in my favor. My civil and criminal matters have had and continue to have relatively parallel filing schedules which require me to work on three separate defenses in three separate courts, for the same conduct, simultaneously, while being incarcerated - with limited access to relevant case law or assistance. All the incident

reports (BOP lingo is "shots") levied against me were appealed and the evidence presented to the warden, regional and central offices of the BOP supported my defenses and they were eventually expunged. However, in each incident, I was fully punished and served out the sanction imposed before each expungement was rendered on appeal. I was punished and then declared innocent, each time. See GLM Exhibit 4, consisting of 175 pages of BOP administrative procedure exhaustion over the past two years, and all related to my criminal appeal, civil appeal, and this hearing.

49. On 9/17/14 and 12/1/14 respectively, BOP Counselor Landry - against written BOP policy - prohibited me and appellant attorney Kyle Kemp from exchanging legal papers or notes. Thereby rendering the visits void of any ability to advance my defense. That denial prevented me from showing or examining case documents and post-trial discovery crucial to my appeal.

50. Following the non-constructive legal visits by Mr. Kemp and the filing of my formal complaint against Counselor Landry for his non-compliance with BOP legal visit policy, he prevented me from receiving copies of the court-certified Record-on-Appeal from the district court which I needed to prepare my appeal brief. My criminal case had two parallel appeals. One, a direct appeal which attorney Kemp was appointed to prepare; and, the other a non-direct appeal or interlocutory appeal which I was prosecuting pro se. I needed the district court record to assist attorney Kemp with the direct appeal and for my preparation of the interlocutory appeal which the 5th Circuit designated me as acting pro se, thus placing the burden on me to prepare that brief. Three weeks later, I was finally provided with the district court record. During that time, the Deputy Clerk of the 5th Circuit Court of Appeals consolidated the two appeals No. 14-40780 & 14-40905.

The dates of the incidents and the BOP incident numbers are:

- #2629726 Unauthorized legal boxes 9/14/14 - 10/24/14
- #2621646 Abuse of legal mail 10/01/14 - 12/01/14
- #2692751 Unauthorized use of a locker for legal paperwork 03/16/15 - 06/16/15
- #2692752 Possession of pillow 03/16/15 - 06/16/15
- #2692753 Unauthorized use of BOP envelopes for legal mail 03/16/15 - 06/16/15
- #2723048 Requesting a legal call 06/17/15 - 07/17/15

Each of these resulted from my diligent efforts to obtain, review, and prepare legal papers related to the civil and criminal proceedings on appeal. The sanctions were imposed when the staff members who had "authorized" me to have/use these items were on vacation or relocated to another prison. During the process of my appeal of each incident, those staff members were contacted by regional investigators who overturned the sanctions, only after I had served them in full. See GLM Exhibit 4, consisting of 175 pages of administrative procedure exhaustion consuming two years and all related to BOP frustrated appeal preparation.

The two Counselor-thwarted legal visits took place on Sept. 17, 2014, and Dec. 1, 2014, respectively in the legal-visit area of the visitation hall of Beaumont, Texas FCC (LOW) security prison. GLM Exhibit 4.

51. Following my "write-ups" against Counselor Landry for his oppressive treatment of my legal efforts, my Unit Manager D. Sorrels informed me that Mr. Landry had rallied other Unit-Team members in my housing unit to place me on a "hate-list" and therefore I would need to "watch-my-back." GLM Exhibit 4.

52. In January of 2015, Vivian McDuff (my mother) made a written request of Janie Frank for copies of specific documents from the investigative file my mother had been unable to locate that I needed to file in this administrative proceeding motion for summary disposition.

Ms. Frank denied her request stating that she had already provided all that she was required to provide. See Vivian McDuff affidavit. GLM Exhibit 3.

53. After the 4/22/2015 Commission's Remand of the Initial Decision, ALJ Elliot ordered the DOE to make the investigative file available to my family for inspection and copying so that I may use whatever materials from those files I maybe need for the Hearing, which was finally fixed for June 15 and 16, 2016.

54. My mother had a serious auto accident and her neck was broken. She was placed in traction. She was rendered unable to travel to the DOE offices to inspect and copy the files. She arranged for my son, daughter, and a private investigator to take off from work for three days to go do what my mother could no longer do for me. On May 19 and 20, 2016, my son Shiloh McDuff, daughter Christa McDuff and former federal agent and current private investigator J. Stephen Coffman went to the DOE Fort Worth, Texas offices to inspect the investigative file on my behalf. Christa McDuff went back again on May 23, 2016 to finish inspecting and copying the remaining files that were not able to be copied before close of business on the 19th and 20th. It took them three days to inspect approximately 50,000 pages and copy approximately 6,000 pages leaving some 2,000 pages to be copied by a copy service used by the DOE near their office. In discussions with the paralegals who have assisted me in preparing this brief, it is obvious to me that those remaining 44,000 pages have 1,000's more that are relevant to my cases and I request the opportunity to have a copy service copy the entire file to be delivered to me. While at the DOE offices inspecting the investigative file (consisting of 16 boxes) Mr. Coffman noticed that the boxes and files were all identified with markings naming Bradley Stark, James Rumpf, Stanley Leitner, Gary Lancaster, and Robert Reese as what appeared to him as being the DOE's method of labeling as the "targets" of the investigation.

Missing from those files and boxes was any section devoted to or identifying Gary Lynn McDuff as being a similar target or even a person of interest. I was on the telephone listening to Mr. Coffman ask Janie Frank why none of the investigative files were labeled "Gary McDuff" as a "bad guy" or person of interest like the others were. Ms. Frank responded saying that their interest in me came from the work product of lead agent Ron Loecker and receiver Michael Quilling. I was on that call for six hours as Mr. Coffman, my son and daughter, over DOE office speaker-phone, described the files they were locating for me so that I could (blindly) tell them which ones to copy and send to me. During that call I asked Ms. Frank to please provide Mr. Coffman with the contact details for Mr. Loecker, Mr. Quilling, Mr. Biles and Ms. Benyo so that he could interview them prior to the hearing. She told me she would not do that. Her only obligation was to allow inspection of DOE files and she would do nothing beyond that point.

"Sequence of events which hindered my ability to be adequately prepared for the AP hearing."

a) On May 8, 2016, dorm guard Watson refused to unlock the storage room and allow me access to my legal documents needed for hearing preparation. I requested her to unlock the door at 8:30 AM and waited until 3:30 for her to unlock the door. As she passed by it, I was standing there waiting and asked her again. She told me she was busy and I would need to ask the next shift officer to unlock it. Which I did. Officer Chatham came on duty and at 4:30 PM after the 4:00 PM count, he unlocked the door and at my request timed how long it took me to get my legal boxes out of the room. It took 35 seconds.

b) On May 12, 2016, Mr. Sorrels agrees to items "1), 2), 5), and 7)" of my May 9, 2016 Inmate Request to Staff form - for items and assistance I needed to prepare for the June hearing. See GLM Exhibit 5.

c) On May 13, 2016, Mr. Sorrels reversed his May 12th approval of "5) and 7)" and informed me that prison attorney Tina Hauck would be responding to request no. "8)". GLM Exhibit 5. That she had instructed him to deny me inmate assistance in my unit where my legal documents and work table was kept.

d) On May 16, 2016, I filed my declaration and motion to dismiss the Administrative Proceedings for BOP court-access denial because prison attorney Tina Hauck had:

i. denied my Unit Manager approved trial preparation work area,

ii. denied legal assistance from paralegal trained inmates in my trial preparation work area, located in my dorm, which is significant because of time limitations, and because it is where all my legal papers are. Had the inmates willing to help me prepare for the hearing been allowed to come into my dorm where my case documents and transcripts could be viewed by them, and remain there with me during the day for the few weeks prior to the hearing, I would have been properly prepared to present a much more cogent defense at the June 15th/16th Hearing. My cross-examination of DOE witnesses would have been more effective in impeaching their testimony. Furthermore, if the six boxes of documents from the DOE investigative file had been allowed in by the BOP pursuant to Counselor Landry's original instructions, I would have had sufficient time to construct a trial brief, containing vast amounts of newly discovered exculpatory evidence from the DOE files, with the help of legally trained inmates, that would have been as on-point with the broker-dealer issue as my post-hearing opening brief.

iii. denied assistance from my family or anyone else at the trial/hearings, and

iv. denied copying of legal papers for court filing or trial use be made for me by BOP staff unless I paid $0.15 per copy.

v. denied my request for unmonitored legal calls to interview witnesses or have trial strategy conversations with private investigator, Mr. Coffman, or anyone else. GLM Exhibit 6.

e) On May 21, 2016, a storm caused the transformers to the prison to short out. They were destroyed and had to be replaced. That would require them to be custom built which would take months. [As of August 12, 2016, my building (living quarters) is still operating on portable generator power.] Routine and perpetual power outages leaves the dorm in complete darkness. This facility

had no generators on hand which kept everyone in total lockdown until the 23rd of May when rented generators could be brought in. I was unable to do any preparation for the hearing in the darkness.

f) On May 24, 2016, portable storm generators arrived and the law library was opened. My May 9, 2016 Inmate Request to Staff listed items was approved by my Unit Manager and the head of the Education Department (Mr. Sorrels and Ms. Robinson). Included in that approval was permission for me and several paralegal trained inmates to use the law library from afternoon closing until the 8:00 PM recall when all inmates are required to return to their respective housing units for the evening. See GLM Exhibit 7.

g) At 7:20 PM on May 24, 2016, an inmate raced to the law library where I was working on the hearing preparation. He was frantic as he told me that the night guard (M. Michaels) was in the recycle trash room where my work-table and legal papers were laid out. And that he was destroying all my legal papers by pouring gallons of water on them and into the 12 boxes containing them. In all about 14,000 pages were destroyed beyond salvage because he proceeded to stuff them into a large military duffle bag in their soaking wet condition causing them to disintegrate like toilet paper. No logical reason was ever provided as to why he had done that act of destruction. He had seen me working in that spot for at least two weeks. He was a guard (new) I did not know and had never spoken to. He had no reason to dislike me and we had never had any conflict whatsoever. Other inmates informed him before he destroyed my papers that I had permission from BOP staff to be in that spot to assemble my defense paperwork in preparation for the June hearing ordered by ALJ Elliot. OIG investigators asked me "who" I thought might have told him to destroy my paperwork? I told them I had no idea and the only parties I was aware of that could benefit from it was the government prosecutors and their related interested persons. See GLM Exhibit 8 which is the Formal Complaint the SIA-OIG investigator asked me to submit to him, and a Declaration by eye-witness to the destruction of my legal papers by night guard Michaels. David McMasters is but one of dozens who witnessed the incident. If the ALJ desires, many more inmates who watched will provide their Declarations to verify the deliberate conduct of the officer. See GLM 9

h) Wednesday, May 26, 2016, the law library was closed until 6:00 PM and opened until the 8:00 PM recall.

i) On Friday evening, May 27, 2016, Unit Manager Sorrels contacted education director Robinson with instructions to inform me and the paralegals helping with me that the prison attorney (T. Hauck) and the Captain had overridden Sorrels and Robinson's decision to allow me evening use of the one small room in the library. The reason given was because the "union" for the guards prevented any guard from any duty (checking on me in that room once each hour) unless extra pay was requisitioned for that temporary task. That task consisted of the common areas on the 4:00 PM to 11:00 PM watch, to walk by once and look through the window to make sure we were doing legal work and not clowning around. The word to me was: "Court order or no court order - no officer is going to be asked to let you in and out of that room each evening unless the court, the SEC, or someone pays for that extra duty."

j) On May 28, 2016, there was an 8:30 AM early recall for unexplained reasons which kept us in all day lock-down, thus affording me no access to the law library or assistance.

k) May 30, 2016 was Memorial Day. The library was closed for the holiday. Again no assistance possible.

l) May 31, 2016, DOE attorney Janie Frank and prison attorney, Tina Hauck, came to my dorm and inspected my trash recycle room work area where the guard had destroyed my legal papers and exculpatory evidence from overseas. One of the inmates who had witnessed the guard destroying my papers tried to tell Ms. Frank what he had seen but Tina Hauck and Counselor Landry prevented him from speaking about it to her. GLM Exhibit 9.

m) At 7:35 AM on June 1, 2016, I requested Counselor Landry to call the mail room and ask them to locate the 6 boxes containing my copies of the DOE investigative file mailed to me according to the exact instructions given by him to my son. Mr. Landry was very aware of those documents being mailed in to me. It was discussed by me, him and Ms. Frank the day before while she was here. See GLM Exhibit 10 and RX 1, the email from my son informing me that the 6 boxes had arrived at the prison on May 28th, before the Memorial Day weekend. Mr. Landry refused to call the mail room. With only 14 days remaining before the scheduled hearing, I went to the Captain (Joel Martinez) at 7:50 AM and asked for him to call the mail room since Landry had refused. He told me he could, but it was Landry's job and he should do his job, and if he didn't he (the Captain) would "write him up." The Captain told me he would speak to Landry and his boss Mr. Sorrels about it and I should wait until I was called. I

was never called. From 8:30 to 10:20 AM Ms. Robinson allowed me to use the education department copy machine in her office to make copies of the papers I had been able to salvage and dry following the guard's deliberate attempts to destroy them. From 2:30 to 4:00 PM, Mr. Sorrels made copies in his office of the remaining damaged (salvaged) papers. I sorted them out in the law library from 6:00 PM to 8:00 PM. The six boxes were not given to me. They were in the mail-room though. RX 1.

n) At 6:25 AM on June 2, 2016, there was another power outage. Total lock-down all day. No lights to read or write by.

o) On June 3, 2016, replacement generators were rolled in, but the entire compound remained in total lockdown. The six boxes had not been given to me on that day either. They had been sitting in the BOP mail room waiting for Counselor Landry to get them for six days. Due to Counselor Landry's refusal to alert the mail room of the urgency on the expectancy of them - the boxes were returned to my son on 6/6/2016. See RX 1.

p) On June 7, 2016, ALJ Elliot issued an Order granting "McDuff's request that members of the public be permitted to assist me at the hearing." It was my understanding that the Securities and Exchange Commission Rules of Practice required the hearing be a "public hearing" and that members of the public must be allowed to attend. GLM Exhibit 11.

q) On June 8, 2016, prison attorney Tina Hauck sent a letter to DOE attorney Janie Frank informing her that the six boxes had been returned as "unauthorized" because they were marked as "special mail" and mailed in by my son (who was not an attorney), and because I had not followed "Bureau policy" of using an "Authorization to Receive Package or Property" form (PB-A0331). It did not seem to matter to staff, particularly Counselor Landry, that the procedure for mailing those 6 boxes to me had been prescribed in detail by Mr. Landry and followed exactly by my son. See GLM Exhibit 12 and RX 1, emails to me.

r) On June 7, 2016, DOE attorney Frank sent an email to my son informing him that the prison staff told her I had failed to submit a "Package Authorization Form" required to get the 6 boxes cleared through the prison mail room and delivered to me via my Counselor. I would need to obtain the signature from Mr. Sorrels (my Unit Manager) on the form(s). My son sent that email to me. GLM Exhibit 13.

s) On June 9, 2016, ALJ Elliot modified his June 7, 2016 Order after receiving a copy of the letter sent to DOE attorney frank by prison attorney Hauck. The modification consisted of making it clear that I would only be allowed preparatory assistance from other inmates and hearing assistance from certain members of the public if those individuals were present at the hearing. Provided only if that request did not violate the rules or procedures of FCI Beaumont and all his requests would be subject to those rules. GLM Exhibit 14.

t) On June 7, 2016, I obtained 6 'Authorization to Receive Package or Property' forms and had Mr. Sorrels sign them. I mailed them out to my son to place in each of the 6 boxes and mail the boxes back to the prison (causing a second cost of $185.00 to him for the instruction blunder of Counselor Landry. GLM Exhibit 15.

u) On June 9, 2016, I was on four "call-outs" so that from 10:30 until 3:00 PM I was unable to do any hearing preparation work (Call-out required the inmate's attendance or face disciplinary punishment.) GLM Exhibit 16.

v) On June 14, 2016, at 10:21 AM I received an email from my son informing me that the six boxes with the BOP Forms inside had been tracked online and showed as being delivered at 8:06 AM that morning. I took the email to Counselor Landry and asked him to please call the mail room and request they assist him in getting those boxes to me as soon as possible so I would have at least one day to look through them prior to the Hearing scheduled for the next day. Mr. Landry replied; "I am not calling the mail room." I protested and reminded him of the urgency and that I would have had them two weeks prior had he not provided the wrong mailing-in instructions to me and my son. He refused to answer me. Ignored me completely. GLM Exhibit 17.

w) On June 14, 2016, at 4:21 PM, my son forwarded to me an email from the DOE Janie Frank informing him that the individuals I wanted to attend the 15th and 16th Hearing to assist me in the hearing were not on my approved visitors list and their submission had not been made to the prison in time for the BOP to approve them (Stephen Coffman, Christa McDuff and Ashley Joyner). And that he (Shiloh) would be admitted because he was already on my visitors list but not the others. GLM Exhibit 18. I had been asking Mr. Sorrels and Mr. Landry for over a month prior what procedures needed to be followed for those people to be approved and allowed in to sit with me at the defense table and assist me. Each time they said it was a decision being made by "legal," referring to prison attorney Tina Hauck. Every time I asked Mr. Sorrels told me he had not

heard back form Ms. Hauck. I tried several times each week before the hearing to obtain specific instructions on how to get those persons approved to assist me according to ALJ Elliot's order, but no instructions were provided to me until I received a copy of this email and the letter sent by Ms. Hauck to Ms. Frank on June 8th. Such late instructions left no time for the BOP to approve them. I was told by Mr. Sorrels that if Ms. Frank had instructed him or Mr. Landry to approve them, it could have been done in a matter of minutes. GLM Exhibit 18.

x) On Wednesday morning, June 15, 2016, members of my family tried to attend the hearing and provide me with the assistance I needed in presenting my defense. They were all relatives who were on my approved visitation list, and had been long before the hearing. However, BOP staff at the entrance denied their entrance and turned them away. They telephoned others who were driving to the prison - who were also on my approved visitors list - to turn around and go back home because they would be denied entrance. See GLM Exhibit 19 - Declaration of Vivian McDuff; and see Exhibit 21 - Declaration of Walter Robbins. Exhibit 22 is an email of a list of persons who wanted to attend, expecting it to be a "public hearing."

y) On June 15, 2016, at the conclusion of the first day of the Administrative (public) Hearing, pursuant to the AP File No. 3-15764 Order Initiating Administrative Proceedings, I informed ALJ Elliot that the six boxes containing the DOE investigative file documents I urgently needed for the hearing had arrived for the second time here at the Beaumont prison mail-room. I requested that ALJ Elliot ask BOP staff to please go to the R&D mail-room and get the six boxes so that I may at least have them to review prior to court convening again the next morning. ALJ Elliot stated that Mr. Sorrels was present and heard my request and the matter was in the hands of the prison officials. Court adjourned about 3:15 PM. At approximately 3:45, I was escorted by Mr. Sorrels where the six boxes were sitting in a canvas mail cart. By 4:00 PM I had the six boxes of documents consisting of six large ring-binders - filled with approximately 1,000 three-hole punched pages in each binder. I spent the evening reviewing the contents as quickly as I could before (mandatory) lights-out at 10:30 PM. There was an abundance of never-before-seen exculpatory evidence that would have impeached every government witness at my criminal trial or, in the alternative, substantially strengthened my direct appeal. It would have equally overcome the SEC allegations in the underlying civil case.

z) Nineteen days after the hearing, on July 5, 2016, I received an email informing me that the last two boxes of the DOE investigative files had

been delivered to the prison mail-room. Those two boxes had been sent to the DOE outside copy service when my son, daughter, and Stephen Coffman had spent three days examining and copying files to a high speed scanner. At 7:00 PM on that third day being a Friday (of my family's attendance at the DOE offices), it was decided that the last two boxes should be sent to a copy service trusted by the DOE to be copied and mailed from there directly to me. Upon the arrival at the prison, they were rejected and returned before the hearing in the same fashion and for the same reason as the prior six boxes. They too had to be resent with the special BOP form inside. They did finally arrive, but 19 days after I needed them. Important documents found in them have been incorporated into the post-hearing brief and this Declaration. See GLM Exhibit 23. Upon their arrival, I asked Counselor Landry to contact the mail room and insure the boxes would not be returned or refused yet again. He refused. I went to Mr. Sorrels and he called the mail room who instructed him to tell me to listen for a call over the public address system to go to the R&D mail room to get the boxes. SEVEN days later (July 12, 2016) I was called to R&D to collect the boxes, where they had sat since the 5th. See GLM Exhibit 24.

aa) On July 8, 2016, I asked my son to send Janie Frank an email informing her that the transcript of the June 15th and 16th hearing she mailed to me (that arrived on July 8th) was missing the 2nd day altogether. I had been waiting on it since June 21st so I could begin preparing the post-hearing brief. At the conclusion of the hearing, ALJ Elliot asked the court reporter when he would have a transcript of the hearing ready. The reporter responded saying that the DOE had that morning requested him to have it ready within five days. If the DOE received it five days later, I should have received my copy on or near that same time. However, my copy of the first day transcript arrived some 14 days after the DOE presumably received their copy. Still needing the 2nd day hearing transcript, I asked my son to find out from Ms. Frank when it would be sent to me. The time set by the ALJ to have my post-hearing brief filed was July 22nd, which was only a few days away. See GLM Exhibit 25.

bb) On July 12, 2016, the 2nd day of the hearing transcript arrived from Janie Frank and was given to me by BOP staff. GLM Exhibit 26.

cc) On July 13, 2016, with only nine days remaining for me to review the entire hearing transcript (both days) and the newly received 2,000 pages of DOE case documents, I finally had what I needed to construct the post-hearing brief, but very little time to construct it properly. I sent a letter to ALJ Elliot explaining how all my pre-hearing assistance had been taken away as soon as the

hearing concluded on June 16th and because my dorm was still operating on portable generator power (and still is as of August 12, 2016), with constant unexpected early recalls and lock-downs, I may need a filing date extension in order to complete the brief. See GLM Exhibit 26. ALJ Elliot responded by extending the filing due date to August 12, 2016.

dd) On July 13, 14, 15, 20, and 30, there were unexpected, early recalls. On August 1, 2, 3, 4, 5, 6, 8, 9, and 10, there were unexpected, early recalls. It is never announced as to why everyone gets called back to their housing units and locked down. It just happens. The constant result for me is that it brings my brief preparation to a halt for the remainder of the day. My legal work and the 8,000 pages of DOE investigative files are kept in a designated location in the law library. That is the only place I am allowed to have any assistance from (legally trained) inmates willing to help me construct a brief that properly addresses the issue(s) required by the Commission on remand. When early recalls (almost daily lately) occur, I am unable to access the materials kept in the library needed to work on completing the brief. I have no means to further it until the next day, or whenever the lock-down ends and I am allowed to return to the library.

ee) Upon my review of the complete hearing transcript and the Commission's ruling on my Rule 400 Motion, I prepared my brief.

ff) On a prior pre-hearing teleconference the ALJ denied my request to subpoena specific witnesses. I anticipated needing those witnesses to rebut the testimony and evidence presented by the DOE and their witnesses. Indeed, all those non-broker-dealer issues were raised by the DOE attorney's case-in-chief, creating the need for me to call my (anticipated but denied) witnesses in rebuttal. The witnesses who would not have been cumulative and who would have provided the ALJ with non-hearsay personal knowledge of the side of the story not revealed by the DOE, and whose testimony would have controverted the DOE witnesses and evidence mischaracterized are:

1. Vivian McDuff (one of the first Lancorp Fund I investors)

2. Rev. John McDuff (introduced Lancaster to Leitner)

3. David Taylor (Benyo's ODBT/IBT CD salesperson-broker)

4. Alan White (McDuff worked for Mr. de'Ath)

5. Shinder Gangar (he, not McDuff, recruited Reese)

6. Mike Steptoe (he, not McDuff, marketed CMA's to investors for Mr. de'Ath)

7. David Deaton (Lancorp Fund business model came from the year 2000 EMS business model which predated McDuff's involvement)

8. Michael Boyd (he, not McDuff, created the CMA product used by EMS and Secured Clearing)

9. Lynn Hodge (he introduced McDuff to Lancaster and Lancaster was a trusted, experienced banker and licensed investment advisor dealing with private, high net-worth clients of U.S. Bank and not "dumb as a box of rocks.") RX 63

10. Lance Rosenberg (he, not McDuff, negotiated the Citibank/Tricom investment Lancaster participated in using Lancorp money, and he, Rosenberg, did not know McDuff at all.) RX 36

11. Gregg Harris (attorney Aaron Keiter and Stanley Leitner assured him and everyone that the Megafund JV's were not securities subject to SEC guidelines.) RX 44

12. Gordon Brown (he, not McDuff, arranged for attorney Kenneth Humphries to send Lancaster an opinion letter confirming insurance protecting all money invested by Lancaster in Megafund.) RX 64

13. Sondra Martin Hicks (someone on the government prosecution team forged her signature on a victim statement falsely naming Gary L. McDuff as who introduced her to invest in Megafund.)

14. Stanley Leitner (that he told agent Loecker that Gary L. McDuff did not have any relationship with him or his

Megafund beyond being an investor separate and independent from Lancaster. And he dealt with Lancaster directly at all times regarding the Lancorp investment, never McDuff.) RX 52

15. Larry Frank (that he never knew McDuff, and on James Rumpf's instructions, paid Nationwide/ACE insurance premium of $50,000 to Bradley Stark to protect all money invested by Lancorp into Megafund.) RX 58, 58-A

16. Levoy Dewey (that he, and not McDuff, told Ms. Benyo about the ODBT/IBT bank CD product, the Lancorp Fund opportunity as well as the Megafund opportunity. That he routinely shared investment opportunities with Benyo. That Rev. McDuff, a friend for over 50 years of the Dewey family, often shared career updates of each other's children, including me.) RX 4-A, 4-B, 41

17. J. Stephen Coffman (that he traveled to Mexico and met with the principle officers and attorneys of MexBank, (Antonio Castro, Eduardo Trejo, Adolfo Noriega, Jesus Guarjado, Juan Harris, Irvin Navarette). That it was a private bank with a physical office in Mexico City, and that he was retained by Mr. Trejo to conduct PI work for the bank on persons and entities the bank was negotiating with to provide Mexican Union workers (CTM) with payroll debit cards. That Gary L. McDuff served as a compliance department contractor, but no position of authority.) RX 69

18. Kevin Herring (that he was aware of my 1993 conviction prior to introducing his relative, Jay Biles, to me. That my son, Shiloh, was the person who informed him (Herring) about the Lancorp Fund.) RX 46-A

19. Norman Reynolds (that he traveled to London in 2002 to meet with Terrence de'Ath who owned Secured Clearing Corporation, to obtain all the information and documentation he needed to create an EMS-type Cash Management Agreement and the Avenger Fund - People's Avenger Fund and Lancorp Fund I. That he dealt directly

with Mr. de'Ath on all important Lancorp-related decisions. That McDuff never gave any instructions or made any decisions. At most, he relayed them. That he, Reynolds, or his firm, did not construct or have any knowledge of Lancorp Fund II being formed by Lancaster in 2005.) RX 54, 62

20. Gary Lancaster (that I never asked to be, and was not, an officer, director, employee, sales rep, decision maker, control person, signatory, investment evaluator or any other capacity over his Lancorp Group, Lancorp Fund I, or Lancorp Fund II. That I did not employ him or pay him, nor did he employ me or pay me any salary, fee, or commission. That I knew nothing of Lancorp Fund II or the August 31, 2005 CMA's he created to conduct business with Robert Tringham whom I did not know.) DOE Tab 36, RX 61

21. Steven Renner (that the MexBank "white-label online portal" and v-cash accounts of MexBank, he made available via his company (CCI) were opened, owned, and controlled by MexBank, not McDuff. That the "know-your-customer" account records/documents are for Mr. Trejo in relation to MexBank, not McDuff.) RX 13, 13-A

22. Bradley Stark (that he, for $50,000, provided James Rumpf with a bogus Nationwide/ACE insurance policy to present to Stanley Leitner of the Megafund. That he did not, and does not know Gary McDuff, or any McDuff related to me.) RX 58, 58-A

23. Sue Dignon (that the EMS CMA account she provided custodian services over at Wells Fargo Bank from 2000 to 2003 conducted millions of dollars in transactions equal those described in the Lancorp Fund I PPM. That the transactions were a normal business activity in the fixed income product industry.) RX 37-A

24. Iain McWhiter (that he met Lancaster in London with Terrence de'Ath, attorney Colin Riseam and Mr. Gangar,

when Mr. de'Ath presented the venture-capital proposal to Lancaster to form and own a U.S.-based Fund to accept an existing client base whose monies were being released by Price Waterhouse from the closure of ODBT/IBT Bank in Dominica. That Lancaster accepted the proposal and agreed to a 50/50 profit sharing agreement once the Fund was up and generating income. That Gary McDuff had no part in those negotiations and was not present.) RX 32, 33

gg) On August 8, 2016, I sent a letter to DOE Janie Frank requesting her to stipulate to the corrections to the June 15th and 16th hearing transcript which I made based on my knowledge of what was said by each person present in the hearing. I asked her to agree or disagree so I would know whether to move for an order from the court to require the court reporter to correct the errors. As of August 12, 2016, she has not responded; therefore, I presume she objects and I will file a motion accordingly with the ALJ for a decision. See RX 71.

hh) On August 10, 2016, I received a BP-A0328 notice from A. Girouardin, the BOP Beaumont mail-room informing me that I had received an envelope from my son containing "Labels" and they were "Rejected and Returned" See GLM Exhibit 27. On August 9, 2016, I informed Unit Manager Sorrels that the labels were being mailed in so that I could properly label my post-hearing brief Exhibits being submitted with the brief and referenced therein. Mr. Sorrels instructed me to "get with him" the following day so he could inform the mail-room and "legal" (meaning Tina Hauck) to watch for the incoming labels "so they would not be rejected." BOP policy allows legal supplies to be mailed in. The envelope contained 100 yellow exhibit stickers/labels only. Upon my receipt of the return/rejected notice from the mail room, I took it immediately to Mr. Sorrels, who for the first time that day, arrived to his office. He sent an email to prison attorney, Tina Hauck, asking her to contact the mail-room and see if the labels were still there. If I need to, I will create makeshift labels and mail the exhibits to the court in that condition, which is my only alternative.

55. In expectation of receiving 8,000 pages of new evidence to use in preparation for the June hearing, I made a written request for the ALJ to require the DOE to cover the cost of copies being sent to me from their files I had never been able to see. I made the request because I am indigent and the district court and appellate court have both declared me as such. That request was denied by the DOE, thus placing the financial burden on my son, Shiloh, to pay that

cost, or forego the opportunity for me to ever see the investigative files of the DOE which may contain exculpatory evidence.

56. I submitted a BOP 'Inmate Request to Staff' form, known as a BP-8, requesting two tables, two chairs, a functional typewriter, stapler and remover, three hole punch, unmonitored telephone access to contact and interview witnesses and gather evidence, staff assistance to receive email attachments from the DOE, copying of documents needed for the hearing, uninterrupted access to mail, inmate assistance to prepare for the hearing, and permission for my daughter Christa, Mr. Coffman and his assistant to help me at the hearing with documents and evidence they located for me. See GLM Exhibit 5. My Unit Manager, D. Sorrels, met with Ms. Robinson from the education department and obtained approval for these requests. The ALJ had made a written request for this assistance by the BOP.

57. The education department made a room in the law library available for inmates with legal training to assist me in preparing for the hearing. We were allowed to be in that room in the evenings after the library closed until 8:00 PM. During the day, those inmates were allowed to come into the designated room of my dorm (trash recycle sorting room) where a table and chairs had been provided for me next to my boxes of legal papers stored under the 3' x 6' folding table. For three days the accommodations were made available without obstruction from any staff or guards. My hearing preparation progress was very constructive, for three days only. See GLM Exhibit 5 showing approved materials.

58. On the evening of the third day, May 27, 2016, Ms. Robinson and D. Sorrels told me that the prison attorney, Tina Hauck, had instructed them and the Captain over the guards, to deny me all that had been previously provided, except my table and work area (in the recycle trash room). No inmates were allowed to assist me at my designated working area in my dorm

(day or night) and we would no longer be allowed to use the law library after closing in the evenings until 8:00 PM. I would not be allowed to call witnesses on an unmonitored line, receive staff-assisted email attachments from the DOE, or be provided with copies at no cost. I could keep one table, a stapler and remover, three hole punch and a typewriter, and work on hearing preparation alone in the evenings. During the day, I could meet with other inmates with paralegal training in the law library, but they could not go into my dorm where my legal boxes were stored under the folding table workstation. It was impossible to carry all the boxes to the library on a 10-minute move, or back. Gathering documents/evidence from the boxes for the hearing preparation required access to all the boxes at once in order to locate the document or documents relevant to each witness who would testify. The cumulative effect of all this resulted in preventing me from preparing and presenting a clear and concise presentation of questions and theories, as well as proffers for evidence and argument thereon at the June 15 and June 16 hearing.

Declaration pursuant to 28 USC § 1746:

I, GARY LYNN MCDUFF, declare under the penalty of perjury that the above stated facts and the information therein are within my personal knowledge and are true and correct.

Dated: August 12, 2016

Gary Lynn McDuff