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6. Matthew and I returned from Ukraine on the last day of June 2002. We both repacked our travel belongings then Matthew and I immediately departed with the rest of my children on a family vacation. We had decided to spend the month of July traveling by vehicle. On July 1, 2002, we immediately drove south through Utah and then into western Colorado. Before leaving on that driving vacation on the first day of July 2002, I learned that Mr. Swisher, who had been in the hospital, was still in a coma from his heart attack.

7. Our first stop on this July 2002 vacation was at my parents' home in Ouray, Colorado, where we spent the Fourth of July holiday (there was a bit of a disappointment because the Ouray town fireworks were canceled due to a forest fire). Then we drove to Las Vegas, Nevada, where I raised my children until 1997. We stayed in Las Vegas for a week visiting friends and participating in tourist activities there and then drove to California to visit theme parks and various attractions there through the remainder of July 2002. We completed this driving vacation on the last day of July 2002 when we arrived in Boise, Idaho. My ex-wife and her new husband and his children also converged on Boise at that time. All of us went to a local area waterpark that day and spent the night in Boise. The next day we all drove back to Grangeville on August 1, 2002.

8. While I was out of Idaho and on that family driving vacation for the month of July 2002, I communicated daily with Geri Gray by cell phone about WaterOz. She kept me informed as to business developments at the factory. Occasionally, she mentioned the condition of Mr. Swisher's health and the possible need to replace his laboratory with another testing facility if his health did not improve. I learned that Mr. Swisher had an assistant, Mr. Doug Sellers, who was conducting lab tests when Mr. Swisher was not available.

9. By the end of July 2002, my understanding was that Mr. Swisher was so gravely ill from his heart condition that he would not have been able to come to WaterOz to meet with me or anybody else, which was contrary to his testimony on January 14, 2005 during the trial of my case (Federal District Court Case No. 04-cr-127-RCT). Because I was not at WaterOz during the entire month of July 2002, no meetings between Mr. Swisher and me did or could have taken place. Upon my return, I also learned that when Mr. Swisher collapsed in early June 2002 while on the phone with me, his condition was so severe that he was almost died and was immediately transferred to a high risk center at the VA Hospital, Spokane, Washington. I had considered finding another independent laboratory because Geri Gray and I both were concerned that Mr. Swisher might die from his ailments; so I often inquired as to his long term possibilities and learned from Ms. Gray that Mr. Swisher was considering a pacemaker to solve his severe heart problems.

10. On August 1, 2002, the day I drove back to Grangeville, Idaho, from Boise, I did not meet with or speak to Mr. Swisher.

11. On August 2, 2002, early in the morning, I took my children for a day of boating to Dworshack, Reservoir, which is a 1-1/2 hour drive, one way, from Grangeville, Idaho,

located near Orofino, Idaho and we returned very late in the day. I did not meet with or speak to Mr. Swisher on August 2, 2002.

12. On August 3, 2002, I departed from Idaho by commercial air carrier out of Lewiston on my way to Venezuela to purchase diamonds associated with a new business venture. I did not meet with or speak to Mr. Swisher on August 3, 2002.

13. I was gone from the State of Idaho for the rest of the month of August 2002 after I left on August 3, 2002 and I did not meet with or speak to Mr. Swisher during the entire month of August 2002.

14. Previous to using Northwest Analytical for laboratory testing of WaterOz products, I had submitted WaterOz product samples for testing to the lab at University of Las Vegas, Nevada. Geri Gray switched to Northwest Analytical in 2001. The cost of testing by Northwest Analytical was supposed to be cheaper and the down-time between submission of our sample and the receipt of test results was supposed to be less than at the UNLV lab. Since Mr. Swisher's results were faulty according to subsequent product testing by an independent laboratory engaged by the FDA and since his pricing was exorbitant, there was no actual savings; ultimately, it cost me more to do business with Mr. Swisher than if I had stayed with UNLV lab.

15. From June 2002 to November 2002, my interest in Mr. Swisher's recovery was strictly related to whether his lab could continue as the facility designated to provide the product testing services for WaterOz as an independent lab in order to verify that the content of my products matched the representations on my labels. The testing was to establish that WaterOz products complied with the laws related to accuracy in branding and labeling of products sold in interstate commerce as regulated by the FDA. I was interested in knowing whether WaterOz could rely upon Mr. Swisher, or if I should look elsewhere for an independent lab. I had no interest in Mr. Swisher's health issues or personal circumstances except as they may have affected the qualification of his lab to provide testing. Mr. Swisher was not a person I ever called a "friend." I had met him in person twice before the barbecue at Mr. Bellon's home in November 2002 and we had a business relationship. His only tie to me was as a vendor of lab testing services to WaterOz.

16. Because I was often traveling outside of Idaho and did not have time to meet with vendors, such as Mr. Swisher, I relied upon information provided by Geri Gray and other employees. There was a WaterOz employee who was designated as the "mineral maker," a man named Karl Waterman, alias "Chris Jon Paitreyot" who regularly made the half-hour drive from the factory to Mr. Swisher's laboratory to deliver products for testing. "Chris," (as Mr. Waterman liked to be called) had been delivering WaterOz products to Mr. Swisher's lab for over a year. As of August and early September 2002, Chris was supposed to be keeping current on information as to Mr. Swisher's ability to continue testing my products because of his regular visits to Swisher's lab. (See Affidavit of Joe Swisher dated January 3,

2003 attached as Exhibit A-15.) In the regular course of business, I relied upon Chris to give Geri Gray that current information and relied upon Ms. Gray to keep me up to date as I traveled.

17. It was represented by Mr. Swisher to Chris Paitreyot and Geri Gray that Doug Sellers, a lab assistant, was capable of conducting testing of WaterOz products on the equipment at Northwest Analytical. Mr. Sellers showed Chris the only piece of testing equipment in Mr. Swisher's lab which was a very old and outdated Perkin Elmer Atomic Absorption Spectrograph machine ("AA Machine"). It turns out that this old and outdated machine was not acceptable to the FDA and could not deliver the precise testing results that were needed. Extrapolations were needed to compare sample results obtained from this AA Machine with the newer technology used by FDA approved labs which were using an ICP machine. After I purchased my own ICP machine, Mr. Swisher attempted to extort \$12,000.00 from me by trying to pawn off his out dated AA Machine on me, as will be shown later. (Exhibit A-10)

18. During the period August 3, 2002 until November 2, 2002, I was away from the factory and out of the State of Idaho I relied upon my staff, including Geri Gray and Chris Paitreyot to effectively manage such matters as laboratory testing of WaterOz products in my absence. I had begun to feel confident in the ability of my staff to handle such matters which allowed me to stay away from the factory for longer periods of time to create new businesses.

19. As stated earlier, I left for Venezuela on August 3, 2002, returning to the U.S. after about ten days of investigating a new venture in the diamond business. From Venezuela, I went directly to Florida on or about August 13, 2002 where I attended a class in diamonds for two weeks.

20. By August 27, 2002, I traveled directly from Florida to Ukraine without returning to the factory or the State of Idaho; my passport shows the exact date of my arrival in Ukraine. Again, I stayed in touch with Geri Gray on a daily basis and, among other things, she indicated that the testing of WaterOz products was still being accomplished by Mr. Swisher's lab with Mr. Sellers often acting as our contact person.

21. When I returned to Ukraine in late August 2002 I met with physicians and officials who had expressed an interest in my ionized mineral products. A full schedule of appointments had been made by my translator, Roman Ponomarenko. I was to make presentations regarding my WaterOz products in numerous locations to various groups and because of the language barrier, I worked with Mr. Ponomarenko on a daily basis as we traveling between Russia and Ukraine attending these appointments. On or about the first of November 2002, I came back to the U.S. and Mr. Ponomarenko followed shortly thereafter to inspect the WaterOz factory in Idaho. (See Exhibit A-3, Affidavit of Ponomarenko.)

22. From August 3, 2002 until November 1, 2002, while I traveled outside the State of Idaho I had no meetings with nor did I speak to Mr. Swisher.

23. Even though Mr. Swisher testified that I met with him in "July or August" 2002 and supposedly at that meeting I solicited him to be a "hit man" to murder two federal officials and their families, it was impossible for such a meeting to have taken place given that Mr. Swisher was in a coma for at least part of the time and I was out of Idaho for most of that time as shown above. I did not meet with or speak to Mr. Swisher at any time during the months of July or August 2002 nor did I meet with Mr. Swisher at any other time to solicit him to murder the two above named federal officials or anyone else.

24. Also, in his testimony, I was accused of soliciting Mr. Swisher to torture-murder attorney Dennis Albers and family during the month of April 2002 (TR pps 995-996)

Since I was gone to Ukraine from Idaho in April 2002, as I was trying to find a suitable location for a bottling plant, it would have been impossible for me to have had that meeting or that conversation with Mr. Swisher. In fact, I did not meet with or speak to Mr. Swisher at any time during the month of April 2002 or at any other time to solicit him to murder Mr. Albers, his family or anyone else.

25. Because the prosecutors for the government in my case failed to notify me in advance of Mr. Swisher's testimony as to when and where it was that he claimed I supposedly solicited him to commit murder (see Case No. 04-cr-127-RCT, Superseding Indictment Dkt #37, Counts 7, 8 and 9 and allegations that "between about December 2002 and January 2003" supposedly I did "solicit, command, induce, and endeavor to persuade" EJS to kill federal officials), and because I did not learn until Swisher testified in trial when it was he said it took place in a meeting at WaterOz that I was supposed to have committed these crimes, I did not have the opportunity, in advance of trial, to prepare and present the above information in my defense. While I formally raised Alibi as my defense by motion before trial as required by Rule, which was denied, I was unable to anticipate what the exact testimony would be, therefore, I had no idea when it was that Mr. Swisher would state that I tried to solicit him.

26. The problem with Mr. Swisher's testimony is that he is a known sociopathic liar who regularly fabricates complex stories, such as when he sent my potassium product to an independent laboratory containing cyanide and falsely reported me as the source of the cyanide to the FDA (see Exhibits A-11 and A-13); also, he was prosecuted and convicted of forgery, perjury and theft of government property in Idaho Federal District Court, Case No. 07-cr-182-BLW. Because of the fictional story Mr. Swisher told about me in trial, asserting that I solicited him, which story was revealed for the first time when he was on the witness stand, I was unable to prepare a defense to the charge in advance of trial. My right to advance notice of exculpatory information under the Brady doctrine was violated, because it would have been exculpatory if I had known that Mr. Swisher would claim that I solicited him when he was in a coma or when I was not in the State of Idaho.

27. After Mr. Swisher testified in trial I told attorneys Nolan and Hoyt that I had been out of Idaho at the April and July-August 2002 times Swisher stated that I solicited him. (See information expressed in this affidavit such as when I was in Ukraine seeking a site for a bottling plant or in Venezuela or on vacation.) My attorneys were not able, during trial and with no advance notice of Swisher's claims under the Brady doctrine, to obtain and organize the information of my complex travel schedule in time for me to make a presentation and testify in rebuttal. Without the ability to introduce the December 30, 2004 letter by Colonel Dowling of the Commandant's office of the US Navy and Marine Corps demonstrating that Mr. Swisher was lying about being a decorated combat veteran, and because the jury had been conditioned to believe Mr. Swisher's every word as a decorated combat veteran; the government was allowed, without rebuttal, to present Swisher as a super hero to the jury whose credibility was unassailable and he could not be challenged unless the foundation of his claim to "hero" status could be undermined with his own military record. I was ambushed by false information that was fabricated by Mr. Swisher, a witness who had specialized in developing an elaborate fiction to support his false claimed status as a decorated combat hero. Mr. Swisher was highly skilled at lying under oath (as proven by Mr. Swisher's conviction in Idaho District Court Case No. 2007-cr-182-BLW). This is a man who was convicted of forging government documents, stealing money from the government and committing perjury, all of which was proven by the U.S. Government as shown in the subsequent trial of Mr. Swisher for fraud against the VA where he was convicted of these crimes using many of the same lies he used against me. If these were lies in Case No. 07-cr-182-BLW, then by the doctrine of collateral estoppel, in my 28 USC §2255 case now pending, these statements which previously were lies, also should be recognized as lies in this case. If Swisher's statements had no credibility in Case No. 2007-cr-182-BLW because he was convicted of making false statements, then his statements in my case also should not have been given any credibility.

28. While I was in Russia and Ukraine, I learned that Mr. Swisher had undergone open heart surgery on or about September 15, 2002, to implant a pace maker and, as he himself would later say, his condition was so serious and he was so critically ill, that he "died on the table." Mr. Swisher's health prior to September 2002 was filled with periods when he was in a coma or so critically ill that he could not get out of bed. Certainly, it would have been impossible for me, or anyone else to have solicited Mr. Swisher when he was in a coma or in the hospital critically ill and that is why, in support of my 28 USC §2255 motion I need to be able to subpoena Mr. Swisher's medical records. Once Mr. Swisher revealed in trial when it was that he claimed that I solicited him in trial, my attorneys did not have an adequate opportunity to subpoena his medical records that would have proven Swisher's complete and total disability at the very time that he claimed to have been solicited by me making it impossible for the alleged solicitation meeting to have taken place.

29. About his own health, Mr. Swisher reported the severe problems he was having in 2002, and his statement regarding his health and his open heart surgery on September 15, 2002 in his Affidavit that was signed January 3, 2003 (see Exhibit A-15, paragraph 11) makes it clear

that he was unavailable to receive solicitations to murder anyone as of that date, and, in fact, given the history, it is clear that his health history as would be shown in his medical records, leading up to that surgery, from June 2, 2002, clearly would be evidence that he was lying about being solicited by me in July or August 2002 and again in December 2002 or January 2003.

30. It was not true that Mr. Swisher was my "best friend" as he testified. Before the barbecue at the home of Richard Bellon in early November 2002, I had encountered Mr. Swisher twice in person, both of which were chance meetings, one in 2000 at the law office of attorney Britt Groom in Grangeville, Idaho the other at a restaurant. Then, I had spoken to him briefly on the phone in early June 2002. At the meeting in attorney Groom's office Mr. Swisher was very interested in my mineral products and what they might do for him. He explained at that time about his occupation and that he had performed assays of mineral samples for gold miners and that he had an Atomic Absorption machine in his laboratory. After that conversation, Mr. Swisher convinced Geri Gray that he could more efficiently test WaterOz minerals than the lab at UNLV. As a result she designated his lab for the purpose of testing my mineral products.

31. Other than the a chance encounter and the phone call in early June 2002 prior to seeing him at the home of Richard Bellon in early November 2002, I had not had any other meetings or other direct communications with him, and he was certainly not my "best friend," nor did I consider him to be a friend; he was little more than a stranger as a vendor of services to my company.

32. Other subjects that Mr. Swisher lied about on the witness stand include: 1) when he said I had previously given him \$500,000.00—which I did not— 2) that I had agreed to give him my three story office building that was under construction because, as Swisher claimed, I "didn't need it"—when that building was designed to be a call center for telephone sales and marketing personnel that I was planning to hire in connection with a telemarketing campaign I was about to launch; 3) he testified that I had agreed to give him a "Road Patrol" road grader—when I did not own a Road Patrol; 4) he said that I lived in a trailer—when my house was a six bedroom manufactured home, set on a concrete foundation with a walk-out basement, and I held fee simple title subject to a \$250,000 standard bank home mortgage that could never apply to a trailer. All of these lies were a part of Swisher's plan to create an atmosphere of familiarity in order to falsely convince the jury that he and I were "best friends."

33. Mr. Swisher's two most significant lies were the ones associated with his claims of combat heroism and that I had asked him to kill people because supposedly I knew he claimed to be a combat hero who had killed "many, too many". The combat heroism created the false impression in the minds of the jurors that he was a wounded and multi-decorated Korean Era, combat veteran who, as a hero, should command their respect so that they should believe in him and all the words that emanated from his lips on the witness stand. By



stating that he told me he had killed "many, too many" in combat, which he did not, he created the false impression that I was impressed with his combat record sufficient to motivate me to seek his service to kill federal officials. However, if the jury had been told the truth and knew that Swisher's claims of medals for heroism were false and that he never had the opportunity to share his claims of heroism with me, they certainly would not have believed that I solicited Mr. Swisher. Since Mr. Swisher was convicted of felony perjury, forgery and theft of government property for telling the exact same lies to the VA about his combat heroism, and those lies were used to fleece the US Government out of over \$100,000 in VA benefits, that conviction should now stand as collateral estoppel against any Swisher evidence being admitted in my case. If no Swisher evidence was to be admitted in my case, then the Swisher Counts would have to be dismissed. Swisher's motivation for lying in my case is connected to his need to keep up appearances to support the prior lies he told the VA in seeking financial benefits coupled with his own selfish purposes when he unsuccessfully tried to extort money and half of my WaterOz business from me. Let me emphatically state again that I never had any conversation with Mr. Swisher where I asked him to kill federal officials or anyone else and I had no idea that he claimed to have killed human beings until I heard his testimony in trial.

34. Other Swisher lies included the fact that, when Mr. Swisher took the witness stand, he wore a Purple Heart medallion which he was not entitled to wear, and was subsequently convicted of wrongfully wearing; but which he lied about in my case and produced a forged DD-214 on the witness stand to bolster his claim to rightfully wear such a medallion (see Swisher's subsequent conviction for wearing, among other medals, the Purple Heart, when he was not wounded in combat, see Idaho Case No. 07-cr-182-BLW ). Thus, his false portrayal of himself as a combat hero and his false portrayal of me as a depraved person seeking to have him torture innocent women and children was invented by Swisher out of thin air because those things never happened. I only had contact with Mr. Swisher on a few occasions, and he did not testify that I attempted to solicit him on those occasions; rather he chose to accuse me of soliciting him at times when it was impossible for us to have had such a meeting. He fabricated meetings that never occurred at times when I was out of the country or at least out of the State of Idaho and times when he was in a coma or deathly ill from his heart attack and with his medical records and my passport, it can easily be shown that such meetings could not have occurred. Mr. Swisher then said that at those meetings I supposedly demanded or even begged him to kill other human beings which never happened.

35. There were three times in 2002 that Mr. Swisher falsely claimed I approached him to kill people: the first was in April 2002 when I was in Ukraine, supposedly, I approached him to kill Dennis Albers and his family . (See TR, Pg 996-998); which, I did not do; but the effect on the jury of the false story that I wanted him to torture innocent women and children was so horrible and shocking that it had a "shock wave effect" on the jury. Programming the jury to believe Swisher implicitly and to believe the worst possible conduct from me was a very clever ploy for getting the jury to believe that I solicited Swisher to murder three federal officials. That I wanted Mr. Swisher to torture to death the innocent women and children in

the Albers family in front of Mr. Albers and that he was to be the last to die, having witnessed the death of his loved ones, was so very shocking that it caused the jurors to reach out to the trial judge with a note expressing their concern that I was mentally ill and to ask the court if they, the jury was to consider insanity. The jury was never informed that Mr. Swisher was an experienced liar and forger who had defrauded the government of over \$100,000 with similar lies. The jury was never informed that Mr. Swisher's statements were part of a vindictive plan of extortion, to steal from me as shown below. The jury was hoodwinked into believing the false and fraudulent story of Mr. Swisher, who it turns out is a sociopathic liar.

36. The second time I supposedly contacted Mr. Swisher to have him commit murder was when he testified that I solicited him to kill Assistant U.S. Prosecutor Nancy Cook and IRS Special Agent Steve Hines and their families, in July or August of 2002. (See TR, p. 1004). July and August 2002 was a time when Mr. Swisher was hospitalized either in a coma or was otherwise so sick he could not get out of bed from his heart attack; and July and August 2002 was a time that I was either on vacation with my children in either Colorado, Nevada and California or on a business trip, but in all events, I was not in the State of Idaho, which means that it would have been impossible for either of us to have participated in a meeting where I supposedly solicited him to murder others, per his testimony.

37. In December 2002 or January 2003, Mr. Swisher testified that I solicited him to kill the same prosecutor (Cook) and IRS agent (Hines), and their families as noted above and added Federal District Judge Edward J. Lodge. (See TR, pps 1005-1007). The meeting he described could not have happened because he was still too sick recovering from his heart attack, confined to a wheel chair, unable to climb the stairs to my second floor office and I did not speak to Mr. Swisher except by phone during that time. I had no meetings, in person, with him in either December 2002 or January 2003. My next phone call with him concerned the lab tests in Ukraine on December 27, 2002 to inform him that the tests on WaterOz products hand delivered by Mr. Ponomarenko showed no significant mineralization in the 22 samples (see Ukrainian Lab Report, Exhibit A-16).

38. Then on January 3, 2003, after I received a copy of his signed Affidavit (Exhibit A-15), I took his call, and he attempted to extort \$800,000 from me and a one-half interest in WaterOz; and when I did not agree to give him what he wanted and I had banished him from WaterOz for trying to blackmail me over the cyanide he put in the sample of WaterOz Potassium, he then commenced a campaign to cause me financial injury and damage. The first type of damage he tried to inflict was when he sent a sample of my product to the SVL Analytical Laboratory in Kellogg, Idaho, asserting that the product was being sold by WaterOz with cyanide in it (see Exhibits A-11 and A-14). Then, he tried to cause me further financial damage by printing up a number of invoices that fabricated fees for services he had never rendered with charges that he purported I owed to his Northwest Analytical totalling over \$5,000.00. Then he fabricated a contract that supposedly obligated me to purchase his old, out-of-date (technically deficient) AA Machine for \$12,000.00 in response to learning

that I had purchased my own ICP machine and I would now be doing all of my own product testing "in house" at WaterOz.

39. If I did not pay up the extortion money and sign over half of my business, Mr. Swisher's threatened to testify against me in Federal Court which he said would cause me to spend the rest of my life in prison. That threat made January 3, 2003, was actually carried out when, on January 14, 2005, Mr. Swisher testified that I solicited him to murder the Albers family, Nancy Cook and her family, Steve Hines and his family and Judge Lodge. By ratcheting up the stakes and inventing such a horrific story of solicited torture murder with high profile targets and by bolstering his credibility, pretending to be a national war hero, the government was able to capture the imagination of the jury and succeeded in getting the equivalent of a life sentence imposed against me. And all of this was based on Mr. Swisher's lies, for which he was subsequently convicted (07-cr-182-BLW). As a matter of res judicata or collateral estoppel, the lies used in his own case for which he was convicted should be used against him in my case under 28 USC §2255 case.

40. If the credibility as a national war hero is removed from Swisher's statements, and if the jury had known that the dates and times Mr. Swisher claimed meetings with me when he was solicited were false, no jury would ever have convicted me of such horrendous crimes that had no foundation because the "dots" or points of his story just did not connect. In 2002 Mr. Swisher was too sick to have anyone solicit him—including me—especially when he was in a coma, and I certainly could not have solicited him when I was out of the State of Idaho, especially when I was in Ukraine and Russia.

41. I was in Russia and Ukraine with Mr. Ponomarenko who was considering working with me in a strategic business alliance with WaterOz for the sale and distribution of WaterOz products in Ukraine and Russia. In order for him to better understand how WaterOz products could be manufactured in Ukraine or Russia, he obtained a US visa and agreed to travel to the U.S.A. and came to the WaterOz factory so that he could become schooled in the day-to-day operations of the business.

42. On or about November 1, 2002, I left Ukraine to return to the U.S.A. On November 2, 2002, Mr. Ponomarenko flew from Kiev to Seattle-Tacoma Washington airport and then to Lewiston, Idaho, where I picked him up; and we traveled to the WaterOz factory.

43. On or about November 4, 2002, I gave Mr. Ponomarenko a tour of the WaterOz factory. He saw the processing of the minerals and purification of the water the bottling plant and met some of the WaterOz staff, including the mineral maker Chris Jon Paitreyot (alias, Karl Waterman) and the plant manager, Geri Gray.

44. One of the purposes of Mr. Ponomarenko's trip was to take back to Ukraine 22 samples of WaterOz products for independent laboratory testing in Ukraine so that local regulators would have local verification of the content of these products.

45. Mr. Ponomarenko's objective was to obtain official approval of WaterOz products for sale in Ukraine and Russia—which approval was conditioned upon the results of local laboratory testing abroad. It was anticipated that with such approval we could begin sales in that part of the world.

46. When he arrived, I informed Mr. Ponomarenko that my Idaho testing was done at a laboratory known as Northwest Analytical, a half-hour's drive from the factory.

47. On or about November 4, 2002, Mr. Ponomarenko was present when I called Northwest Analytical on a speaker phone and had a conversation with the wife of the proprietor, Barbara Swisher, and his lab assistant, Doug Sellers. From this conversation, it was clear that Mr. Swisher was not available for discussion because he was still recovering from open heart surgery. Mr. Sellers stated he could run tests of WaterOz products, which would take only a few days if products were delivered to the lab.

48. To learn as much as possible about making WaterOz products, Mr. Ponomarenko felt he should view the laboratory where testing was performed. I arranged for Chris Paitreyot to take him along when the product samples were delivered to Northwest Analytical for testing.

49. On or about November 5, 2002, Mr. Ponomarenko rode with Mr. Paitreyot to Cottonwood, Idaho, and met with Mr. Swisher at Northwest Analytical. It was reported to me by Mr. Ponomarenko that the so-called "lab" was actually in a rundown building with an overhead garage door, next to a private home in an economically depressed residential area. Mr. Ponomarenko was concerned that this facility did not appear to be a professional lab, nor did it compare to other scientific labs he and I had seen in Russia and Ukraine.

50. That evening, I was informed by Mr. Ponomarenko that Mr. Swisher was in a wheel chair, that he was pale and sickly looking. I was shocked to learn these things because my business depended upon accurate testing by a laboratory, and such a condition-report did not inspire confidence in Mr. Swisher's ability to deliver accurate testing.

51. At that time I resolved to purchase for the factory an ICP machine that was the latest technology for analyzing minerals such as were manufactured by WaterOz. The problem was that such machines were over \$100,000 new, and I needed to find a used one that would cost less. Ultimately, I found a used ICP machine and purchased it for \$30,000, which would eliminate the necessity of sending WaterOz products to an outside lab.

52. When Geri Gray informed Mr. Swisher that WaterOz no longer needed his lab because we purchased our own ICP machine, he became openly hostile and vile with her, demanding that I purchase his old, outdated AA Machine, which Ms. Gray told him I would not do. In order to extort money from me, Mr. Swisher issued a false invoice (Exhibit A-10) which asserted that I had agreed to purchase his AA Machine for \$12,000.00 which I did not do