

State of Illinois }  
                          } ss:  
County of Cook }

**Affidavit of Joshua T. Buchman**

I, Joshua T. Buchman, do swear as follows:

1. I am an attorney licensed to practice law in the State of Illinois. I am a partner in the law firm of McDermott, Will & Emery, whose offices are at 227 West Monroe Street, Chicago, Illinois:
2. In my capacity as an attorney, in September, 2002 and at other times before and since, I represented Near North National Group and its affiliate, Near North Insurance Brokerage, Inc. (collectively, "Near North"), both of which were owned by Michael Segal, in connection with the government's criminal investigation of Michael Segal and Near North.
3. On September 17, 2002, I met with Assistant United States Attorneys ("AUSA") William Hogan and Virginia Kendall at the United States Attorney's Office in Chicago. FBI Special Agents Pat Murphy and Jane Higgins were also present at this meeting.
4. The purpose of the meeting was to inform the government in advance of Near North's intent to file an amended complaint in Cook County Circuit Court against various individuals and corporate entities, including David Cheley; Matt Walsh, Dana Berry, AON, Inc. and USI, Inc.
5. At the meeting, AUSA Hogan asked me how Near North felt it could include Cheley and the other individual defendants in the same lawsuit. I replied that the draft complaint alleged a conspiracy among Cheley and the other individuals to unlawfully obtain Near North's confidential information and to use it to engage in unfair competition against Near North.
6. AUSAs Hogan and Kendall voiced objections to this allegation regarding a conspiracy among Cheley and other individuals, and expressed the government's view that such an allegation was unfounded. AUSA Hogan characterized the allegation regarding a conspiracy between Cheley and others in pejorative terms.
7. AUSAs Hogan and Kendall stated that the government's investigation had established that there was no connection whatsoever between Cheley and the other individuals, each of whom was cooperating in the Segal prosecution.
8. Special Agent Murphy then stated that he recalled an occasion in the fall of 2001 when a cooperating witness, whom he thought had perhaps been Matt Walsh, had received an unsolicited email communication from an unidentified sender that may have originated from Near North's email database.

9. As the meeting continued, AUSA Kendall stated that during its investigation the government had not been inclined to interfere with the civil litigation by Near North alleging unfair competition and/or breach of non-compete agreements by witnesses cooperating with the government. AUSA Kendall also stated that the government did not know what kind of business conduct the cooperating witnesses had engaged in after leaving Near North.
10. AUSA Kendall then stated that, if Near North filed a lawsuit containing allegations regarding Cheley and the cooperating witnesses that the government believed to be false or without sufficient basis in fact, the government would take that into account in determining whether to charge Near North in a superseding indictment or to name Near North as a RICO enterprise.
11. Later on September 17, 2002, I received a telephone message from AUSA Kendall regarding a confidential Near North email received by one of the government's cooperating witnesses in the fall of 2001. In the message, AUSA Kendall indicated that Special Agent Murphy had informed her that the cooperating witness who received that email contacted the FBI the day it was received and provided the FBI with a copy of it. AUSA Kendall said that the FBI and the cooperating witness decided to send a responsive e-mail that instructed the sender of the confidential email to "cease and desist." AUSA Kendall indicated in her message that the details of how the government and its witness had handled the fall 2001 stolen email supported the government's position that the conspiracy charge in Near North's draft pleading regarding Cheley and the cooperating witnesses was not merited.
12. On September 20, 2002, I received a telephone call from AUSA Kendall in which she told me that FBI Special Agent Murphy wanted to talk to me about emails received by some of the government's witnesses. We arranged to meet on September 23, 2002.
13. On September 23, 2002, I attended a meeting with AUSAs Hogan and Kendall, and FBI Special Agents Pat Murphy and Jane Higgins. The purpose of the meeting was to discuss the issue of whether witnesses cooperating in the investigation and prosecution of Michael Segal had received confidential and/or privileged Near North emails from a third party.
14. Special Agent Murphy described a series of emails received by cooperating witnesses Matt Walsh and Dana Berry that appeared to contain Near North confidential information, and the circumstances under which Special Agent Murphy said they were received. These emails were sent in the fall of 2001 and on March 4 & 5, 2002. Murphy said that in one instance he obtained emails dated March 4, 2002 and March 5, 2002 from Dana Berry that appeared to have been exchanged between Berry and someone named "Lisa Fisher." According to Murphy, one of the emails from Lisa Fisher to Dana Berry contained a privileged and confidential email between Michael Segal and his attorney, Harvey Silets. Special Agent Murphy advised that the attached privileged material had been deleted or redacted from the copy provided to him.
15. AUSA Kendall and Special Agent Murphy both stated that at the time they learned of these email interceptions in the fall of 2001 and the spring of 2002, it did not occur to them that the emails sent to Walsh and Berry were obtained through illegal activity, such as computer hacking.

16. Special Agent Higgins did not participate actively in the discussions at the meetings on September 17 and on September 23, 2002, and made no substantive verbal contributions to the issues being discussed in these meetings. FBI Special Agent Higgins did not contradict or take issue with anything AUSAs Kendall and Hogan and Special Agent Murphy said, nor did she make any statement that indicated that the government possessed information that emails sent to Walsh and Berry may have been obtained through computer hacking performed by David Cheley.

17. On approximately October 2, 2002, Near North filed a motion for leave to file an Amended Complaint in its civil litigation in Cook County Circuit Court, Case No. 02 CH 01595. On October 3, 2002, one day later, the Government caused a grand jury subpoena to be issued and served on Near North, requesting inter alia all documents, materials, interviews, and evidence that supported the allegations in the Near North civil complaint filed the previous day.

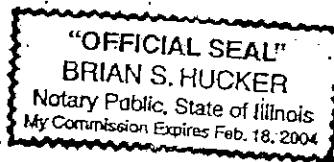
FURTHER AFFIANT SAYETH NOT.

Joshua T. Buchman  
Joshua T. Buchman, Esq.

B. S. Huck

Witness

My commission expires: \_\_\_\_\_



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sent  
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hacker

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never heard RWZB  
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Dave Chielle  
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GOVERNMENT  
EXHIBIT  
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