

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
Case No. UNDER SEAL -CIV-MARRA

EDWARD MORSE and CAROL  
MORSE,

Plaintiffs,

vs.

JAN JONES INTERNATIONAL,  
INC. a/k/a ICON BY JAN JONES,

Defendant.

**ORDER ON PLAINTIFFS' ORE TENUS  
MOTION TO SEIZE FURTHER ASSETS AND FOR OTHER RELIEF**

This cause came before the Court at hearing on March 17, 18, 19 & 20 2009, upon Plaintiffs', EDWARD MORSE and CAROL MORSE (collectively "MORSE"), *ore tenus* Motion to Seize Further Assets and *ore tenus* and subsequent written motions for other relief. The Court has carefully considered the oral argument of counsel, considered the evidence and witnesses presented at the hearings and being otherwise fully advised in the premises;

**THE COURT FINDS AND ORDERS AS FOLLOWS:**

1. Defendant, JAN JONES INTERNATIONAL, INC. a/k/a ICON BY JAN JONES and any and all other companies and/or other entities owned or controlled by JONES ("JONES"), are liable for compensatory damages to MORSE in an amount in excess of \$2,000,000.00;
2. That JONES is liable to MORSE for punitive damages for fraud, in the amount of 21,000,000.00 modified from prior order of this court finding liability of \$3,000,000.00 in punitive damages;

3. The Court specifically finds that JONES' flagrant fraudulent activity as demonstrated by clear and convincing evidence by counsel for Morse provides sufficient legal basis for an award of such punitive damages. The record on this matter shall be sealed but the record upon which this Court has relied shall be attached hereto for appellate purposes;
4. That there is currently in excess of \$10,000,000.00 of funds clearly belonging to JONES frozen in various banks in South Florida pursuant to prior orders of this and other courts;
5. That these funds are not to be moved under any circumstances absent further order of this Court. That movement of these funds shall be punishable by civil and criminal penalties;
6. That these funds are specifically being held, pursuant to order of this Court, to fund the award of damages to MORSE;
7. That these courts have jurisdiction to order same;
8. That in addition to the funds set forth in paragraph 4 above, based upon clear and convincing evidence presented by counsel for MORSE and counsel's expert witnesses, JONES has illegally moved funds from the United States to the Cayman Islands in violation of federal law, for the purpose of secreting these assets;
9. That the IRS has provided competent testimony in this regard clearly establishing ownership of these funds by JONES and clearly establishing a partial right of entitlement by the IRS to a portion of these funds. Such liability shall be less than \$5,000,000.00;
10. That this Court has jurisdiction over said assets as they originated in the United States;
11. That the treaties between the United States and the Cayman Islands and related governments clearly establishes the right of the United States to seize such assets. That counsel for MORSE has facilitated the contact between the relative governments and as a

result, this Court has received clear and convincing evidence that such funds will be immediately transferred to the United States;

12. That the Clerk of Court is hereby directed to immediately submit the proper documentation to the appropriate bank of the Cayman Islands to facilitate immediate transfer of these funds. That any issue arising from such transfer shall be immediately reported to this Court;
13. That the evidence presented by counsel for JONES was inadequate to overcome the findings made by this court based upon the evidence presented by counsel for MORSE. That counsel for JONES is hereby found to have acted in contumacious disregard for prior orders of this and other courts and thus, is found to be in contempt thereof. Further order regarding same shall follow the evidentiary hearing in this regard to be set by this Court;
14. That MORSE shall be entitled to one-third of any monies collected from counsel for JONES pursuant to said contempt order, if monies are assessed;
15. That this Court has entered an order freezing said assets and has the authority to do so;
16. That JONES' counsel's arguments that this Court lacks such jurisdiction is without merit and frivolous;
17. That the presentation of such evidence by counsel for JONES demonstrates a lack of a good faith basis to prevent same in violation of Federal Rule of Civil Procedure, 11;
18. That MORSE has demonstrated by clear and convincing evidence, ownership of these funds by JONES, that said funds are hereby frozen and not subject to any activity by JONES or any agent of JONES whether situated here or in the United States;

19. That these funds shall be frozen for the purpose of satisfying the judgment of this Court against JONES and in MORSE's favor;
20. That MORSE shall be required to deposit to their attorney's trust account the sum of \$15,000,000.00 no later than 10:00 a.m. tomorrow morning, the 20<sup>th</sup> day of March, 2009, to secure JONES in the event of an illegal seizure of said funds. If such funds are not so posted, this order shall be null and void in its entirety and the case shall proceed according to further order of this Court;
21. That counsel for MORSE shall appear before this Court and testify, under oath, as to his receipt of these funds, under penalty of perjury and subject to action by the Florida Bar;
22. That based upon argument and representations of MORSE's counsel, made under oath, MORSE is suffering from significant financial distress due to the economy and that such a posting could cause severe and irreparable harm to MORSE; thus, as swiftly as possible, in a manner that does not interfere with the mission of the federal agencies now herewith involved, however, with the full and unfettered cooperation of the federal agencies now involved in this matter, following the posting by Morse of \$15,000,000.00 associated with the seizure of the funds located in the Caymans, all other bond amounts shall be returned to MORSE as follows: \$15,000,000.00 previously posted by MORSE, \$4,118,757.00 previously posted by MORSE, and the \$18,500,000.00 posted in two separate postings by MORSE. MORSE's counsel shall act as liason between his clients and the federal agencies to expedite return of the funds. Should there be any unnecessary delay in such return of funds, Counsel for MORSE shall appear before this Court on an emergency basis to seek whatever assistance is required, and such assistance shall not be unreasonably withheld. The Clerk of the Courts is ordered to take all steps necessary to

assist counsel in expediting return of the funds to MORSE in a timely and expedited fashion;


23. Further, within three (3) business days of the Clerk's receipt of said funds herewith being transferred from the Cayman Islands in compliance with this order, said amount being approximately \$20,000,000.00, shall notify this Court of same so that this Court can issue an order as to the division of said funds. Within five (5) business days of such order dividing same, that portion belonging to MORSE shall be delivered to them via their counsel;
24. The Court finds that JONES has waived its right to appeal the order of interest and penalties based upon the doctrine of fraud in the inducement. The court finds that JONES is not entitled to equitable relief of any kind based upon the fact the doctrine that he who seeks equity must do equity. JONES has unclean hands and thus can not recover anything from MORSE;
25. That this Court has jurisdiction over the Court currently hearing the matter known as MIZNER, referred to in the Court record by number and hereafter referred to as MIZNER;
26. That this Court orders the Court below (MIZNER) to release any and all bond funds held pursuant to prior order of that court within three (3) business days of the entry of this order. Counsel for MORSE shall facilitate same and insure that same occurs. Should there be a delay, counsel for MORSE shall appear before this Court on an emergency basis and seek whatever assistance is needed to achieve the established objectives;
27. Counsel for the parties are instructed to insure that all deadlines in this Order are satisfied in a timely fashion, subject to further order of this Court;

28. That both the Federal Court of the Southern District of Florida and this Court have concurrent jurisdiction over these matters and same may be enforced in either venue; and

29. That pursuant to the Bank Secrecy Act as amended on October 21, 2008, The Freedom of Information Act, The United States Patriot Act II, The Currency and Foreign Transaction Reporting Act of 1970 as amended on November 11, 2006, USC 5311-5300, the USA Patriot Act, Title III and the judgment of this Court based upon information received under oath, this Order, the facts of and amounts contained herein, the findings hereof, and any and all other matters surrounding same shall be held in strict confidence so as not to jeopardize any potential investigation by the appropriate governmental agencies.

Violation of this portion of this order shall result in civil and criminal penalties.

**DONE AND ORDERED** in Chambers at West Palm Beach, Palm Beach County, Florida this 25<sup>th</sup> day of March , 2009.

  
KENNETH A. MARRA  
United States District Judge

Copies to:  
All counsel of record  
IRS, Plantation Office  
FBI, Miami Office

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
Case No. UNDER SEAL -CIV-MARRA

EDWARD MORSE and CAROL  
MORSE,

Plaintiffs,

vs.

JAN JONES INTERNATIONAL,  
INC. a/k/a ICON BY JAN JONES,

Defendant.

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STIPULATED CONFIDENTIALITY ORDER

1. On March 24, 2009, this Court entered a detailed Order with regard to its Final Findings in this matter ("Final Order").
2. As a direct result of the nature of a significant amount of the evidence presented to this Court prior to the Court entering its Final Order, and as a result of the contents of that Final Order, this Court has made a determination that the Final Order itself as well as the evidence leading to same shall be sealed and shall remain confidential, in perpetuity, unless otherwise ordered by this Court or another court of competent jurisdiction as detailed in this Confidentiality Order.
3. All parties to this matter, including all witnesses thereto, are hereby bound by this Confidentiality Order.
4. Any failure to comply with this Confidentiality Order by any party or witness shall result in severe consequences, including, without limitation, civil and criminal penalties.

5. Any breach of this Confidentiality Order must be reported to the Court, immediately by the discovering party. Failure to so report same shall result in severe consequences, including, without limitation, civil and criminal penalties.
6. The Final Order of this court dated March 24, 2009 shall be made a part hereof, and shall be incorporated by reference herein.
7. Any failure to comply with this Confidentiality Order or Final Order, must be reported to this court, under seal, and such non compliance shall result in severe consequences to the breaching party.
8. All information relating this Court's Final Order to which any party is given access or which is made available to any party is hereinafter referred to as "Confidential Information." Confidential Information shall include, without limitation, all methods and systems used in this case, names and addresses of customers, technical memoranda, research reports, investigative reports, analyses of any part of this case, all data, documents, and technology, contracts, depositions, notes of depositions, clients notes, clients diaries, lawyers notes, court notes, court orders preceding this order, pleading, all discovery, all email or other electronic communications between any and all parties, witnesses, lawyers, and/or other participating in any way in this matter, proprietary information, historical and projected financial information, acts of fraud, information relating to transfer of funds fraudulent or otherwise, posting of bonds, return of bonds, attorneys fees. operating data and organizational structures, now or hereafter existing or previously developed or acquired, regardless of whether any such information. data or documents qualify as "trade secrets" under applicable law, any and all other information related to this or any other related matter (collectively, the "Confidential Information").



Because the secrecy of the Confidential Information is critical to this court and its further proceedings which shall also remain confidential until brought public, the parties and witnesses hereto acknowledge and agree that the Confidential Information shall, at all times, be kept in strict confidence by the party and/or witness and same shall not, directly or indirectly, during or after the entry of this order and its execution, except as required by law, with the prior written consent of this court, (a) disclose to any person or entity any Confidential Information without the express written consent of this court which may be withheld in its sole discretion, or (b) use any Confidential Information for the parties own benefit or any other purposes, for the benefit or purposes of any other person or entity or in any manner, whatsoever. If the party or witness is required in any civil or criminal legal proceeding, regulatory proceeding or any similar process to disclose any part of the Confidential Information, such party shall give prompt notice of such request to the Court and the Court shall enter an order as it deems appropriate. Nothing shall be disclosed without same.

9. All Confidential Information, including, without limitation, all copies of all documents and other materials which the parties have received or reviewed or otherwise have knowledge of, shall, at all times, be kept in strict confidence by the party.
10. The parties have been advised and fully understand the heightened confidentiality requirements relative to this matter, including, among other things, the legal obligations of lawyers to maintain their confidentiality obligations to clients and the parties legal obligation to maintain the confidentiality set forth in this order. Clients are restricted from discussing this matter with any individual or entity other than their respective counsel of record in this matter. The parties have indicated that they, as a result of this action, have

access to certain Confidential Information as defined herein. By execution of this order, the parties recognize, acknowledge and confirm their understanding of the confidential nature of the Confidential Information and the damage that would result if any of the Confidential Information is disclosed to any Person and the parties understand their obligation to this court and the fact that this court has jurisdiction over them upon execution of this document by their consent thereto.

11. Further, because disclosure of any Confidential Information as defined herein would result in severe damage as contemplated by this Court, which would be difficult to quantify, the parties agree that liquidated damages would be a reasonable basis to calculate civil damages caused by a breach and that damages of \$1,000,000.00 per each incident of disclosure of Confidential Information by the parties and/or their representatives is agreed to under this Confidentiality Order. Such liquidated damages shall not prevent this Court from assessing additional damages and from moving forward in a criminal proceeding against the party so breaching this Confidentiality Order.
12. Each party hereby represents and warrants that they are not bound by the terms of a confidentiality agreement or other agreement with any third party that would conflict with any of the parties' obligations under this Confidentiality Order.
13. The Parties stipulate that this Stipulated Confidentiality Order is intended to strictly limit and prevent disclosure of information and production of documents compromising the Confidential Information set forth herein and in the Final Order dated March 24 2009.
14. It is further acknowledged that each party may be held responsible for any failure on his or her part to comply with the provisions of the Confidentiality Order, and agrees to

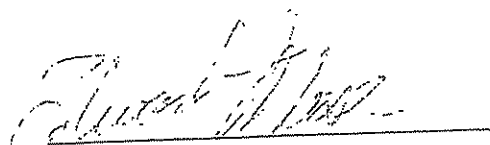
subject himself or herself to the jurisdiction of this court for the purpose of enforcing this Confidentiality Order.

15. The restrictions set forth in this Confidentiality Order shall apply to any and all documents or other information, whatsoever, designated as "CONFIDENTIAL" by this Court. All information shall be deemed confidential and the parties agree to exercise extreme discretion in protecting same. The Court hereby warns all parties hereto to err on the side of protecting such data. Violation of this order will be dealt with immediately and subject the violator to severe sanctions and penalties.
16. This Agreement shall be binding upon the parties hereto and their respective agents, successors and assigns, and inure to the benefit of the parties and their respective successors and assigns.
17. The parties warrant to each other that they each have full power and authority to execute this Agreement for and on behalf of themselves and/or their respective companies. Parties, as used herein, shall include all persons executing this document as well as their representatives, agents and assigns.
18. Each party placing their signature hereon makes the following attestation:

I certify and acknowledge, under penalty of perjury, that I have received a copy of the Stipulated Confidentiality Order (the "Confidentiality Order") which governs the production and use of confidential documents and information produced by the Parties (as defined in the Order) or third parties in this case. I have read and understand the Order and I hereby acknowledge that I am bound by it and agree to abide by it. I further understand that information designated as "CONFIDENTIAL" in this case, and any notes, memoranda or other form of information derived from it.

may not be used, copied or disclosed by me to anyone else except in strict accordance with the order and then only for the prosecution and defense of this litigation upon proper court order.

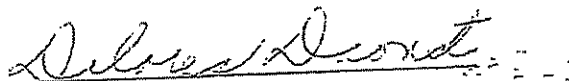
[SIGNATURES ON FOLLOWING PAGES]

  
EDWARD J. MORSE

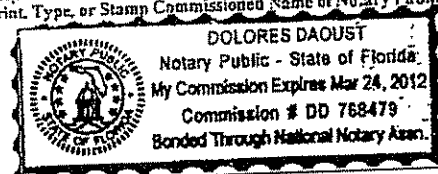
STATE OF Florida )  
COUNTY OF Broward )

BEFORE ME, the undersigned authority, personally appeared EDWARD J. MORSE who, after being duly sworn according to law, deposes and says that he has read the foregoing document and that it is true and correct under penalty of perjury.

SWORN AND SUBSCRIBED before me this 27 day of March, 2009.

  
(Signature of Notary Public)

Dolores Daoist  
(Print, Type, or Stamp Commissioned Name of Notary Public)



COMMISSION NUMBER/EXPIRATION/SEAL

United States Court of Appeals,

Eleventh Circuit.

Under Seal-Civ-Marra.

EDWARD MORSE and CAROL MORSE, Plaintiffs-Appellants,

v.

JAN JONES INTERNATIONAL, INC. a/k/a ICON BY JAN JONES, Defendant-Appellee.

In re EDWARD MORSE and CAROL MORSE, Petitioners.

Appeal from the United States District Court for the Southern District of Florida (Under Seal-Civ-Marra), Kenneth A. Marra, Judge.

**PETITIONERS' MOTION FOR EMERGENCY WRIT OF MANDAMUS**

Petitioners, EDWARD MORSE and CAROL MORSE, by and through their undersigned counsel, file this, their Motion for Emergency Writ of Mandamus and would state as follows:

1. This matter is before this Honorable Court on an Emergency Writ of Mandamus.
2. This matter and the entire file below have been presented to the court as SEALED pursuant to prior order of the Court below.
3. This matter is pending before the Honorable United States District Court Judge, Kenneth Marra.
4. On March 25, 2009 and on April 23, 2009, Judge Marra entered detailed orders in this matter, copies of which are attached hereto and incorporated by reference herein.
5. As set forth in the Orders, Judge Marra ordered that certain specific acts take place on certain specific dates. Many of these acts involved return of a large sum of money to the Plaintiffs.

6. Upon receipt of the orders, the undersigned began to put into place all actions necessary to timely comply with said orders.

7. In hearings held subsequent to the entry of these orders, it became abundantly clear to the undersigned that Judge Marra was in some way uncomfortable with his orders and was either staying the orders or reversing his prior decisions by vacating the orders.

8. However, despite continuous inquiry by the undersigned, counsel was unable to determine what Judge Marra intended to do and how he intended to proceed.

9. A thorough review of the record below which is available to this Court under seal clearly indicates that the undersigned, as counsel for the plaintiff had significant basis for concern based upon comments and ore tenus rulings made by Judge Marra in the court below.

10. Most importantly, as can be seen by the sealed record now before this court, when the undersigned specifically inquired of the Court as to whether he was permitted to move forward with the orders entered on March 25<sup>th</sup> and April 23<sup>rd</sup>, the courts responses to the undersigned are non-descriptive and completely without guidance at best.

11. When the undersigned inquired of the court below further and specifically asked the court whether the orders were stayed, vacated, reversed or in full force and effect, the court clearly replied that the court believes it had made itself clear.

12. Not wanting to violate a court order of a respected district court judge, the undersigned determined that the only course of conduct remaining in order to protect his clients' rights was to file an Emergency Writ of Mandamus with this court.

13. It is the position of the Plaintiffs that they have a clear and unwavering legal right to the relief awarded them in the courts orders as set forth herein.

14. Moreover, it is without doubt that the undersigned had every right to be concerned with the ore tenus rulings of the court below which post dated the orders in question.

15. As an officer of the court, the undersigned has a direct responsibility to zealously protect the rights of his client. And, as an officer of the court, the undersigned has a direct responsibility to fully and completely obey the orders of court and when, he is given reason to doubt the efficacy of subsequent orders of court that appear to taint the order in question, to attempt to ascertain the validity of said order. That is exactly what the undersigned has done here.

16. Upon determining that the validity of the orders in question were in doubt, and upon determining that he could not proceed without further order of a higher court, this Emergency Writ was filed.

17. Plaintiffs have a clear legal right to the relief specifically set forth in the orders in question.

18. The court below had an indisputable duty to act but failed to do so and failed to given the undersigned any guidance.

19. At this stage in the proceedings, the Plaintiffs have no other remedy at law other than this Writ.

20. If this writ is not entered in Plaintiffs favor, the Plaintiffs will suffer unfair prejudice as a matter of law.

Dated this 9<sup>th</sup> day of July, 2009.



Respectfully submitted,

ROTHSTEIN ROSENFELDT ADLER

Counsel for Petitioners

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By: 

Scott W. Rothstein, Esq.

Florida Bar No.: 765880

FOR THE FIRM

United States Court of Appeals,

Eleventh Circuit.

Under Seal-Civ-Marra.

EDWARD MORSE and CAROL MORSE, Plaintiffs-Appellants,

v.

JAN JONES INTERNATIONAL, INC. a/k/a ICON BY JAN JONES, Defendant-Appellee.

In re EDWARD MORSE and CAROL MORSE, Petitioners.

August 13, 2009.

Appeal from the United States District Court for the Southern District of Florida (Under Seal-Civ-Marra), Kenneth A. Marra, Judge.

On Petition for Writ of Mandamus.

Before Susan H. Black, Circuit Judge:

**ORDER ON EMERGENCY WRIT OF MANDAMUS**

Having reviewed the sealed court file as provided by the Clerk of the Court below (Judge Marra), and having heard argument of counsel in closed proceedings to maintain the integrity of the confidentiality order issued in this matter by the Court below, as well as having heard directly from Judge Marra and Judge Gerber, we find as follows:

**Findings of Fact**

1. The Court below entered orders on March 25, 2009 and April 23, 2009, specifying that certain specific acts were to take place on certain specific dates. Many of these actions involved return of funds rightfully belonging to the Plaintiffs.

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2. Subsequent to the entry of same, Judge Marra, despite his rulings to the contrary, made multiple ore tenus rulings on the record which gave counsel for Plaintiff clear room for pause in following said orders.

3. In multiple subsequent hearings, Plaintiffs counsel clearly attempted to ascertain whether the orders stood as entered or whether they had been reversed or stayed. Based upon our full and complete review of the record it became clear that Judge Marra had no intention of proceeding as he previously ordered and was either reversing or staying his prior orders as set forth above. Whichever his intention is not for this Court to decide. We simply review this matter as it is presented to us, to wit: lawful orders were entered and then vacated or stayed for no clear and convincing reason and without a stated basis in law or fact. We make no finding whether Judge Marra was correct in his conclusion, but simply that the record lacked the thoroughness and completeness that is mandated when reversing orders of this magnitude.

4. Thus, we find that counsel for Plaintiff properly and timely filed a sealed Emergency Writ of Mandamus with this Court in an attempt to properly protect his clients rights under the order.

#### Conclusions of Law

1. This Court has jurisdiction over this matter pursuant to the laws controlling Writs of Mandamus

2. This matter is properly before this court

3. The findings of Judge Marra in the court below, in the orders dated March 25 and April 23, 2009, are well based in fact and law.

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4. The subsequent ore tenus rulings of Judge Marra are without basis in law or fact.

5. The subsequent ore tenus rulings by Judge Marra fail to provide a sufficient record, as mandated by the rules of court, to allow this court to enter a ruling as to whether Judge Marra had the legal right to stay or reverse his prior order.

6. Plaintiffs writ of mandamus is legally sufficient to allow this court to rule in full on all matters pending before it.

Thus, we as a Court with jurisdiction over this matter find as follows:

7. Judge Marra's prior orders are hereby reinstated and remain in full force and effect. To the extent that the later order conflicts with the earlier order, the later order shall prevail and control.

8. Judge Marra's concerns regarding protection of the Governments role in this matter are well founded in both law and fact. We specifically defer further comment on this portion of this matter to maintain the integrity of the governments investigation.

9. As a matter of procedure we note that a confidentiality order remains in full force and effect in this matter. We specifically mandate that our rulings herein shall have no effect, whatsoever, on said order and that same shall remain in full force and effect in perpetuity. We again strongly caution all counsel and mandate that they caution and counsel their respective clients that this matter is governed by a strict confidentiality order that this court hereby holds shall remain in full force and effect and which this court strongly cautions, contains severe penalties for any violation of same.

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10. This order and the complete sealed record shall be forwarded to the Department of Treasury, forthwith. The clerk of this court is ordered to expedite same. Sealed instructions shall be provided by this court to the Clerk.

11. The Department of Treasury is ordered to expeditiously review the materials and then, upon completion of same, shall immediately send a letter to this court advising that such review is complete and that they require nothing further from this court. Upon receipt of same, the clerk of this court shall advise Plaintiffs counsel that his Writ has been granted in full and that he is free to comply fully and completely with Judge Marra's orders. A copy of this order shall then be provided to all counsel of record.

12. This order shall not be furnished to any counsel of record until such time as the Department of Treasury has completed its review of the sealed record and has forwarded said letter as mandated above this court. This order is self executing and thus, nothing need be brought back before this court on any of these issues.

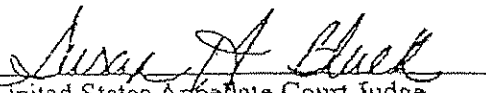
13. Plaintiffs have a clear legal right to the remedies they are seeking.

14. The court below had an indisputable duty to act but failed to do so.

15. The plaintiffs have no other remedy available to them in law or equity.

16. If this court does not act, the plaintiffs will suffer irreparable harm and unfair prejudice.

DONE AND ORDERED in Chambers, at Atlanta, Georgia, this 13 day of August, 2009.

  
United States Appellate Court Judge  
United States Court of Appeals  
Eleventh Circuit

Copies to:  
IRS, Plantation Office

FBI, Miami Office  
U.S. Dept of Treasury, Washington, D.C.  
Clerk of Court, United States District Court