

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)
)
) No. 02 CR 506
)
) Honorable Rebecca Pallmeyer
LAWRENCE WARNER and)
GEORGE H. RYAN, SR.)

**GOVERNMENT'S EVIDENTIARY PROFFER AS TO
CO-CONSPIRATOR AND AGENCY STATEMENTS**

The UNITED STATES OF AMERICA, by PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, respectfully submits this evidentiary proffer pursuant to *United States v. Santiago*, 582 F.2d 1128 (7th Cir. 1978), and moves that the Court admit coconspirator statements based on the existence of a conspiracy or joint venture in which the defendants George H. Ryan, Sr., Lawrence Warner and numerous unindicted co-schemers participated in the manner outlined below.

INTRODUCTION

On December 17, 2003, a federal grand jury returned a twenty-two-count second superseding indictment against defendants Lawrence E. Warner (“Warner”) and George H. Ryan, Sr. (“Ryan”). In Count One, the grand jury charged that the defendants, being employed by and associated with an enterprise engaged in interstate commerce, namely the State of Illinois, conspired with each other, and others known and unknown, to violate the RICO statute, that is, to conduct and participate in the conduct of the affairs of the enterprise through a pattern of racketeering activity involving multiple acts indictable under federal law (mail fraud, money laundering, extortion, obstruction of justice) and under state law (bribery and bribery-related

official misconduct). Count One further charged that it was part of the conspiracy that Warner and others (referred to in the second superseding indictment as “the Associates”) provided benefits to Ryan, Ryan family members, third parties affiliated with Ryan, and Ryan’s political campaign committee (Citizens for Ryan or “CFR”), due to Ryan’s official position and to influence and reward Ryan in the exercise of Ryan’s official authority; that Ryan took actions in his official capacity to benefit Warner and others while concealing his relationship with them; and that Ryan permitted Warner and others to participate in the governmental decision-making process and provided them with material, non-public information, which Warner and others converted into financial benefits for themselves, Ryan, and third parties.

Counts Two through Five and Seven through Ten charged that Warner and Ryan devised a scheme to defraud the people of the State of Illinois and the State of Illinois of money, property, and the right to the honest services of Ryan and other State of Illinois officials and employees by means of false pretenses, representations, promises and material omissions, and, in furtherance thereof, used the United States mails and other interstate carriers, in violation of 18 U.S.C. §§ 1341, 1346, and 2. Count Six charged Ryan with an additional mailing in furtherance of the mail fraud scheme.

Counts Eleven through Thirteen charged Ryan with making materially false, fictitious and fraudulent statements and representations in a matter within the jurisdiction of the FBI.

Count Fourteen charged Warner with extortion, which obstructed, delayed and affected commerce, by knowingly attempting to obtain property in the form of payments from American Decal Manufacturing under the color of official right and induced by the wrongful use of actual and threatened fear of economic harm, in violation of 18 U.S.C. §§ 1951 and 2.

Counts Fifteen and Sixteen charged that Warner knowingly conducted and attempted to conduct financial transactions affecting interstate commerce by causing checks to be issued to American Management Resources, which transactions involved the proceeds of mail fraud and extortion related to the Illinois Secretary of State Office (SOS Office) validation stickers contract and computer-related contracts, knowing that the transactions were designed to conceal the nature, source, and ownership of the proceeds of the unlawful activity and knowing that the property involved in the transactions were the proceeds of unlawful activity, in violation of 18 U.S.C. §§ 1956(a)(1)(B)(i) and 2.

Count Seventeen charged that Warner, to evade the reporting requirements of 31 U.S.C. § 5313(a) and prescribed regulations, structured, assisted in structuring and attempted to structure and assist in structuring, a transaction with a domestic financial institution, namely, the withdrawal of \$14,000 in two separate transactions at different branches of the financial institution and involving the cashing of two checks, each in an amount under \$10,000. Count Seventeen further alleged that Warner committed this offense while violating other laws of the United States and as part of a pattern of illegal activity involving more than \$100,000 in a 12-month period, in violation of 31 U.S.C. §§ 5324(a)(3) and (d)(2).

Count Eighteen charged that Ryan corruptly obstructed and impeded and endeavored to obstruct and impede the Internal Revenue Service in the correct reporting of income and the identification, assessment and collection of taxes and tax penalties due the United States. As part of the corrupt endeavor, Count Eighteen alleged that, among other things: Ryan used CFR funds to pay his and certain family members' personal expenses and to provide personal gifts for the benefit of third parties; Ryan caused income that he was receiving from both CFR and third

parties to be diverted, paid and allocated to others, thereby depriving the IRS of accurate information as to his true income; Ryan concealed benefits that he received from the campaign of then Texas Senator Phil Gramm; and Ryan received money from political supporters which he used for personal expenses and failed to report as income. Counts Nineteen through Twenty-Two charged Ryan with filing materially false tax returns and amended tax returns.

I. GOVERNING LAW

This proffer begins by discussing case law governing the admissibility of coconspirator statements under Federal Rule of Evidence 801(d)(2)(E) and, alternatively, other provisions of Federal Rule of Evidence 801(d)(2).¹ Next, the government summarizes some of the evidence supporting the admission of coconspirators' statements at the trial of the defendants. The government is not detailing all of its evidence that would go to show the existence of the conspiracy or joint venture (hereinafter "conspiracy") or all of the coconspirator statements that were made in furtherance of the conspiracy. Rather, this proffer highlights for the Court samples of the government's evidence in order to establish to the Court the existence of the conspiracy and the roles of the various coconspirators. Thus, this proffer does not list all of the government's witnesses and the evidence each will present, nor does it provide all of the evidence that will be presented by those witnesses who are named. Finally, by presenting statements attributed to particular witnesses, the government is not herein committing to call each of the witnesses for each of the statements so attributed.

¹ As discussed in detail below, the legal principles governing admissibility of coconspirator statements apply to any criminal joint venture even when the activity is not formally charged as a conspiracy.

A. ADMISSIBILITY OF COCONSPIRATOR STATEMENTS

Rule 801(d)(2)(E) of the Federal Rules of Evidence provides that a “statement” is not hearsay if it “is offered against a party” and is “a statement by a coconspirator of a party during the course and in furtherance of the conspiracy.” The admission of a coconspirator statement against a defendant is proper where the government establishes by a preponderance of evidence that: (1) a conspiracy or joint venture existed; (2) the defendant and the declarants were members of that particular conspiracy or joint venture; and (3) the statement was made during the course and in furtherance of the conspiracy or joint venture. *See Bourjaily v. United States*, 483 U.S. 171, 175 (1987); *United States v. Haynie*, 179 F. 3d 1048, 1050 (7th Cir.1999); *United States v. Lindemann*, 85 F.3d 1232, 1238 (7th Cir.1996); *Santiago*, 582 F.2d at 1130-31. *See also United States v. Kelly*, 864 F.2d 569, 573 (7th Cir. 1989). The law is clear that statements may be admitted under Rule 801(d)(2)(E) even in the absence of a formal conspiracy charge. *See, e.g., United States v. Cox*, 923 F.2d 519, 526 (7th Cir. 1991) (conspiracy charge not a condition for admission of statements under Rule 801(d)(2)(E)); *Kelly*, 864 F.2d at 573 (“Rule 801(d)(2)(E) applies not only to conspiracies but also to joint ventures, and . . . a charge of criminal conspiracy is not required to invoke the evidentiary rule.”). Instead, the statements may be admitted if the government establishes that a criminal venture existed and that the proffered statements were made during and in furtherance of the conspiracy. *United States v. Reynolds*, 919 F.2d 435, 439 (7th Cir. 1990).

More significantly, the exception does not require that each member of the venture share a criminal intent for the exception to apply:

The distinction should be noted between “conspiracy” as a crime and the co-conspirator exception to the hearsay rule. Conspiracy as a crime comprehends more than mere joint enterprise. It also includes other elements, such as a meeting of the minds, criminal intent and, where required by statute, an overt act. When these elements are established, the crime of conspiracy is proved. The co-conspirator exception to the hearsay rule, on the other hand, is merely a rule of evidence founded, to some extent, on concepts of agency law. It may be applied in both civil and criminal cases. . . . Its rationale is the common sense appreciation that a person who has authorized another to speak or to act to some joint end will be held responsible for what is later said or done by his agent, whether in his presence or not.

* * *

The substantive criminal law of conspiracy, though it obviously overlaps in many areas, simply has no application to this evidentiary principle. Thus, once the existence of a joint venture for an illegal purpose, or for a legal purpose using illegal means, and a statement made in the course of and in furtherance of that venture have been demonstrated by a preponderance of the evidence, it makes no difference whether the declarant or any other “partner in crime” could actually be tried, convicted and punished for the crime of conspiracy.

United States v. Gil, 604 F.2d 546, 549-550 (7th Cir. 1976).

In this circuit, the preferred way for the government to make its preliminary factual showing as to the admissibility of coconspirator statements is by filing a pretrial written proffer of the government's evidence. *See United States v. Rodriguez*, 975 F.2d 404, 406 (7th Cir. 1992); *United States v. Boucher*, 796 F.2d 972, 974 (7th Cir. 1986). In making its preliminary factual determinations under Rule 801(d)(2)(E), the court may consider the coconspirator statements themselves as evidence of a conspiracy or joint venture and whether the statements the government seeks to admit were made in furtherance of that conspiracy or joint venture. *United States v. Brookins*, 52 F.3d 615, 623 (7th Cir. 1995); *United States v. Maholias*, 985 F.2d 869, 877 (7th Cir. 1993). Indeed, the court may consider all non-privileged evidence. *Lindemann*, 85 F.3d at 1238.

A district court's preliminary determination of admissibility for purposes of Rule 801(d)(2)(E) is distinct from the standard required in determining on appeal whether sufficient evidence exists to uphold a jury verdict in a conspiracy case. The standard to be applied in the context of admissibility under Rule 801(d)(2)(E) is a preponderance of the evidence standard. *Lindemann*, 85 F.3d at 1238 (citing *Bourjaily*, 438 U.S. at 175-76).

1. Membership in and existence of the conspiracy

A district court may consider the proffered coconspirator statements themselves in determining the existence of the conspiracy and a defendant's participation in it. *Bourjaily*, 483 U.S. at 180; *United States v. de Ortiz*, 907 F.2d 629, 633 (7th Cir. 1990). However, the government typically must present some evidence, independent of the statements, to corroborate the conspiracy's existence. *Lindemann*, 85 F.3d at 1238. The evidence may be either direct or circumstantial. The Seventh Circuit has consistently held that “because of the secretive character of conspiracies, direct evidence is elusive, and hence the existence and the defendants’ participation can usually be established only by circumstantial evidence.” *United States v. Redwine*, 715 F.2d 315, 319 (7th Cir. 1983); *see also Lindemann*, 85 F.3d at 1238 (secretive nature of conspiracies one reason for conspirator exception to hearsay rule). In this case, the evidence is both direct and circumstantial. In this case, the indictment alleges that defendants Warner and Ryan participated in the enterprise and conducted their schemes through their co-schemers and agents. Thus, while the criminal nature of some their activities was hidden, the execution of their plans – including through their agents – was at times public or overt. Indeed, by the very nature of their crimes occurring in the context of public entities, the defendants could not have executed all of them without the unwitting (and sometimes witting) assistance of their

employees and other agents who acted at their direction and supervision.

A defendant joins a conspiracy if he agrees with a conspirator to one or more of the common criminal objectives set forth in the indictment; it is immaterial whether the defendant knows, has met or has agreed with every coconspirator. *Boucher*, 796 F.2d at 975; *United States v. Balistrieri*, 779 F.2d 1191, 1225 (7th Cir. 1985); *see also Rodriguez*, 975 F.2d at 411 (defendant must have intended to join and associate himself with the conspiracy's criminal design and purpose). The government need not prove, however, that a defendant or coconspirator knew each and every detail of the conspiracy or played more than a minor role in the conspiracy. *United States v. Liefer*, 778 F.2d 1236, 1247 n.9 (7th Cir. 1985); *United States v. Towers*, 775 F.2d 184, 189 (7th Cir. 1985).

A defendant or coconspirator may be found to have participated in a conspiracy even if he joined the conspiracy or terminated his relationship with core conspirators at a different time than another defendant. *United States v. Ramirez*, 796 F.2d 212, 215 (7th Cir. 1986); *United States v. Noble*, 754 F.2d 1324, 1329 (7th Cir.1985).² A district court may consider the conduct, knowledge and statements of the defendant and others in establishing participation in a conspiracy. A single act or conversation, for example, can “suffice to connect the defendant to the conspiracy if that act leads to the reasonable inference of intent to participate in an unlawful enterprise.” *United States v. Baskes*, 687 F.2d 165, 169 (7th Cir. 1981). Similarly, efforts by

² A defendant, even if not an “agreeing” member of a conspiracy or joint venture, may nonetheless be found guilty of conspiracy if he knew of the conspiracy's existence at the time of his acts, and his acts knowingly aided and abetted the business of the conspiracy. *See United States v. Scroggins*, 939 F.2d 416, 421 (7th Cir. 1991); *United States v. Kasvin*, 757 F.2d 887, 890-91 (7th Cir.1985); *United States v. Galiffa*, 734 F.2d 306, 309-11 (7th Cir. 1984). There is no requirement that the indictment charge him with aiding and abetting in order for this principle to apply. *See Kasvin*, 757 F.2d at 890.

an alleged coconspirator to conceal a conspiracy may support an inference that he had joined the conspiracy while it was still in operation. *United States v. Robertson*, 659 F.2d 652 (5th Cir. 1981); *United States v. Freeman*, 498 F.2d 569, 576 (2d Cir. 1974). Statements made during the course of and in furtherance of a conspiracy, even in its embryonic stages, are admissible against those who arrive late to join a going concern. *United States v. Potts*, 840 F.2d 368, 372 (7th Cir. 1987). A conspirator who has become inactive in the conspiracy nevertheless is liable for his coconspirators' further statements unless he openly disavows the conspiracy or reports it to the police. *United States v. Feldman*, 825 F.2d 124, 129 (7th Cir. 1987); *see also United States v. Andrus*, 775 F.2d 825, 850 (7th Cir. 1985).

2. Statements made in furtherance of the conspiracy

In determining whether a statement was made “in furtherance” of the conspiracy or joint venture, courts look for a reasonable basis upon which to conclude that the statement furthered the conspiracy's goals. *Shoffner*, 826 F.2d at 628; *United States v. Mackey*, 571 F.2d 376, 383 (7th Cir. 1978). Under the reasonable basis standard, a statement may be susceptible to alternative interpretations and still be “in furtherance” of the conspiracy; the statement need not have been exclusively, or even primarily, made to further the conspiracy in order to be admissible under the coconspirator exception. *Shoffner*, 826 F.2d at 628.

Given the government's “relatively low burden of proof on this issue,” *Shoffner*, 826 F.2d at 628, the Seventh Circuit has found a wide range of statements to satisfy the “in furtherance” requirement. *See, e.g., United States v. Herrero*, 893 F.2d 1512, 1527-28 (7th Cir.1990); *Garlington v. O'Leary*, 879 F.2d 277, 283-84 (7th Cir. 1989). In general, a statement that is “part of the information flow between conspirators intended to help each perform a role” is admissible

under Rule 801(d)(2)(E). *United States v. Santos*, 20 F.3d 280, 286 (7th Cir. 1994) (quoting *United States v. Johnson*, 927 F.2d 999, 1001 (7th Cir. 1991)). These include statements made: (1) to identify other members of the conspiracy and their roles, *United States v. Magee*, 821 F.2d 234, 244 (5th Cir. 1987); *United States v. Roldan-Zaoata*, 916 F.2d 795, 803 (2d Cir. 1990); (2) to recruit potential coconspirators, *Shoffner*, 826 F.2d at 627-28; (3) to control damage to an ongoing conspiracy, *United States v. Van Daal Wyk*, 840 F.2d 494, 499 (7th Cir. 1988); (4) to update coconspirators and advise them as to the progress of the conspiracy, *Potts*, 840 F.2d at 371; (5) to conceal the criminal objectives of the conspiracy, *United States v. Kaden*, 819 F.2d 813, 820 (7th Cir. 1987); *United States v. Xheka*, 704 F.2d 974, 985-86 (7th Cir. 1983); (6) to plan or to review a coconspirator's exploits, *United States v. Molt*, 772 F.2d 366, 368-69 (7th Cir. 1985); or (7) as an assurance that a coconspirator can be trusted to perform his role. *United States v. Buishas*, 791 F.2d 1310, 1315 (7th Cir. 1986) (concerning a failed operation or conspiracy undertaking); *United States v. Pallais*, 921 F.2d 684, 688 (7th Cir. 1990) (concerning a conspiracy's successes); *Van Daal Wyck*, 840 F.2d at 499.

3. The Absence of Confrontation Issues with Coconspirator Statements

No separate Sixth Amendment confrontation issues are posed by the use of a non-testifying coconspirator or agent's statements that are offered for their truth against a defendant. This is because the requirements for admission under Rule 801(d)(2)(E) are identical to "the requirements of the Confrontation Clause." *Bourjaily*, 483 U.S. at 182. Thus, there are no "constitutional problems" once Rule 801(d)(2)(E)'s requirements have been met. *Id.*; *United States v. Singleton*, 125 F.3d 1097, 1107-08 (7th Cir. 1997). *See also Idaho v. Wright*, 497 U.S. 805, 814 (1990)(the Confrontation Clause is not violated where hearsay statement falls within a

firmly rooted hearsay exception). As a result, in considering the admissibility of proffered coconspirator statements, the trial court does not consider whether or not the coconspirator-declarant is “unavailable” or whether there is independent evidence to establish the “reliability” of the proffered statements. *Bourjaily*, 483 U.S. at 183-84; *United States v. Inadi*, 475 U.S. 387, 400 (1986).

This long-standing rule was not affected by the Supreme Court’s recent decision in *Crawford v. Washington*, 124 S.Ct. 1354 (2004). In *Crawford*, the Supreme Court considered whether to admit the recorded statement of the defendant’s wife at trial, where she had made the statement to law enforcement prior to trial. The wife was “unavailable” at trial by virtue of the state’s spousal privilege law, thus, the defendant did not have an opportunity either prior to trial or during trial to cross-examine her. The Court ruled that admission of the wife’s statement violated the Sixth Amendment’s Confrontation Clause, holding that where the government offers at trial hearsay that is “testimonial” in nature, the Confrontation Clause of the Sixth Amendment requires actual confrontation, i.e., cross-examination, regardless of how reliable the statements may be. The Supreme Court’s limitation on its decision to cover only those statements that are “testimonial” in nature is what distinguishes that ruling from the evidence being sought to be admitted here, which includes “garden variety” coconspirator statements. Under *Crawford*, coconspirator statements are a recognized exception to the strictures of the Sixth Amendment since they are not testimonial in nature. 124 S.Ct. at 1367; *United States v. Cozzo*, 2004 WL 1151630 at *4 (N.D. Ill. April 28, 2004)(J. Zagel)(following *Crawford*, coconspirator statements are not subject to the Confrontation Clause). *See also United States v. Saget*, 377 F.3d 223, 229 (2d Cir. 2004)(co-conspirator statements are not testimonial and do not violate the Confrontation

Clause; hence, their admissibility is not barred under *Crawford*); *United States v. Reyes*, 362 F.3d 536, 540-41 (8th Cir. 2004)(same). Therefore, since coconspirator statements are not “testimonial” hearsay statements, *Crawford* is not implicated, and those statements may be admitted without offending the Sixth Amendment

B. ALTERNATIVE BASES FOR ADMISSIBILITY OF STATEMENTS

1. Defendant’s Own Statements

Many of the statements described herein and sought to be admitted against defendants Ryan and Warner are independently admissible and do not require a Rule 801(d)(2)(E) analysis. A defendant's own admissions, for example, are admissible against him pursuant to Fed. R. Evid. 801(d)(2)(A), without reliance on the coconspirator-statement rule.³ *Maholias*, 985 F.2d at 877. A defendant’s own admissions, moreover, are relevant to establishing the factual predicates for the admission of coconspirator statements against him. *See Potts*, 840 F.2d at 371-72; *United States v. Alexander*, 741 F.2d 962, 966 (7th Cir. 1984), *overruled on other grounds*, *United States v. Ginsburg*, 773 F.2d 798, 802 (7th Cir. 1985).

2. Non-Hearsay Statements

The coconspirator statement analysis also is not triggered when the relevant verbal declaration is not a “statement” within the meaning of Federal Rule of Evidence 801(a). This rule defines “statement” as “an oral or written assertion” or “nonverbal conduct of a person, if it is intended by the person as an assertion.” Thus, a statement that is incapable of verification, such as an order or a mere suggestion, is not hearsay and does not invoke a Rule 801(d)(2)(E) analysis.

³ Rule 801(d)(2)(A) provides in pertinent part that a “statement” is not hearsay if “[t]he statement is offered against a party and is . . . the party’s own statement, in either an individual or a representative capacity.”

See, e.g., United States v. Tuchow, 768 F.2d 855, 868 n.18 (7th Cir. 1985). More importantly, the coconspirator statement rule does not apply when a statement is not being offered for the truth of the matter asserted, and thus does not constitute “hearsay” as defined by Rule 801(c).⁴ Accordingly, statements by alleged coconspirators may be admitted into evidence without establishing the *Bourjaily* factual predicates, but with corresponding limiting instructions, when such statements are offered simply to show, for example, the existence, illegality, or nature and scope of the charged conspiracy. *See, e.g., United States v. Herrera-Medina*, 853 F.2d 564, 565-66 (7th Cir. 1988); *Van Daal Wyk*, 840 F.2d at 497-98; *Tuchow*, 768 F.2d at 867-69.⁵

II. THE GOVERNMENT'S PROFFER REGARDING THE EXISTENCE OF JOINT CRIMINAL ACTIVITY AND DEFENDANTS' MEMBERSHIP IN IT

As noted above, and as this Court is well aware, most criminal conspiracies or joint ventures are clandestine operations that have no formal agreement or structure. Indeed, the Seventh Circuit has noted that “[d]ue to the covert nature of a conspiracy, direct evidence is rare.” *United States v. Rodriguez*, 53 F.3d 1439, 1445 (7th Cir. 1995). In this case, there is an abundance of evidence, both direct and circumstantial, revealing the existence of a conspiracy to conduct and participate in the conduct of the affairs of the charged enterprise through a pattern of racketeering activity.

In principal part, and as set forth in the indictment, the charged joint venture was

⁴ Federal Rule of Evidence 801(c) defines hearsay as “a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.”

⁵ Of course, in many cases, statements by an alleged coconspirator will include a combination of declarations offered for the truth of the matters asserted and declarations offered for other non-hearsay purposes.

accomplished through the statements and actions of the charged defendants and numerous uncharged co-schemers spanning over ten years. As alleged in the indictment, principally in Counts One and Two, the essence of the criminal activity was Ryan performing and authorizing official acts and otherwise utilizing the resources of the State of Illinois for the personal and financial benefit of himself, Warner, Ryan’s family members, Citizens For Ryan, and certain of the Associates referenced in the indictment. Another critical part of the joint criminal activity was concealing and otherwise protecting the joint criminal activity from public exposure and possible criminal prosecution.

_____The government submits the following summary of evidence presented in the general structure and chronology as alleged in the indictment⁶:

A. AWARD OF SOS CONTRACTS, LEASES AND OTHER OFFICIAL ACTS

1. SOS Contracts Benefitting Warner and Udstuen

a. The Transition Team

In late 1990, as the Illinois Secretary of State-elect, Ryan named a number of individuals, including Warner, his close personal friend who operated insurance-related businesses, and Donald Udstuen, a political advisor and high ranking official at the Illinois State Medical Society, to a transition team in order to assist in the planning of Ryan’s Secretary of State Office (“SOS Office”) administration (the “Transition Team”). Scott Fawell, a top Ryan campaign aide for the 1990 election who was slated for a high-ranking position in the incoming Ryan

⁶The following summary is based on information contained in investigative reports, grand jury transcripts and documents obtained during the course of the investigation, all of which the defendants have been provided. By providing the instant proffer, the government is not committing to call each and every individual to whom statements are attributed as a witness at the trial in this case.

Administration, also was an active participant in the Transition Team. In their respective capacities as Transition Team members (Ryan named Udstuen as a co-chair), Warner, Udstuen and Fawell were given access to SOS officials and employees, as well as internal SOS Office documents and information not generally available to the public.⁷

Shortly after George Ryan's election as SOS in 1990, and in the context of the Transition Team discussions, Udstuen and Warner had a series of conversations. In one such conversation, Warner indicated to Udstuen that, as close friends of Ryan, Warner and Udstuen might be able to secure lucrative lobbying or consulting contracts with companies doing business with the SOS Office or companies that wanted to do business with the SOS Office.

Beginning early in the first term, Ryan and Fawell discussed on various occasions Ryan's desire to try to keep his friends, such as Warner and a few others, "happy", which Fawell understood to mean giving them SOS business whenever possible. Based on Fawell's subsequent conversations with Ryan and Warner, Warner regularly kept Ryan in the loop as to what SOS business Warner was involved in, as well as his relationship to these vendors and potential vendors. In the typical case, after Warner obtained a client seeking to do business with the SOS Office, Warner contacted Ryan to disclose that he was hired by a particular company to advocate for SOS business. In reference to SOS contracts and business, on multiple occasions, Ryan told Fawell, in substance, "Let's help Larry if we can." In conversations with Fawell, Ryan made it clear that he viewed helping Warner and Ryan's other close friends as a priority for the

⁷On March 1, 1991, the Transition Team issued its report under the signature of Ryan. In the report, information relating to a number of the contracts and leases that are a subject of the indictment were referenced.

SOS Office.⁸

With Ryan's approval, Fawell also decided to be a central control person for any and all contracts handed out by the SOS Office, so that he could personally know the companies and Ryan's close friends who were interested in obtaining contracts within the SOS. By being the central control person, Fawell was able to facilitate steering the contracts to Ryan's friends and others, most often with Ryan's approval. Fawell agreed to advance Ryan's purposes in this regard and took steps to keep track of these things for Ryan, including by creating the so-called "master" and "priority" lists, which tracked the awarding of some SOS jobs, contracts, leases and license plates by "sponsor".

After a period of time, as Fawell and Warner became closer, Warner dealt directly with Fawell on subjects relating to Warner's interest in SOS contracts, leases and license plates. In Fawell's conversations with Warner, Fawell informed Warner that he would brief Ryan about Warner's involvement and interest in certain SOS business. On one or more occasions, Ryan told Fawell that he approved of Warner informing Fawell, in the first instance, of his interests in contracts, but that Fawell should always keep Ryan apprised of what was going on.

b. Udstuen and Warner Discuss SOS Vendors

In or about 1991, Warner and Udstuen had a series of conversations in which they discussed the possibility of representing various firms doing business with the SOS. In these

⁸In the early months of the Ryan SOS administration, there was tension between Fawell and Warner regarding the issue of Warner's role with SOS vendors. After Fawell had received numerous reports that Warner had been contacting directors of the SOS and discussing potential vendors for their respective departments, Fawell confronted Warner with his concerns in the summer of 1991. Fawell expressed his concern to Warner that Warner's involvement in too much official business would be picked up by the media and come back to hurt Ryan politically.

conversations, Warner told Udstuen in substance that Udstuen had done more for George Ryan than anyone else and that Udstuen deserved to get something for it. Warner told Udstuen that he had discussed with Ryan the proposal that Udstuen receive a share of the money from Warner's lobbying activities. Specifically, Warner told Udstuen he would give Udstuen one-third of the revenue he received from the lobbying clients he obtained. Warner further told Udstuen that he would "take care" of George Ryan from Warner's end, which Udstuen understood to mean that Warner was going to supply a portion of the revenue from the SOS vendors to Ryan and that Ryan approved of that arrangement.

When Warner initially proposed giving Udstuen some of the money he was going to make from SOS vendor clients, Udstuen expressed reluctance receiving the funds directly from Warner in a lobbyist capacity, because Udstuen did not want to be publicly associated with some other lobbying effort because of his position as an employee and lobbyist for the Illinois State Medical Society ("ISMS"). Warner told Udstuen to think about it. Udstuen then approached Alan Drazek, a long time friend and associate, to see if Drazek would be willing to funnel money from Warner so that Udstuen would not be directly linked to Warner's money from SOS vendors. Udstuen asked Drazek if he was willing to run the money through his company, American Management Resources (AMR), pay the taxes and then transfer the money to Udstuen as he needed it. Udstuen told Drazek that in return for his trouble, Drazek could keep some portion of the Warner money. Udstuen also told Drazek that this arrangement was confidential and that they needed to keep quiet about it. Drazek agreed to the arrangement. After Udstuen's conversations with Drazek on the topic, Udstuen called Warner back and told him that he (Warner) should make the checks for Udstuen's portion of the money payable to Alan Drazek's

company, AMR. Warner told Udstuen that he didn't know Drazek, but that he would follow any arrangements Udstuen requested.

Some time after Udstuen had these conversations with Warner and Drazek, Udstuen received his first check from Warner related to ADM. Per Udstuen's instructions, Warner made the check out to AMR. Warner sent the check, and subsequent checks, through the U.S. mail to Udstuen's home. The checks were written on the account of Omega Consulting ("OCC") or National Consulting Company ("NCC"), the two business names Warner was using for his business with SOS vendors. When Warner sent Udstuen his one-third portion of the money that Warner was being paid by the SOS vendors, he usually only sent Udstuen a check for his share of the proceeds; however, Warner occasionally sent Udstuen the invoice that he had billed to his client or a copy of the check that he had received from his client.

On each occasion that Udstuen received a check from Warner, whether related to ADM or IBM, Udstuen sent the check to Drazek for deposit into Drazek's AMR account. Then, from time to time, when Udstuen needed money, Udstuen would ask Drazek to give Udstuen some cash. Typically, Udstuen received \$1,500 to \$2,500 from Drazek at a time. Approximately four times per year, Drazek would bring cash in an envelope to downtown Chicago and give it to Udstuen.

As described below, the same scenario generally followed after Warner began receiving payments relating to lobbying efforts for IBM. The system used by Warner, Drazek and Udstuen to hide Udstuen's receipt of the money from Warner relating to ADM, and later IBM, continued during Ryan's entire tenure as SOS from 1991-1999. In total, during this nine-year time period, Drazek received approximately \$381,096 in Warner checks relating to ADM and IBM.

c. The Awarding of the Contracts for Validation Stickers and Title Laminates to ADM

The first “client” that Warner told Udstuen he had lined up was ADM, a label printing and manufacturing business located in Chicago. In 1986, under a prior SOS administration, ADM first won the contract with the SOS Office to manufacture and print all registration validation stickers (the colored stickers that one must affix annually to a vehicle license plate to demonstrate that registration renewal is current) for Illinois license plates (hereinafter “the stickers contract”). Once ADM received the stickers contract, it retained the contract through rebidding processes through 1998. Throughout that period (1986-1998), the validation stickers contract generated approximately \$1 million per year in revenues for ADM, and was the company's largest single source of income.

Generally speaking, as part of that periodic re-bidding process, the SOS Department of Vehicle Services (hereinafter the “VSD”) issued specifications (typically referred to as “specs”) describing the technical requirements a bidding company had to agree to meet in order to win the contract. The VSD then forwarded the specs to Central Management Services (hereinafter “CMS”), a state agency independent from the SOS that handled contract letting by state agencies like the SOS. After receiving the specs from the VSD, the CMS would then release a request for bids based upon the specs to prospective vendors. The vendors had to submit bids directly to CMS, which then would share the bid information with the VSD. Absent some specific directive otherwise, the VSD's traditional practice was to award the contract to the lowest bidder who met the specs. From the time ADM first obtained the stickers contract in 1986, there was a provision in the specs that substantially guaranteed that ADM would win the contract. Namely, the specs

required that the validation stickers have what was called a “metallic security mark.” The metallic security mark was a security (*i.e.* anti-counterfeiting) feature specifically created and manufactured by ADM.⁹

Prior to Ryan taking office, ADM had never hired a lobbyist in dealing with the state of Illinois, including the stickers contract. In about May or June 1991, then ADM president Thomas O'Brien got a call “out of the blue” from Larry Warner. O'Brien had never met Warner and did not know who he was. In the initial conversation, Warner said he was close friends with the new Secretary of State, George Ryan. Warner warned O'Brien that ADM's principal competitor, 3M, had just hired former Governor Jim Thompson as its lobbyist, a statement that was untrue.¹⁰ Warner said that with Thompson's assistance, 3M likely would get the metallic security mark requirement removed from the SOS specifications for the validation stickers contract. (3M had its own, different security mark, however, called the “Ensure” mark, which was a patented 3M product and a competitor to ADM's “metallic” mark). Warner offered to provide his assistance to ensure that did not happen. Warner assured O'Brien that with his connections, he could guarantee the specs would not change and thus that the contract would stay with ADM. Warner

⁹In 1991, for example, the VSD had made the decision to award the sticker's contract for the upcoming year (1992) to ADM and reject a lower bid by an entity called Decal's Inc. that did not meet the metallic security mark specification. As a result of Decal's Inc. inability to meet the specs, their bid was rejected. In response, the company submitted a formal protest, arguing that their stickers did in fact meet the specifications. On July 1, 1991, Warner called VSD Director Jim Covert about the Decal's Inc. protest and advised Covert on how to respond to the protest on behalf of the SOS.

¹⁰James Thompson was never hired by 3M to assist them in winning a contract for the validation stickers contract at the SOS. Since the early 1980s, 3M had retained Thompson's firm, Winston & Strawn, specifically Jim Fletcher and Clive Topol, as 3M lobbyists with regard to certain legislative initiatives, but neither were solicited by 3M with regard to anything related to the validation stickers contract.

asked to meet with O'Brien in person to further discuss the matter, to which O'Brien agreed. Within a few weeks, O'Brien met Warner for lunch. During that meeting, Warner made clear that if ADM did not hire him as its lobbyist, the specifications for the validation stickers contract likely would change in favor of 3M. Warner again suggested that he could keep the specifications from changing. He indicated that for him to do that would cost ADM \$2,000 per month, and that the rate was non-negotiable.

At the time of this Warner conversation, the specifications for the following year were due to be released soon. O'Brien told Warner that if those specs did not in fact change and still contained the metallic security mark upon release, then ADM would begin paying Warner's \$2,000 monthly fee. Within weeks of O'Brien's conversation with Warner on the issue, O'Brien learned that the specs for the upcoming stickers contract had not changed. Consequently, he met again with Warner and agreed to start paying Warner's fee, which agreement was memorialized in a July 17, 1991, letter from Warner. According to the agreement, O'Brien agreed to pay Warner his \$2,000 monthly fee until November 1992, at which time the fee would increase to \$3,000 per month.¹¹

In August 1991, just weeks after ADM agreed to start paying Warner his monthly \$2,000 "consulting" fee, Warner called O'Brien regarding another, distinct SOS contract -- the contract to produce laminated security strips for vehicle titles (hereinafter "the laminates contract"). Up until 1991, 3M had held the laminates contract. Prior to Warner's involvement, that contract was

¹¹Also, according to the July 17 letter, Warner's company, NCC, was to serve as American Decal's "consultant" in dealing with the SOS. At some point before O'Brien left ADM (in November 1992), Warner told O'Brien that he did not want to be called a lobbyist but rather a consultant. Without further explanation, Warner said words to the effect that calling a person a lobbyist could get that person in trouble.

not a piece of business ADM was pursuing.

When Warner called O'Brien in August 1991, he said he could get the laminates contract for ADM. Warner said that in exchange for obtaining that contract, he wanted more money. Specifically, as reflected in an August 12, 1991, letter and invoice from Warner, Warner said he wanted an additional \$67,000 -- above and beyond his monthly fee for preserving the stickers contract -- and he wanted it in two lump sum payments of \$33,500 by the end of September 1991. Warner told O'Brien that the company would have to pay the additional money up front to get his assistance with the laminates contract. Once again, the price was not negotiable.

On August 20, 1991, O'Brien arranged for the first \$33,500 ADM check to NCC. On September 3, 1991, O'Brien received a letter from Warner indicating that Warner had received the first \$33,500 payment and expected the remaining \$33,500 to be paid by September 16, 1991. On September 24, 1991, O'Brien signed the second \$33,500 check to NCC. As described below, ADM was later awarded the laminates contract.

i. Covert's Early Conversations with Warner and Ryan Relating to ADM

As to the management of the VSD, in or about April 1991, Ryan selected James Covert to be the Director of the VSD. Covert served in this role for eight years through both Ryan's terms as SOS. In his capacity as VSD Director, Covert reported to Ryan and Fawell. Beginning in early 1991, shortly after he met Warner for the first time at a CFR fundraiser, Covert had a series of conversations with Warner and/or Ryan regarding SOS business pertaining to ADM business, including but not limited to the following¹²:

¹²For the early portion of the Ryan years, Covert kept detailed diaries. More specifically, starting in July 1991 and lasting until about mid-1992, Covert maintained a detailed daily planner, wherein he kept notes regarding SOS Office matters, including some of the entries

* Following a Warner phone call and request for a meeting, in or about May 1991, Covert and Warner met at Covert's VSD office in Springfield. During the meeting, Warner reminded Covert that he was “very close” to Ryan. Warner also said he was receiving money as a lobbyist for ADM. Warner made clear to Covert that the VSD should continue to do business with ADM. Also, either during that initial meeting or one of their conversations afterward, Warner suggested to Covert that ADM's principal competitor, 3M, had refused to hire him and that the VSD should *not* do business with 3M.¹³

* On July 11, 1991, Warner told Covert that he wanted Covert to come to Chicago and meet with him and Don Udstuen. Warner explained that he wanted Covert to talk to him and Udstuen about “new initiatives” coming out of the VSD. Warner also said he wanted Covert to bring several things to the meeting, including samples of the SOS title laminates and a copy of a document called “Visions,” an internally-prepared roadmap of initiatives that Covert and several members of his staff had prepared and which was not publicly disseminated. Covert told Warner that he would bring the requested materials, and the meeting was scheduled for July 18, 1991.

* On July 18, 1991, Covert met in Chicago with Udstuen and Warner at Udstuen’s ISMS office. The meeting lasted about two hours. During the meeting, Covert gave Warner and Udstuen the Visions document, as well as the specifications for both the title laminates contract and the title paper contract. After looking at the materials, Warner and Udstuen told Covert what

described herein.

¹³Covert believed that Warner was *telling* him, not asking him, that he was to continue the VSD relationship with ADM. Through his words, tone, and demeanor, Warner gave Covert the impression that he had authority to speak on behalf of Ryan and that Covert was to do as Warner instructed.

Warner and Udstuen considered should be Covert's priorities for the VSD.

* Within a couple of days of the July 17, 1991, "agreement" with O'Brien, Warner brought Covert to meet with O'Brien at ADM's facility on West Fullerton Avenue in Chicago. During that meeting, Warner told O'Brien that Covert was "on the team," which O'Brien understood to mean that Covert would be helping ADM with SOS business. O'Brien gave Covert a brief tour of ADM's facility.¹⁴

* On August 23, 1991, Warner asked Covert to provide him with sheets of the title laminates the SOS had been using from 3M, as well as a copy of the draft specifications for the upcoming title laminates contract. Covert provided to Warner the non-public information Warner requested.

* On or about August 29, 1991, Warner called Covert about the laminates specifications. Specifically, Warner wanted to know if those specs already had gone to CMS. Warner also asked about what was in the specs regarding maintenance of the 3M machine used to affix the laminates to the title paper.

* On or about September 2, 1991, Warner told Covert that he was going to bring O'Brien in to see Covert. Warner rehearsed how Covert should act during the meeting with O'Brien. Warner told him to "be evasive on trying something new" with ADM. Covert

¹⁴In late July 1991, Ryan held an SOS retreat at Pheasant Run Resort in St. Charles, Illinois, for the purpose of discussing the future of the SOS within the newly elected Ryan administration. Ryan, Warner and Fawell were present, along with most of the Directors. During the presentations, Fawell sat at a large conference table with members of the Transition Team, including Warner and Udstuen. Warner sat directly to the right of Ryan. During this retreat, various Directors of the different departments within the SOS Office came in to present their ideas and visions of what they wanted to do during the first four years of the Ryan administration. During the presentations, Fawell saw Ryan and Warner conferring.

understood and believed that Warner wanted him to be evasive with O'Brien so that Warner could try to get more money out of ADM regarding any potential new business with the SOS.

* On or about September 9, 1991, Warner asked Covert to “stall” for a couple weeks on releasing the specifications for the laminates contract. Covert believed it highly unusual for a lobbyist or vendor to seek to delay the release of specifications.

* On or about September 19, 1991, after Covert, at Warner's request, had caused CMS to hold off on releasing the laminates specs, Covert had a conference call with O'Brien and Warner, during which they all agreed that for ADM to bid on the laminates contract, Covert would need to pull the specs back from CMS and make some changes. Covert then instructed one of his VSD underlings to pull the specs back from CMS.

* On or about September 23, 1991, Covert met with Warner and Udstuen. As Covert wrote in his notes, during that meeting, Udstuen and Warner told Covert: “Do not give Amer Decal blatant advantage” with the laminates contract. Covert underlined the word “blatant” because he understood that Udstuen and Warner were cautioning him not to do anything to the laminates specifications that would “stick out like a sore thumb” and make it obvious that these changes were being made to benefit ADM.

_____ * On October 3, 1991, Covert met with Warner and SOS Office General Counsel Roger Bickel to discuss the laminate specifications. After the Bickel-Warner meeting with Covert and after Warner had been paid \$67,000 by ADM, the SOS specifications for the laminates contract were changed to favor ADM. The changes enabled ADM to win the contract, about \$250,000 annually, away from 3M. As with the validation stickers contract, ADM then kept the laminates contract throughout the remainder of Ryan's tenure at SOS.

* In late 1992 or early 1993, Scott Fawell or one of his subordinates told Covert that he should not have further contact with Warner. Based upon that instruction, Covert stopped returning Warner's telephone calls. Shortly thereafter, he received a call from Ryan, who asked why Covert was not returning Warner's calls. Covert told Ryan that he was very uncomfortable with Warner and what Warner was doing with regard to the VSD. Covert told Ryan that he was nervous because Warner frequently intervened in his job and manipulated SOS contracts, all while doing business with the SOS. Covert told Ryan that he felt pressured by Warner and that, in his opinion, Warner might get Ryan in trouble because of the way he was conducting himself. During the conversation with Ryan, Covert likely provided Ryan specific examples, such as the laminates contract, of what Warner had been doing with regard to VSD contracts. In response, Ryan told Covert, "Warner is your friend." Ryan then said words to the effect that Warner was "just a businessman trying to do business." Ryan instructed Covert to return Warner's calls. Covert said he would do so, and that was the end of the conversation.

* In early 1992, 3M invited Covert and two other SOS officials to visit 3M's headquarters in Minnesota and tour their facility there. Covert had concerns about whether he should go based on his previous conversations with Warner, but thought it was a good idea to see and learn about 3M's technology. Covert did not tell Warner that he planned to make the trip. On April 1, 1992, Covert and his two SOS colleagues went to 3M. When Ryan learned of the Covert trip, Ryan told Covert he was concerned with one of Covert's colleagues being on the trip, and also that he did not want Covert and the others "getting too close to 3M." Ryan did not explain why he did not want them "getting too close to 3M." Ryan later told Covert he didn't have a problem with the 3M trip and was not mad at Covert.

ii. Warner's Demands Continue Through ADM's Changes In Ownership

Through late 1992, O'Brien's contacts with Warner principally related to Warner's occasional demands that ADM pay him his monthly fee "on time," which Warner defined as in advance, by the first day of each month. In addition to the calls, O'Brien received letters from Warner demanding the money and, on at least one occasion, indicating that he was "resigning" as ADM's lobbyist because the company was behind in payments. During at least two of these phone calls regarding late payments, Warner told O'Brien (falsely) that 3M had offered to pay him \$8,000 per month to serve as its lobbyist.¹⁵ O'Brien interpreted Warner's comments regarding 3M as a threat. O'Brien responded simply that ADM could not afford to go higher than the current monthly fee. O'Brien told Warner to "do what you have to do" regarding the higher offer from 3M. Warner never mentioned the 3M offers to O'Brien again.

In about August 1992, ADM was purchased. A consultant to the new owner asked O'Brien to obtain a letter from Warner explaining the exact nature and scope of Warner's services for the company. O'Brien relayed that request to Warner, who, on September 10, 1992, wrote O'Brien a letter in which he refused to describe his services, stating: "Quite frankly, I don't understand your requesting this information from me inasmuch as, if anybody is aware of the services I have provided your company, you should be aware and, therefore, if you want an essay

¹⁵ In late 1992 or early 1993, Warner contacted 3M and requested a meeting regarding the possibility of 3M retaining Warner as a lobbyist. At the (one and only) meeting with 3M representative Steve McQueen, Warner said he was interested in representing 3M with regard to the stickers contract. Warner explained that he had contacts in the SOS, including Jim Covert, Scott Fawell, and George Ryan, and that he previously had represented the stickers contract-holder, ADM, as its lobbyist. Warner said he could get 3M an audience "to make their pitch" regarding the stickers contract, but that his fee when 3M got the contract would be \$60,000 a year. 3M rejected Warner's offer and had no further dealings with him as to these matters.

on what I have done for American Decal, I suggest you write it because I'm not going to.”

Warner then concluded the letter by stating: “I will expect payment in full by Monday, September 14th. If this is not met, I'm through and there will be no more conversations.” For reasons unrelated to the SOS Office business, O'Brien was forced to resign from ADM in November 1992.¹⁶

In about November 1992, John Koepke was named the interim President of ADM. Koepke first met Warner in March 1993, when Warner came to ADM's offices to explain his services to Koepke. During that meeting, Warner told Koepke that his job was to generate business and represent ADM's interests with the SOS. Warner repeatedly referenced his “connections” with the SOS and made clear that he was a close personal friend of George Ryan. Warner also told Koepke that if ADM wanted to keep the stickers contract, the company would need Warner's help. Warner said that his fee, now \$3,000 per month, was not negotiable. While questioning what services Warner actually provided, Koepke did not want to sever the Warner relationship for fear that ADM might lose the stickers contract, which was its largest individual piece of business.

iii. *Ryan Overrules Change in Specifications in Order to Benefit Warner and ADM*

In early 1993, in light of complaints from CMS and various vendors, including 3M, regarding the sole-sourcing of the sticker's contract, the VSD had begun questioning why the

¹⁶After he left the company, O'Brien had no further contact with Warner until 1998. In late 1998, O'Brien and another former ADM executive, Dan Lang (discussed below), hired Warner as a lobbyist for MRM-Data Com Graphics, which took the validation stickers contract from ADM in the wake of ADM's refusal in 1998 to capitulate to Warner's money demands (also discussed below). In January 1999, the group was awarded the validation stickers contract by Ryan's SOS successor administration.

specifications for the validation stickers contract required the metallic security mark. A VSD employee named Stuart Hunt was assigned to research the security mark issue, and a committee of VSD employees was created to make a recommendation, based on Hunt's research, regarding whether the stickers specifications should be changed.¹⁷

In or about April 1993, Covert received a written “recommendation,” signed by all seven committee members unanimously recommending that the metallic security mark requirement be removed from the VSD stickers specifications and the specifications be made “generic” so that other companies would have an equal footing with ADM to bid. Based on that recommendation, Covert and his Chief Deputy, Roger Muncy, decided to go forward with changing the specifications by removing the metallic security mark requirement in favor of more generic security features language. After the specifications had been changed, they sent the new specifications to CMS for bidding on the contract for the upcoming fiscal year.

After learning of the alleged change in the specs to the detriment of ADM, Koepke called Warner. Warner insisted that the specs could not have been changed without his knowledge. Koepke asked Warner to check into it.

Shortly after the VSD forwarded the new specs to CMS, Covert got a call at home one morning from Warner. Warner was irate and demanded to know why the VSD had changed the specifications. Warner said that Covert was going to “put him out of business” by jeopardizing

¹⁷In March 1993, Hunt researched the validation stickers contract to determine whether the “metallic security mark” requirement should be removed. Based upon his research and findings, including reviewing information from two other states who successfully used 3M’s product in their sticker’s contract, Hunt recommended to the committee that the specifications be changed to eliminate the metallic security mark requirement and instead be made “generic” so as to allow all potential vendors, including ADM and 3M, to bid.

his contract with ADM. Covert attempted to explain to Warner why they had made the changes. Covert emphasized the need for a competitive bidding process and noted that ADM could still bid on the contract, as the changes simply allowed other companies to bid as well. Warner was not satisfied with Covert's explanation, and told Covert that he would "take care of it" himself. The conversation ended abruptly.

Shortly after his conversation with Warner about the change in specs, Covert got a call from Ryan, who wanted to know what was going on with the stickers contract specifications. Covert explained to Ryan that Muncy and he had submitted to CMS revised specifications that would allow equal opportunity for all vendors to bid. Covert told Ryan that he had made the changes for Ryan's protection so that it would be a fair, competitive bidding process. Covert said there were companies out there with perhaps equal security products. Covert also reiterated his concern about Warner's involvement with such contracts. Ryan indicated he was unhappy with the change.

Shortly after Ryan and Fawell learned that the specifications without the metallic security mark feature had gone out for bid, Ryan convened a meeting in his Chicago SOS Conference Room, with Roger Bickel, Roger Muncy, and Scott Fawell, among others. In the meeting, Ryan asked Muncy what had happened, and Muncy defended the decision to drop the metallic security mark which favored ADM on policy grounds by noting that it would open up competition on the contract. Ryan was unhappy and somewhat combative in demeanor throughout the meeting. Once the meeting was over and Muncy and others had departed, Ryan told Fawell and Roger Bickel that the metallic security mark should be put back into the bid specifications, saying "I want this back" in reference to the metallic security mark. Fawell and the VSD managers did as

instructed and ensured that the metallic security mark feature was placed back into the bid package specifications at the cost of other vendors being able to bid on the sticker's contract.

At or around the time of this meeting, Ryan also asked if Covert could retrieve the specifications back from CMS "quietly," that is, without calling attention to the fact that they were being changed back. Covert said he thought it could be done, and Ryan said to do it. After his conversation with Ryan, Covert had the specs retrieved from CMS and changed back to include the metallic security mark. That aspect of the specs then remained the same throughout the rest of Ryan's administration, and ADM kept that contract. Having observed Ryan's stated views on the matter, Covert never raised the issue about the specifications again. After the specs confrontation with Warner and Ryan, Covert also had considerably less communication with Warner.

Shortly after the specs had been changed back to again favor ADM, Warner called Koepke and said, "it's been taken care of," which Koepke understood to mean that the specs had been changed back to the original form, including the metallic security mark.

iv. Warner Continues to Sound Similar Themes to New ADM Ownership

In about August 1993, Koepke attended a CFR fundraiser/golf outing for Ryan at Cog Hill. At the outing, Warner introduced Koepke to Ryan, and told Ryan that Koepke was President of American Decal, "the guys who do the validation sticker contracts."

Beginning in early 1993, Mike Kelly became ADM's sales representative responsible for sales with the Illinois SOS. During Ryan's SOS tenure, Kelly attended a number of different Ryan fundraisers. The first was a downstate fundraiser at the Fairgrounds in 1993 or early 1994. During that fundraiser, Kelly introduced himself to Ryan and told him he was with ADM. When

Kelly said he was with ADM, Ryan mentioned Warner and said that he (Ryan) was aware that Central Management Services had “screwed up” by not including a renewal agreement for ADM's validation stickers contract that year. Kelly was pleasantly surprised that Ryan said the lack of a renewal agreement had been an oversight by CMS.

Kelly also attended a Ryan fundraiser at Cog Hill in 1993 or 1994. At that event, Kelly saw Warner smoking a cigar outside by himself during the cocktail party. Kelly approached Warner, and they started talking. Warner told Kelly that he had cheap cigars that he gives to the people “around here,” referring generally to the SOS employees, and that he had good cigars that he saves for more important people. Warner offered Kelly one of the good cigars, and Kelly declined. Warner then made the comment that he could get “any of these people fired tomorrow” but he found it was easier just to give them small gifts and “stroke them” into doing what he wanted.

In December 1993, ADM was sold again, and Bryce Anderson and John Reed were named as President and Vice President respectively. In about February 1994, Reed met with Warner at ADM's offices in Chicago. During the meeting, which Warner had requested, Warner said that he wanted more money from ADM -- \$5,000 per month. Warner threatened that if ADM did not pay him \$5,000 per month, he would become a lobbyist for ADM's “competition” (which Warner did not specify by name). Warner explained that he had very important connections at the Illinois SOS, and in that regard, repeatedly dropped George Ryan's name. Warner told Reed that if he (Warner) was not “on ADM's team,” the stickers contract was going to go to “the competition,” and said that if he was not paid the \$5,000 fee, he would not be “on ADM's team.” During the meeting, Warner did not offer to provide any type of service for

ADM, but rather only threatened that the company needed to pay him to keep the stickers contract.

Concerned about losing the business to the competition, as a compromise, Reed and Anderson decided that they would not meet Warner's \$5,000 monthly demand, but that they would continue sending the \$3,000 monthly fee as the company had been doing. Shortly thereafter, both Reed and Anderson left ADM. In about April 1994, Jim Motter was hired to replace Anderson as ADM President. Within weeks of joining ADM, Motter received a telephone call from Larry Warner. At the time of the call, Motter had never met or heard of Warner. During that conversation, Warner told Motter that he recently had resigned as ADM's lobbyist because Anderson had refused to pay him his \$5,000 monthly fee. Warner explained that he had been ADM's lobbyist for years and that his fee for those services recently had increased from \$3,000 to \$5,000 per month. Warner claimed that his services to ADM were worth \$5,000 per month because if the metallic security mark were taken out of the specs, ADM likely would lose the stickers contract to 3M. Warner claimed that 3M wanted to hire him as its lobbyist, and suggested to Motter that if that happened, there was a strong likelihood that ADM would lose the stickers contract. Warner also made clear to Motter that he was close friends with SOS Ryan.

On or about May 16, 1994, Motter met with Warner at ADM's offices in Chicago. During the meeting, Warner reiterated what he told Motter during their telephone conversation. Warner said he would not stay on as ADM's representative unless the company paid him \$5,000 per month, both retroactive to the beginning of the year and in the future. Warner gave no explanation as to why his fee had gone from \$3,000 to \$5,000 per month, but made clear that the

new rate was not negotiable. Viewing Warner's demands as a threat, Motter decided to capitulate to Warner's demands. On May 18, 1994, Warner mailed Motter a letter to “confirm the understanding” reached during their meeting. Warner said he felt “reassured that American Decal will fully cooperate with me in my future efforts on your behalf,” and then set forth the agreed-upon price terms. After their May 1994 meeting, Motter did not have any conversations with Warner about ADM business.

After Motter left ADM in September 1995, Dan Lang, who was then serving as vice-president, took over as President and held that job until Aristotles Mpougas bought the company in September 1998. Lang, who was generally aware of Warner’s history with ADM prior to becoming president, first met Warner in about the Spring of 1997, when Warner requested a meeting with Lang. The meeting occurred at ADM's offices and was attended by Lang and 2-3 other ADM officers. ADM had been late on some of Warner's monthly payments, and the purpose of the meeting was to discuss that issue.

During the meeting, among other things, Warner falsely claimed that 3M had been calling and asking him to be its lobbyist. Warner implied that if he decided to take 3M up on its offer, ADM would then “have problems” with the stickers contract.¹⁸ As a result of Warner’s statements, Lang made the decision to continue paying Warner his \$5,000 monthly fee. By early 1998, ADM had again fallen behind on its payments to Warner. On March 17, 1998, Lang received a letter from Warner stating that if he was not paid \$20,000 by April 1, Warner would have to “seriously consider withdrawing” as ADM's “consultant.” Warner explained, “I know

¹⁸On one occasion, in which Udstuen and Warner discussed ADM’s procurement of the sticker’s contract, Warner told Udstuen that ADM would be "fucked" if Warner had not been assisting them in obtaining the contract.

you have been having some financial problems, however, I also have obligations which are predicated on my cash flow and it is necessary for me to make this demand on you at this time.”

In April 1998, Warner requested another meeting with Lang. During the meeting, Warner told Lang that he wanted \$8,000 per month instead of the previous rate of \$5,000 per month. Warner said that if ADM paid him the additional \$3,000 per month, he would “help push through” a new SOS contract to manufacture temporary registration permits (hereinafter “TRPs”).¹⁹ Warner also said he wanted a written contract reflecting his pay arrangement with ADM, so that he would be covered as a creditor if the company went bankrupt. Given the fact that ADM was in the process of being sold, Lang decided to stall Warner for time. In September 1998, just before ADM was sold, Lang resigned as ADM President and the ownership reins were turned over to Aristotles Mpougas.

In the Spring of 1998, Mpougas, who had begun working as a full-time contract consultant for ADM in 1995, received his first telephone call from Warner. Warner told Mpougas that he had heard ADM might be splitting up. Warner said ADM owed him money and he wanted that money immediately. Warner also said he would need a written contract right away, so that if ADM went bankrupt, he would be on the books as a creditor. Warner also mentioned the upcoming TRP contract, and said that if ADM paid an extra \$3,000 per month, he

¹⁹Months before this meeting, the SOS had directly contacted ADM and asked them to make a prototype new TRP that included the same metallic security mark used for the validation stickers. The company, and particularly Aristotles Mpougas, who was then operating ADM's Printing Division, was already working on that project and had provided the SOS with several prototype TRPs. No one at ADM had discussed the company's efforts with Warner. In June 1998 (five months before the election), Ryan held a press conference during which he displayed one of Mpougas' prototypes as the SOS's “new TRP.” After the November election, Ryan's SOS office re-assessed the prospective TRP initiative and decided to leave the decision for Ryan's successor, who rejected ADM's TRP proposal as too expensive.

would ensure that the company won that contract.

Mpougas then bought ADM, which was in financial difficulty at the time. Within days after Mpougas bought the company, Warner called Mpougas and asked for a meeting. Mpougas agreed, and the meeting occurred on about September 18 in Mpougas' office. During the meeting, Warner told Mpougas that ADM owed him \$25,000, representing \$5,000 per month for the previous five months, and that ADM would owe him an additional \$5,000 by the end of September. Warner said that Mpougas had to both pay him and provide him with a written contract immediately. Warner said that if Mpougas did not meet those demands, he would resign as ADM's consultant and "go with 3M." Warner specifically said that he already was considering "opening the specifications" for 3M.

At some point in 1998, Warner told Covert that Mpougas had taken over ADM and that he (Warner) was trying to develop a relationship with Mpougas. At the time, ADM had been having production problems with the validation stickers contract, and Covert told Warner about the company's performance problems. Warner initially indicated that he would look into the problems. Soon after that, however, Warner informed Covert that he was "finished" with ADM because they would not pay him. Warner said words to the effect that he "did not care if ADM's SOS contract was terminated." Warner also said he was going to approach 3M, but did not say specifically what he was going to approach them about.

Mpougas attempted to be diplomatic and stall Warner because he felt that was the best thing for the company, which at that time could not afford to lose the stickers contract. Mpougas told Warner he would see what he could do. Just days after the meeting, on September 21, 1998, Mpougas received a follow-up letter from Warner. In it, Warner again demanded his money and

threatened to “resign” if he did not get it immediately. Warner also reiterated his demand for a written contract and stated his terms for such a contract, which included \$5,000 per month for the stickers contract and \$3,000 per month for the TRP contract. Warner demanded the written contract for his lobbying services by the end of September.

On September 25, 1998, Mpougas wrote Warner back. In that letter, Mpougas offered to pay Warner \$5,000 immediately, and suggested that as ADM's business improved, more money would be forthcoming. On October 8, 1998, Warner sent Mpougas a short letter indicating that because of ADM's “failure to bring us up to date by September 30,” NCC would “no longer be able to represent American Decal.” After receiving that letter, Mpougas never had another communication with Warner.

The next year, after Ryan had left the SOS, ADM lost the validation stickers contract (for the first time in 15 years) to a Detroit-based company called MRM which, as noted above, was a consortium of ex-ADM officials who hired Warner as its lobbyist. In December 1999 just three months after MRM had won the contract, the *Chicago Tribune* ran an article about Warner's interest in the SOS's Joliet lease (discussed below) and the related federal investigation. Either that same day, or within days, O'Brien called Warner and asked if he was in trouble. Warner responded, “it looks that way.” Warner then told O'Brien that he needed to “keep a low profile” for awhile, further indicating that it would “probably be better for everyone” if he were “not visibly visible” any longer.

d. The Awarding of Computer-Related Contracts to IBM

A second “client” landed by Warner and Udstuen during Ryan's first SOS term was IBM. However, prior to coming to terms with IBM, Warner and Udstuen unsuccessfully

solicited a competitor of IBM's, Honeywell, which, at the time Ryan became SOS, held the major computer contract with the SOS.²⁰ As with the pursuit of ADM and certain leases (described below) Warner and Udstuen's pursuit of Honeywell and, later, IBM had its roots in the Transition Team process.

i. Warner and Udstuen's Pursuit of Honeywell

In about 1985, prior to Ryan becoming SOS, Honeywell had won a contract to provide mainframe computer services to the SOS Office. The contract was worth about \$4 million, and included a separate maintenance contract worth about an additional \$70,000 per month. Additionally, between 1986 and 1990, the SOS approved two upgrades to the SOS data processing system. Accordingly, the SOS Office computer contracts were a substantial and important piece of business for Honeywell.

In an effort to protect Honeywell's existing SOS computer contracts and win future mainframe business, Honeywell's principal sales representative, Ed Wuttke, arranged for a meeting with Ryan to introduce himself and make a pitch for Honeywell. In approximately March 1991, Wuttke and senior Honeywell management met with SOS Ryan in the SOS Office in Springfield. In addition to Ryan, there were several members of Ryan's Transition Team at the meeting, including Udstuen, Warner, and others. During the meeting, Wuttke told Ryan and his advisors about their proposed discounted mainframe upgrade, and he emphasized that the SOS was an important customer to Honeywell.

During the Transition Team process in which Warner and Udstuen participated, an

²⁰In about 1986, a majority of Honeywell was sold to a French company called Bull, which eventually bought out Honeywell altogether. While the name of the company thus changed at various times, the collective entity will be referred to herein as Honeywell.

analysis had been done regarding the current volume and memory capacity of the SOS's mainframe computer system and the potential for a major upgrade of system. The proposed upgrade was estimated to cost approximately \$9 million. During the Transition Team process, Warner and Udstuen further learned that Honeywell Corporation supplied the mainframe computer for SOS. In conversations between the two, Warner and Udstuen agreed to pursue Honeywell and see if they would be interested in hiring Warner and Udstuen as lobbyists. Separately, Honeywell, through Wuttke, had learned that Udstuen and Warner were people of influence within the SOS on the computer issues.

Within a short time frame, Wuttke had two meetings, the first was with Udstuen and the second was with Udstuen and Warner. In the second meeting, Udstuen introduced Warner as an advisor to Ryan and someone who was going to be involved in the decision about the SOS Office's mainframe computer system. Leading up to the second meeting, there was no indication made to the Honeywell representatives that either Warner or Udstuen were acting as private lobbyists as opposed to Transition Team members.

During the second meeting, which occurred in Chicago, Udstuen and Warner indicated that they could speak with Ryan on Honeywell's behalf and that they believed Ryan would accept their recommendation regarding the computer upgrade contract. Udstuen and Warner also said, however, that there would be a \$250,000 fee for their assistance in getting Honeywell the upgrade mainframe contract. Udstuen and Warner made clear that they would only help Honeywell get the contract if Honeywell paid their \$250,000 fee. Shocked and troubled by what Udstuen and Warner had proposed, Wuttke reported the "offer" to superiors at Honeywell and was instructed to arrange another meeting in order to try and reach some more reasonable

alternative to the \$250,000 fee.

Shortly after the second meeting with Udstuen and Warner, Wuttke saw Warner at a Chicago golf outing fundraiser for Ryan. Warner and Ryan shared a golf cart during the fundraiser. After the golf rounds, there was a dinner, during which Wuttke saw Warner alone at the bar. Wuttke approached Warner and began a conversation with him. Wuttke told him that Honeywell wanted to schedule another meeting to discuss the proposal made by Warner and Udstuen. Warner said that would be fine and again suggested that he and Udstuen were in a position to help Honeywell win the mainframe upgrade contract. Within weeks after the golf outing, Honeywell management and Wuttke met again with Warner and Udstuen at Udstuen's office in Chicago.

During or after this second meeting, Udstuen and Warner indicated they felt that had a "conflict of interest" because they were part of Ryan's Transition Team and close group of advisers. Udstuen and Warner suggested that because of their roles with the SOS, they had decided it would be inappropriate for them to be financially involved with Honeywell and the mainframe upgrade contract. They suggested instead that Honeywell talk to long-time Ryan friend, Arthur "Ron" Swanson (described below), whom they said was close to Ryan and could help. After the meeting, Wuttke called Swanson, who seemed to be expecting Wuttke's call. Within days, Wuttke met with Swanson at his office in the Lincoln Towers complex in Springfield. During the meeting, Wuttke explained Honeywell's mainframe upgrade proposal. Swanson said he was close with Ryan and likely could get Honeywell the mainframe upgrade contract, but that his fee for doing so would be \$750,000. Swanson did not offer to do anything in exchange for the \$750,000 other than talk to Ryan about awarding Honeywell the mainframe

upgrade contract. Wuttke complained about the price and noted that it had tripled from what Udstuen and Warner were asking. In response, Swanson said Honeywell could pay \$250,000 a year for three years, but that the total, \$750,000, was not negotiable. After the meeting with Swanson, Wuttke told his supervisors of Swanson's \$750,000 price. Wuttke had at least one follow up meeting with Swanson at Lincoln Towers to try to talk him down from that price, with no success. Given the payment demands that had been made to Honeywell through Warner, Udstuen and Swanson, Wuttke reported what had happened to Randy Witter and Robert Cook of Cook & Witter in Springfield, Honeywell's retained lobbyist for SOS efforts. (They were retained for \$60,000 per year to assist Honeywell with state business opportunities). Wuttke told Cook and Witter the full story regarding his meetings with Udstuen, Warner, and Swanson, and their money demands made at those meetings.

Cook, who was a friend of Ryan's, responded that he was shocked about what had happened and indicated that he was going to speak personally with Ryan about the matter. On September 24, 1991, Cook had a face-to-face meeting with Ryan in Ryan's SOS Springfield office. In the meeting, Cook related the sequence of events regarding the meetings with Udstuen, Warner, and later Swanson. Cook related that Udstuen had informed Honeywell that Ryan was privy to Warner and Udstuen's pitch for Honeywell to hire them, and that Ryan had approved it. Cook further stated that Warner had requested a substantial fee for his and Udstuen's services. Cook then related that, due to a potential "conflict of interest," Udstuen and Warner sent them to Swanson, who in turn asked for \$1 million in payments over a four-year period.

While acknowledging that Warner was one of his advisors, Ryan denied that he had any conversation with Udstuen about Udstuen and Warner's role in soliciting Honeywell. Ryan

further went on to attempt to persuade Cook that Ryan personally was unaware of Udstuen and Warner's solicitation and that he could not afford this to go on because of his age and reputation. He also told Cook that he would speak to Udstuen and get to the bottom of it.

The next morning, September 25, Ryan telephoned Cook. Ryan told Cook that he had talked to Udstuen who related his version of events, which included Honeywell seeking out Udstuen and Udstuen and Warner's request for a financial arrangement. After Udstuen and Warner identified a conflict, they directed Honeywell to Swanson, but only after Honeywell asked for another recommendation. Ryan told Cook that, after talking with Udstuen, he was greatly relieved that things were not as presented by Cook the day before and attempted to convince Cook that there was nothing wrong with how Udstuen and Warner handled the matter. Ryan went on to criticize Honeywell for "misreading" Udstuen's intentions. Strongly believing that Ryan was refusing to acknowledge the realities of the conduct by his advisors, Cook finished the conversation with Ryan and had no further discussions with Ryan on the issue. Cook reported the results of his meeting and follow up conversation with Ryan in a confidential memo.

ii. *Within SOS, Udstuen and Warner Promote IBM*

At some time early in Ryan's first term as SOS, Udstuen received a call from Bob Kjellander, a Springfield lobbyist, who represented IBM. Kjellander asked Udstuen for his recommendation for another lobbyist that IBM could hire to try to procure business with the SOS Office. Udstuen told Kjellander that he thought Warner would be a good choice. Udstuen recommended Warner because he knew that Warner was very close to George Ryan and by that time, Udstuen already had made a financial arrangement to share in any lobbying proceeds with Warner relating to SOS business. After Udstuen's conversation with Kjellander, Udstuen told

Warner about Kjellander's call and his recommendation of Warner. At or around this time, Udstuen also shared his conversations regarding Warner and IBM with Fawell. Some time after Udstuen's conversation with Kjellander, Warner told Udstuen that IBM had hired him to try to get business with the SOS.

By late 1991, and in contemplation of the mainframe computer issue, Ryan was looking to hire a Director of the SOS Office's Information Systems Services Department (hereinafter "the ISSD") to be responsible for addressing the mainframe computer issues. Ryan selected Warner and Udstuen to aid Ryan in the search of the Director. In 1991 or early 1992, Frank Cavallaro was contacted by Kjellander who asked Cavallaro if he was interested in working at the SOS Office. Through Kjellander's recommendation, Udstuen contacted Cavallaro and had a series of conversations with him. One of the conversations took place at a lunch meeting with Udstuen, Larry Warner, and possibly Bob Kjellander. This meeting was the first time Cavallaro ever met Warner. During his lunch with Warner and Udstuen, switching the SOS Office to an IBM mainframe was the primary topic of conversation. Warner and Udstuen were very explicitly pro-IBM and seemed pleased that Cavallaro supported the idea of switching to an IBM mainframe system. It was clear to Cavallaro during the meeting that Warner and Udstuen wanted to make sure that Cavallaro would support IBM as Director of the ISSD.

In their capacity as members of a search team for the ISSD position, Udstuen and Warner arranged for Cavallaro to be interviewed with Ryan. After Ryan's interview with Cavallaro, Ryan told Fawell he did not believe Cavallaro would be "his guy." Fawell reminded Ryan that he had authorized Udstuen and Warner to do the interviews to find someone for the job. After Fawell, Udstuen and Warner lobbied Ryan to hire Cavallaro, Ryan ultimately agreed. Ryan personally

called Cavallaro and hired him for the position as Director of the ISSD.

In January 1993, two Springfield-based IBM representatives, Mark Mullins and Bart Lambert, met Warner at a Chicago-area restaurant to discuss SOS business. Mullins and Lambert decided it would be wise to hire Warner as their lobbyist. On March 11, 1993, with Cavallaro having been selected and Warner having laid the groundwork for the mainframe effort, IBM entered its first contract with Warner. For purposes of the contract, Warner created a company, Omega Consulting Group, Ltd. (hereinafter "OCC"). Under the contract with IBM, OCC was to receive a 3.5% commission from IBM's net revenues from any subsequent SOS business.

When IBM hired Warner in 1993, Warner was prohibited from hiring any subcontractors for his lobbyist duties. Nonetheless, and unbeknownst to IBM, Warner continued to forward a cut of his proceeds under the IBM contract to Udstuen, via Drazek and his business, AMR.

In late 1994, Warner's initial contract with IBM was scheduled to expire. IBM contacted Warner to negotiate a new contract, but they hit a snag. Earlier that year, the Illinois legislature passed the Lobbyist Registration Act, which for the first time in Illinois, required that all lobbyists vis-a-vis Illinois Executive agencies register with the Illinois SOS Office.²¹

During the contract renewal negotiations with Warner, IBM told Warner that, in light of the passage of the Act, he needed to register as IBM's lobbyist. Warner refused. At a confrontational meeting in Chicago in December 1994, Warner told Mullins and Lambert that he

²¹Specifically, the Act required the following persons to register: "Any person who, for compensation or otherwise, either individually or as an employee or contractual employee of another person, undertakes to influence executive, legislative, or administrative action" and/or "Any person who employs another person for the purpose of influencing executive, legislative, or administrative action."

did not want to register as a lobbyist. Warner argued that since he had not talked to state legislators on behalf of IBM and was not making sales calls for IBM, he did not need to register. Mullins and Lambert told him they believed the law required him to register. As an alternative to registering himself, Warner proposed that IBM could draft the new contract to make Warner a subcontractor to one of IBM's other consulting firms, such as Bob Kjellander's firm, Springfield Consulting, which then could register under its own name. Mullins and Lambert rejected Warner's proposal.

In January 1995, the IBM representatives told Warner that in addition to the previously agreed-upon 3.5% commission, they would be willing to pay him a monthly flat fee of about \$2,700 for his services. They emphasized again, however, that before they would enter such an agreement, Warner would have to register as their lobbyist. Warner then relented. On January 25, 1995, Warner sent Lambert a letter stating in part, "Bart, I am now prepared to register as your Lobbyist [sic]." That same day, Warner submitted his first lobbyist registration statement with the SOS relating to IBM. In it, Warner identified OCC as the lobbyist registrant and himself as OCC's authorized agent. Later that month, Warner and IBM entered a new four-year contract.

Prior to the award of the mainframe contract to IBM, Warner told Cavallaro to "hold off" and not do anything while he was working on his deal with IBM. Cavallaro understood and believed that Warner was re-negotiating his deal with IBM and did not want Cavallaro to do anything further until Warner's deal was finalized. Warner later called Cavallaro back and told him to move forward with the project.

During Ryan's first term and after Cavallaro understood Warner was IBM's lobbyist, Warner contacted Cavallaro occasionally to check on what type of projects were in the works at

the ISSD and what was happening in general. When Warner called, Cavallaro would provide him whatever information he requested. Cavallaro understood and believed that he should provide Warner the information because of his close friendship with Ryan and his role in Ryan's "kitchen cabinet."

In or about early 1995, Cavallaro set up a meeting with Scott Fawell to discuss switching to an IBM system. Shortly after his meeting with Fawell, Cavallaro met with Fawell and Udstuen in Udstuen's ISMS offices in Chicago. During that meeting, Fawell, Udstuen and Cavallaro discussed the conversion to an IBM mainframe system. They also discussed a concern about avoiding criticism against Ryan for sole sourcing the mainframe contract to IBM. In order to avoid any sole sourcing issues, they agreed to hire a consultant to make recommendations for the system. Fawell and Udstuen agreed that this was a smart thing to do politically, to make it look like they were not automatically giving the work to IBM.

Shortly before the award of the mainframe to IBM, Warner told Udstuen that Roger Bickel, the general counsel at SOS, was looking into the issue of whether an emergency procurement could be used to obtain the new mainframe contract. Such a process would accelerate the award of the contract, and also payments to Warner and Udstuen from IBM. Warner asked Udstuen to call Bickel and talk to him about the emergency procurement issues. Without disclosing his financial interest to Bickel, Udstuen called Bickel and encouraged him to support an emergency procurement request. Around this time, Warner also informed Udstuen that he had discussed with Ryan the advantages of converting the SOS mainframe computer system to IBM.

IBM and Honeywell were the only vendors to bid on the mainframe contract. Based upon

the bids, the selection committee recommended that IBM be awarded the contract. After the recommendation was made, Cavallaro met with Ryan and Fawell to discuss the final facts and figures regarding the proposed mainframe. Ryan seemed surprised at the \$25 million price tag and frustrated by the cost of the project, which Cavallaro attempted to justify.

In the time period following IBM hiring Warner, IBM's fortunes vis-a-vis the SOS swelled. By the end of 1993, IBM had taken in about \$1.3 million in revenues from the SOS. For each year thereafter, IBM's revenues from the SOS increased. By 1998, IBM's total SOS revenues were over \$5 million. By the time Ryan left office, Warner's total income from IBM was approximately \$1.0 million, approximately \$250,000 of which was directed to Udstuen through AMR, as described above.

iii. Warner Helps Steer Kiosk Project to IBM

In or about 1995, the SOS Office began investigating the possibility of installing computerized SOS Office kiosks at licensing facilities and at various other public places, such as shopping centers to permit citizens to renew registration, obtain validation stickers, and take care of things related to vehicle titling and registration. There were two principal competitors for the kiosks pilot project -- IBM and a company called NCR that at some point was acquired by AT&T (hereinafter "NCR/AT&T"). In about April 1995, Georgia Marsh, the Director of Accounting and Revenue for the SOS, learned that both the IBM and NCR/AT&T kiosks were being demonstrated at a conference in Columbus, Ohio. Believing it a good opportunity for Ryan and the SOS decisionmakers to go to Columbus and view the demonstrations, Marsh sent a memo to Ryan and Scott Fawell on April 24, 1995, asking if they would be interested in making the trip. As indicated in the memo, Marsh told Ryan and Fawell that she believed they could go

to the Columbus demonstrations and “slip in and out without you being pressured by lobbyists.” Marsh received a response that same day indicating that they would make the trip the next day and that Larry Warner and Jerry Porter, another Ryan friend who was representing NCR/AT&T’s interests, were going to attend the trade show.

On April 25, 1994, Ryan, Fawell, Warner, Porter, Marsh, Cavallaro and possibly others arrived for the trade show. During the trip, the group visited the various vendor booths and met with representatives from NCR/AT&T and IBM. Warner took the lead in promoting the IBM equipment, and Ryan was overheard complaining to Warner that the IBM kiosk machine was not functioning as it was supposed to function. During the return trip, Marsh expressed her view that the NCR/AT&T kiosks were superior to the IBM kiosks. On behalf of her and her staff, Marsh recommended to the SOS front office that if a contract was to be awarded, it should be awarded to NCR/AT&T.

During the period of the selection process, Warner told Udstuen that Marsh was opposing his efforts to procure the kiosk contract for IBM. In response to Warner’s comments, Udstuen called Marsh and told her to “let it go” and not “butt heads” with Warner on the kiosk proposal. Marsh heeded Udstuen’s advice.

After the Columbus trade show, Cavallaro was authorized to initiate an RFP to obtain bids for a kiosks pilot program. Ultimately, Ryan authorized IBM to be selected for the kiosk project, which Cavallaro supported. The pilot program was then initiated by IBM, but the program failed to work as was expected.

2. **Other SOS Contracts Benefitting Warner**

a. **The Awarding of the Digital Licensing Contract to Viisage Technologies**

At an SOS retreat in Lake Shelbyville in 1995, Mike Chamness, Director of Driver Services, proposed the introduction of a new digital driver's license. At the retreat, Chamness stated that there were approximately four or five companies throughout the country which could provide these new digital driver's licenses. Ryan, Warner and Fawell were all present for the presentations by Chamness.

After conducting some initial research, in July 1996, the SOS invited a handful of tech companies, including 1) a small Massachusetts company called Viisage and 2) a joint venture of two companies, Unisys and NBSI, to make presentations to the SOS top brass, including Ryan and Fawell, regarding their digital licensing capabilities.

Leading up to the presentations, Catherine Adduci, a Unisys representative, arranged for a meeting with Ryan in his office in Chicago. Her husband, Al Ronan, a prominent Illinois lobbyist, was present as Unisys' lobbyist. At the meeting, Adduci promoted Unisys' efforts and capabilities in the digital licensing area and requested to be considered by the SOS. As Adduci and Ronan left Ryan's office, Ryan asked for Ronan to return to his office. Adduci waited outside while Ronan and Ryan met for about five minutes. After Ronan emerged, he informed Adduci that Ryan wanted Unisys to speak with Viisage Technology, as in Ryan's words, NBSI (Unisys' proposed partner) was "not the right horse" or words to that effect. Ronan also indicated that Ryan wanted Adduci to contact Larry Warner regarding Viisage. Until that time, Adduci had never met Warner nor heard of his name.

In an attempt to help both Ronan and Warner secure an interest in the digital licensing contract, Ryan and Fawell came up with the idea of trying to have a merger in which Viisage would get the overall contract with Unisys being able to provide the hardware for the system. Fawell spoke to Ronan, Warner and Ryan about the concept, and Ronan, Warner and Ryan also talked themselves.

Within approximately one week of the Ryan meeting, and at Ryan's direction, Adduci contacted Warner. Warner then arranged for a conference call with Adduci and a Viisage representative in which the three discussed pursuit of the digital licensing contract and possible venturing opportunities. After the initial call, Adduci was involved in subsequent conversations with Viisage and Unisys personnel. However, after the series of conversations, both parties concluded that collaboration on the digital licensing contract was not feasible. In conversations with Fawell, Ryan expressed unhappiness with not being able to help Unisys and Ronan.

The presentations by Viisage and Unisys/NBSI occurred on July 31 and August 1, 1996. In addition to Ryan, Fawell and Chamness, Warner attended the Viisage presentation in Chicago.

Within days of the presentations, Chamness received a phone call from Warner, during which Warner asked what Chamness thought of Viisage's presentation. Chamness, who was unaware that Warner was the Viisage lobbyist and rather believed Warner was functioning in his kitchen cabinet role, told Warner that he had been impressed with Viisage, and viewed the company to be a front-runner for the prospective contract. Warner did not say why he wanted Chamness' opinion or what, if anything, he intended to do with the information.

On August 21, 1996, about three weeks after the presentations (and three days after Warner and Ryan returned from a Las Vegas vacation in which Ryan paid his \$280 hotel bill

with cash), Warner had a lunch meeting with Viisage Vice President Yona Wieder at Lino's in Chicago. The meeting was set up by Chicago attorney Irwin Jann, a lobbyist who had helped Viisage get the digital licensing contract in Wisconsin earlier that year. During the meeting, Jann introduced Wieder to Warner, who indicated that he had a close relationship with SOS Ryan. Warner said he would help Viisage win the contract in exchange for a commission of 5% of Viisage's total revenues on the contract. Wieder agreed.

On August 30, 1996, Warner mailed Wieder a copy of the Illinois Lobbyist Registration Act, and “various forms, some of which should be filled out by Irwin, some by you, in order to register you as a company retaining a lobbyist in the State of Illinois.” A little over one month later, in October 1996, Wieder and Jann each signed a contract for lobbying services related to the digital licensing contract. However, Warner's name (as well as the name of Ron Swanson, discussed below) was completely omitted from the lobbying agreement, even though Warner was the only person who actually was going to be doing lobbying work.²²

During the 1996 time period, Fawell and Ryan had numerous casual conversations whereby Ryan and Fawell discussed Viisage and Warner's role as their lobbyist. In 1997, a short time after the contract had been signed between Viisage and the State of Illinois to provide the equipment and technology for the new digital driver's licenses, Fawell had a conversation with Warner. Warner told Fawell that he had a discussion with Ryan, who told Warner that he wanted Swanson to financially benefit from the Viisage contract. Warner was unhappy that Ryan wanted him to split some of his fees with Swanson, Ryan's long-time friend.

²² A draft contract, dated August 1996, explicitly referenced Warner; however, his name was scratched out. The final version excluded his name.

In December 1996, about six months *before* the Viisage-SOS contract was awarded and about one month before the SOS issued the Request for Proposal (“RFP”) that formally initiated the competitive bidding process, Warner hired Swanson to join in the lobbying efforts on behalf of Viisage. On December 16, 1996, Warner sent Swanson a letter in which Warner guaranteed Swanson \$36,000 for his lobbying efforts. In the letter, Warner cautioned that “the cash flow on this might not start until, possibly, June or July, at which time I will start paying you whatever is retroactively due to January 1, 1997.” After the contract was awarded in June 1997, Swanson never performed any services for Viisage, but received \$36,000 from Warner.

Neither Warner nor Swanson registered as a lobbyist for Viisage. Rather, Warner told Jann to file as a lobbyist, which Jann did, with no mention of Warner or Swanson on the registration. Similarly, Wieder filed lobbyist registration statements on behalf of Viisage, in which he named only “Irwin Jann & Associates,” Jann's law firm, as Viisage's lobbyist.

In July 1997, about one month after the SOS award of the contract to Viisage was publicly announced, Jann, Wieder, and Warner signed an agreement formally assigning Jann's rights and interests in the lobbying contract to Warner's NCC. Nonetheless, thereafter, Jann continued to file as a lobbyist, and Warner failed to register. Additionally, Weider continued to file registration statements naming only Jann as the lobbyist.

After Warner received checks from Viisage, the checks were deposited in his NCC account. Thereafter, a check in the amount of 1/3 of the proceeds was cut for Jann. The Swanson proceeds also came from the NCC account.

i. *Warner Friends and Ryan Family Associates Purchase Viisage Stock*

In November 1996, approximately two months before the competitive bidding process

was initiated through the SOS's release of an RFP, Viisage went public through an IPO on the NASDAQ.²³ Between December 30, 1996 and the April 9, 1997 announcement that Viisage was bidding on the SOS contract, Warner purchased a total of 7000 shares of Viisage stock for about \$83,500. During mid April 1997, Warner also tipped Larry Stern, a lifetime friend and SOS employee, about the stock. In an April 1997 visit to Warner's office, Warner told Stern that Viisage was a company that was going to be providing digital licensing services in Illinois, including some sort of sophisticated technology that would aid in police work. Warner said that Viisage had hired him as a consultant to assist the company's efforts to get business in Illinois and that he was getting paid for those efforts. Warner mentioned that the Viisage stock was cheap and that he himself had bought some of it and recommended Viisage as a good stock for Stern to buy. After this conversation with Warner, in April 1997, Stern bought a total of 1400 shares of Viisage stock. Around that same time, Stern told his friend and SOS supervisor Pat Spizzinocco about the stock. Stern related to Spizzinocco the basic information from Warner about Viisage and Spizzinocco also purchased the stock. Following the announcement that Illinois would be contracting with Viisage, Stern and Spizzinocco later sold their shares at a profit. Stock records also show that at least two additional Warner friends, as well as Ryan's son's business partner, and the husband of Ryan's niece had purchased Viisage stock during this time frame.

On June 3, 1997, Viisage and the SOS issued press releases announcing that Viisage had

²³When Viisage and Warner entered the lobbying contract in October 1996, Viisage already was preparing for the IPO. At some point in the process, Wieder had a conversation with Warner in which Warner mentioned that he was buying Viisage stock. Sometime immediately before or after Viisage obtained the contract, Fawell heard that Warner, among others, had purchased Viisage stock.

won the Illinois contract, which announcement resulted in a short-term boost to Viisage's stock price.

In the August-November 1998 time period, Chamness received two calls from Warner asking how many licenses per month were being issued. While Warner gave no reason for wanting the information, Chamness obtained the information from the SOS's Fiscal Department and forwarded it to Warner. However, the terms of Warner's arrangement with Viisage demonstrated why Warner was interested in total licenses issued. Warner received 5% of Viisage's gross revenues from the SOS contract. Warner continued to be paid through the return of the first indictment in this case. Through November 2002 when the relationship was terminated, Warner was paid over \$834,000 by Viisage.

b. The Awarding of the Automated System Consulting Contract to ATC

Affordable Temperature Control ("ATC"), a Chicago heating and air conditioning contractor, had, for many years, performed work for two of Larry Warner's businesses, a fire insurance adjustor business called Lash Warner & Associates and a related building reconstruction and maintenance company called Economy Building & Maintenance. Michael Brodsky was responsible for the day-to-day operations of ATC.

In about December 1991, Warner called Brodsky and asked if ATC would be interested in a contract to help design an upgraded temperature control system for certain buildings in the Illinois Capitol Complex in Springfield. At the time, Brodsky did not know what Warner's connection was to the Capitol Complex project or how he was involved in the prospective contract, and Warner did not volunteer that information. Brodsky told Warner that ATC would be interested in the job.

Shortly after his conversation, on or about January 13, 1992, Brodsky received a letter from Larry Fletcher from the Physical Services Department of the SOS Office indicating that ATC had been awarded the contract to help design the temperature control system. Prior to ATC being awarded this contract, Brodsky had not spoken with anyone at the SOS Office regarding the contract. As requested in Fletcher letter, Brodsky signed the SOS Office contract documents and returned them to the SOS Office. Brodsky later received the final contract, bearing a signature of George Ryan, with a cover letter under the name of George Ryan.

Between January 1992 and September 1994, ATC performed services under the above-referenced contract and two further related contracts that were awarded ATC in connection with the Capitol Complex project (hereinafter collectively “the SOS Office contracts”). Under the SOS Office contracts, ATC helped the SOS Office prepare specifications and oversee the competitive bidding process related to installation of temperature control systems in several Capitol Complex buildings. ATC was paid directly by the State for the work done under the SOS Office contracts, and ATC in turn paid its principal subcontractor for its services.

Sometime between January 1992 and June 1992, after ATC had been awarded and begun work under the initial SOS Office contract, Warner called Brodsky and said he wanted some compensation related to the contract. Warner made it clear that because he had been instrumental in getting the SOS Office contract for ATC, he felt he should be compensated. Warner said he expected his compensation to be somewhere in the area of 8-10% of ATC's total revenues under the SOS Office contract. This was the first Warner had ever solicited money in exchange for procuring the SOS Office contract for ATC. Brodsky told Warner that he would look at the numbers and get back to him. Shortly after his conversation with Warner, Brodsky

agreed to pay Warner 8% of ATC's basic design/construction fee under the SOS Office contract.

Brodsky received ATC's first payment from the SOS Office in about May 1992. After receiving the first SOS Office payment, Brodsky contacted Warner's secretary, Ann McGuire, and told her what Warner's 8% cut would be. McGuire then told Brodsky that he would be receiving an invoice from National Consulting Company ("NCC"), and that he should make the Warner checks out to that company. Before that conversation with McGuire, Brodsky had never heard of NCC and does not know what, if anything, NCC's business was.

After his conversation with McGuire, on about June 1, 1992, Brodsky received by mail an invoice from NCC for \$2,200, which was about 8% of ATC's first payment from the State under the SOS Office contract. After receiving the NCC invoice in June 1992, Brodsky caused an ATC check to be cut to NCC for \$2,200, the amount reflected in the invoice. Brodsky then mailed the check to NCC at 3101 North Western Avenue, Chicago, Illinois, Warner's office.

From June 1992 through October 1994, on every occasion that ATC received a payment from the State related to the SOS Office contracts, Brodsky followed the same basic procedure with regard to Warner's compensation. Namely, Brodsky notified McGuire of the amount of Warner's cut from the payment in connection with the SOS Office contract, and Brodsky then received by mail an invoice from NCC reflecting that ATC owed NCC the amount he had discussed with McGuire. Each of the NCC invoices indicated that the payments to NCC were for "Services to date." Contrary to those representations, Warner had never provided ATC with any services, other than procuring the SOS Office contract as Brodsky has described.

Between June 1992 and October 1994, ATC paid Warner approximately \$8,240 related to the SOS Office contracts. ATC's basic design and construction fee from the contracts were

somewhere around \$54,705. At the time Brodsky authorized the ATC payments to NCC, Brodsky understood that the payments were essentially a kickback to Warner for his assistance in getting ATC the contract.

At or around the time that ATC was awarded the contract, Scott Fawell discussed the contract with Warner and thereafter caused Warner to be placed on the master list with Warner as the “sponsor” of the ATC contract.

c. Soliciting Modern Business Systems Relating to SOS Photocopier Leases

Beginning in or about 1982 through 1997, Nadine Liberatore worked as a sales representative for a copying company, Modern Business Services (hereinafter “MBS”) and, in this capacity, was the principal salesperson responsible for MBS's sales with Illinois State agencies, including the SOS Office. During the 1980s and 1990s, the SOS Office was one of her largest accounts and generated around \$70,000 to \$100,000 in annual revenues. In doing business with the SOS, Liberatore rented copy machines to individual departments of the SOS, and thus dealt with the SOS Office on a department-by-department basis.

In early 1991, shortly after George Ryan took office as SOS, MBS’ rental agreements with the SOS Office were scheduled to expire. As a result, in early 1991, she made sales calls to various Department Directors in effort to get the rental agreements renewed for an additional period. In May and June of 1991, Liberatore visited with Georgia Marsh, who was the new Director of the Department of Accounting Revenue for the SOS, for the purpose of renewing MBS’ leases with Marsh’s department. During one of the meetings with Marsh, Liberatore asked Marsh for any referrals of people she thought Liberatore should talk to within the new

Administration to try to win new business for MBS. Marsh suggested that she talk to Larry Warner, whom she said was very close to George Ryan and was somebody who was dealing with vendors trying to do business with the SOS. In these conversations with Marsh, Liberatore understood and believed that Warner was an employee of the SOS Office.

On or about July 11, 1991, shortly after her conversation with Marsh, Marsh gave Liberatore both home and work telephone numbers for Warner. Liberatore called Warner, who told Liberatore that he was close friends with George Ryan and had been able to get SOS business for various vendors. Either during this conversation, or during the subsequent meeting described below, Warner said something to the effect of "I have his ear" with regard to Ryan. Warner also said that in exchange for getting MBS more SOS business with Ryan's administration, however, he would require a fee of approximately \$2,000 per month. Liberatore was surprised by Warner's request, as she had never been requested by anyone to pay a fee to be able to do business with a state agency. As Liberatore was also concerned about justifying the amount of the "fee," she asked Warner what guarantees there were for MBS if MBS paid his "fee." Warner said that he would not give a written guarantee, but would guarantee orally that MBS' business with the SOS Office would increase.

When Liberatore completed the phone conversation with Warner, she was concerned about the appropriateness of Warner's offer. Because of those concerns, Liberatore immediately told her MBS supervisors, who ultimately suggested that they should give Warner the benefit of the doubt as to his intentions and discuss it further.

Liberatore and her supervisor met with Warner in Chicago on about July 16, 1991. During the meeting, which was short, Warner said that he was very close to George Ryan.

Warner again stated that he had obtained SOS business for other vendors and would do the same for MBS in exchange for \$2,000 per month. Warner was brusque and acted as if his fee was not negotiable. Warner again guaranteed that if MBS paid the fee, MBS would get more business with the SOS Office. Warner did not say how he would get MBS more business, but rather just guaranteed that he would. After the meeting with Warner, MBS decided not to do business with Warner.

d. Conversations During Course of Federal Investigation

During the course of the federal investigation, the defendants and their co-schemers had conversations regarding the status of the federal investigation and expressed various concerns about where investigators were headed. The following are illustrative of those conversations:

* In late 1999, Udstuen read an article in a Sunday edition of the Chicago Tribune describing Larry Warner's hidden interest in various SOS leases. After reading the article, Udstuen contacted Drazek and told him that he was very concerned that the federal investigation of Warner was likely to uncover the money trail leading from Warner to Drazek and Udstuen. Drazek tried to assure Udstuen that he would not be in any trouble because Drazek was receiving the checks, paying taxes on the money and there was no paper trail to Udstuen. In further reaction to the press accounts, Udstuen took envelopes of cash totalling about \$10,000 in proceeds that he had previously received from Drazek and returned the money to Drazek.

* On April 7, 2002, Udstuen had a meeting with Alan Drazek at the O'Hare Marriott. During that meeting, Drazek told Udstuen that federal prosecutors had advised him that he was under investigation for a number of matters, including the filing of false tax returns. During this meeting, Drazek and Udstuen agreed that they would both stick by their false story that Drazek

had kept all of the money paid by Warner and that Udstuen had received none of it. Udstuen thereafter used an intermediary to send messages to Drazek regarding the federal investigation until Udstuen began cooperating with federal investigators on April 30, 2002.

* In late 2001 or early 2002, Udstuen had a telephone conversation with Warner in which Warner said, referencing the federal investigation, that "things were heating up." Warner had called Udstuen to find out which attorney he had hired. Warner further advised Udstuen that Udstuen had better have something to say about why Udstuen got the money from Warner. Udstuen told Warner that his cover story could be that Udstuen got the money for referring IBM to him as a client.

* In 2002, when Warner friend, Larry Stern, was first approached by federal investigators relating to his purchase of Viisage stock, the next morning, Stern called Larry Warner at home and told him about the visit from federal agents and the questions regarding Viisage stock. Warner responded by saying: "Boy, those guys are good."

_____3. **SOS Real Property Leases Awarded to Warner-Controlled Entities**

a. The Lease at 17 North State Street, Chicago

For about four months after Ryan's election as Secretary of State, as his Transition Team examined SOS Office issues in order to help him prepare to head the SOS, Warner was the lead Transition Team member on the issue of physical services and location of SOS Office facilities. When he started his work as a transition team member, Warner immediately began to ask about the SOS Office's plans to move its operations located at 188 West Randolph Street in Chicago, a location that Warner had heard was the object of complaints by constituents and state employees. Warner had a number of conversations with Tom Flattery, the Administrative Services Manager

of the SOS Office's Physical Services Department, regarding the SOS Office's property leases and real estate projects, including the plans to move the SOS Office operations from the 188 West Randolph facility. Flattery answered all of Warner's questions because of Warner's status as a Transition Team member who represented Ryan's SOS administration. Through the information that Flattery provided to Warner as a Transition Team member, Warner had a complete picture of potential leases for SOS Office facilities.

At about this time, Warner approached David Kalish, who managed a building at 17 North State Street in Chicago, and represented that, as a broker for the SOS Office, he was looking for downtown office space and was interested in the 17 North State Street property. Kalish and Warner entered into an agreement whereby Kalish would pay Warner a 6% commission on Kalish's gross income from any SOS Office lease relating to the 17 North State Street building. However, Warner concealed his financial interest in this agreement by causing the brokerage agreement to omit his name and to, instead, contain the name of a third party, Adolph Ottaviani, who had no involvement in facilitating a lease of the 17 North State Street property.

In one of his conversations with Flattery, Warner directed Flattery to contact Kalish regarding a lease at 17 North State Street for the SOS Office operations that were housed at 188 West Randolph. Understanding that Warner was acting on behalf of Ryan's administration and unaware that Warner had any financial interest in a lease at 17 North State Street, Flattery did as Warner directed, and he communicated with Kalish regarding details of the lease and the buildout of the new facility. On October 22, 1991, the SOS Office entered into a six-year lease for use and occupancy of the 17 North State Street property. In early 1998, before Ryan's tenure

as Secretary of State ended, Kalish met with Scott Fawell and worked out a renewal of the lease for an additional six-year term. In total, Warner received approximately \$383,276 in commission payments related to the 17 North State Street lease and its renewal.

b. The Bellwood Lease

Sometime after the lease at 17 North State Street was finalized, Scott Fawell, George Ryan, and Larry Warner had a discussion about moving the SOS Office's Department of Police to another location. Warner suggested a site in suburban Bellwood. At the time of this discussion, Fawell told Warner of his concern regarding Warner's role in SOS Office leases and how it might hurt Ryan from a media and political standpoint. Warner responded that no one would find out about Warner's involvement because there were various layers of paperwork and Warner's name was buried in the various layers. Ryan was present for this conversation.

In approximately early 1992, Warner identified a property at 405 North Mannheim Road in Bellwood. Warner then called Alex Nelson, the director of the Physical Services Department,²⁴ and said words to the effect of "we've got a location we want you to look at to put the cops in," and he identified the property. Warner also told Nelson that Ryan would be calling him, and he told Nelson that he should not tell Ryan that Warner had contacted him. About fifteen minutes later, Nelson received a call from Ryan's office, who told Nelson that he was to check out a location at 405 North Mannheim Road in Bellwood. Nelson went to the location, determined that it was suitable, and on approximately December 15, 1992, the SOS Office

²⁴Nelson had become acquainted with Warner during Ryan's campaign to be elected Secretary of State. At the direction of Ryan, Nelson had met with Warner to discuss financing for Nelson's efforts to introduce and promote Ryan to African American voters. After Ryan's election, Fawell and Warner pushed for Nelson to receive a director position. Ryan named Nelson the Director of the Physical Services Department in April 1991.

entered a five-year lease for the use and occupancy of the building at 405 North Mannheim Road in Bellwood (“the Bellwood Lease”).

The Bellwood lessor was a company called Metropolitan Rental Corporation (“MRC”), which was owned by an entity called Wells Mannheim Partnership, which bought the property at 405 North Mannheim Road two months prior to the finalizing of the Bellwood Lease, on approximately October 15, 1992. Wells Mannheim Partnership was owned by an entity called BL Mannheim and its sole shareholder, Bernard Leviton. It was Leviton who signed the lease with the SOS Office on behalf of MRC. Within months after the lease was signed, Leviton transferred all shares of BL Mannheim stock to Warner, and Warner replaced Leviton as President, Treasurer, and Secretary of BL Mannheim.

In early 1998, before Ryan’s tenure as Secretary of State ended, Ryan authorized the renewal of the Bellwood Lease for another five-year term. As a result of his ownership interest in the property at 405 North Mannheim Road, Warner received approximately \$171,000 in proceeds related to the Bellwood Lease. Warner used a portion of these proceeds (approximately \$75,000) to facilitate a \$95,000 loan related to Comguard, a financially struggling company, discussed below, in which Ryan’s brother, Tom Ryan, had an ownership interest.

c. The Joliet Lease

Through his discussions with Ryan, Fawell, and managers in the various departments of the SOS Office, Warner learned that the SOS Office’s Administrative Hearings Department (“AHD”) had to find a new facility before the end of 1994, when the lease for its long-time facility in Hillside would expire. At some point in approximately 1994, Ryan called Len Sherman, the Director of the AHD, and told him to call Warner about finding a new building.

Pursuant to this instruction, Sherman contacted Warner and had a number of discussions with Warner about a new facility for the AHD. Among these discussions was a conversation in which Warner told Sherman about a building at 605 Maple Road in Joliet, which Sherman agreed to review. Sherman saw the building and told Warner that, with rehab work, the building could work. Sherman told Warner that the building had more space than the AHD needed, and, in reply, Warner informed Sherman that other SOS Office departments would also be moving to that building, a fact of which Sherman had not been aware. Sherman and Warner had a number of further conversations related to construction work and logistical issues regarding the move.

Tom Cuculich, who was a supervisor in the Physical Services Department, received a call from Fawell, who told him to look at the building at 605 Maple Road. Cuculich passed the assignment to his subordinate, Rob Kirk, who checked out the building and reported back to Cuculich that the building needed some work, that it had more space than was needed, but that it would work. Cuculich called Fawell and told him that the Maple Road property would need significant renovations, but that other properties that Kirk had looked at in Joliet were in poor condition and not suitable. At Fawell's request, Cuculich also viewed the Maple Road property with other Physical Services Department employees, who agreed that the interior of the building needed quite a bit of work, although it did have the capacity to accommodate the office space that was needed. Cuculich told Fawell of these findings. At this time or in a later conversation, Fawell told Cuculich that the decision had been made to lease the Maple Road property, and he instructed Cuculich to call Larry Warner to work out the details in regard to negotiating a signed lease for the Maple Road property.

When Cuculich reported back to Fawell about the condition of the building and the work

that would be needed, Fawell related these concerns to Ryan and also to Warner. In responding to Fawell, Warner said that he would have no problems making the building work and doing whatever needed to be done. Warner again told Fawell that no one would ever know of Warner's financial involvement in the property because his name was buried in paperwork. Warner said that he had a "front man" named Purze whose name would be on the lease.

Cuculich and Warner had many contacts over a four- to six-week period to negotiate the lease for 605 Maple Road ("the Joliet Lease"), including discussions about the costs of the renovations, which were done by a company affiliated with Warner. In addition, when Warner expressed concern that a termination clause could allow the SOS Office to terminate the lease before the lessor would recoup these costs, the termination clause was dropped and the lease was written in such a way that the lessor would be able to recoup the renovation costs. In all of the discussions between Cuculich and Warner, Warner never said that he had an ownership interest in the property.

In about October 1994, Jerome Purze (now deceased), using financing that Warner obtained for him, bought the building at 605 Maple Road on behalf of "Joliet Maple LLC," a company that was owned by Purze (10% ownership interest) and "Joliet Office Center, Inc." (90% ownership interest). Within days after Purze purchased the building, Warner exercised an option on a promissory note between him and Purze, which option made Warner the 99.5% owner of Joliet Office Center, Inc. (Thus, this transaction gave Warner almost a 90% ownership interest in 605 Maple Road.)

In January 1995, Ryan authorized a four-year lease for use and occupancy of the building at 605 Maple Road. The lessor was Joliet Maple LLC, and Warner's name appeared nowhere on

the lease or related material. From January 1995 to March 1999, Warner received approximately \$387,500 in proceeds related to the Joliet Lease.

In 1998, Warner and Purze began to approach SOS Office employees regarding renewing the lease, which was set to expire in January 1999. The lease was renewed effective April 1, 1999, by the administration of Jesse White, who had been elected SOS in November 1998. During the transition of the SOS Office from Ryan to White, Warner, who attended transition meetings as one of the individuals representing the Ryan administration, asked White's Chief of Staff, Thomas Benigno, if the standard termination clause (which allows either party to terminate upon 180 days written notice during the life of the lease) could be deleted from the Joliet Lease. Benigno agreed to the deletion of the termination clause. During the discussions between Benigno and Warner regarding the Joliet Lease, Warner did not indicate that he had any ownership interest in the Joliet property.

In a conversation with Donald Udstuen, after Udstuen learned about Warner's interest in the Joliet property, Warner told Udstuen that he never should have done the Joliet lease, because it was "too good a deal," which Udstuen understood to mean that Warner had made so much money on the deal that it would raise questions about the propriety of his role in getting the lease.

4. **Warner Financial Benefits Provided to Ryan**

The government expects to present evidence that during Ryan's tenure as SOS as Ryan provided official action to benefit Warner, Warner provided numerous gifts, payments and benefits to Ryan, his family and his staff, including, among others, the following:

1) On or about July 13, 1994, Warner loaned \$50,000 in Comguard (discussed below) which interest was later converted to preferred stock and less than \$6,000 was repaid;

2) On or about July 19, 1995, Warner assisted Ryan daughter Lynda Fairman with a flood problem costing \$11,326 and carried an unpaid account receivable of approximately \$8,326 relating to her on his company books;

3) On or about February 17, 1996, Warner arranged to have Ryan's home roof fixed by a construction contractor; records indicate that Warner fronted the money and Ryan may have paid back a portion of the bill;

4) On or about April 2, 1996, Warner facilitated Ryan purchasing particular stocks through Warner's broker, and in several instances, Ryan and Warner traded the same stocks in similar periods through the same broker. One stock tip resulted in Ryan receiving \$3,182 profit (100% on investment in matter of days);

5) In or about December 1996, Warner gave Ryan \$1,040 benefit by not waiving the standard adjustment fee, following a flood in Ryan's Chicago apartment;

6) On or about June 7, 1997, (within days of Viisage being awarded the SOS digital licensing contract), Warner paid \$3,185 related to the wedding expenses of Ryan's daughter, with Ryan handwriting portions of the Warner check used for to pay wedding expenses;

7) Between January 23 and March 25, 1997, Warner invested at least \$6,000 in George Ryan Jr.'s cigar business;

8) On or about March 10, 1997, Warner loaned Ryan son-in-law Michael Fairman \$5,000, with no financial record of repayment from Fairman;

9) Between March 14, 1997 and October 18, 1998, Warner hosted multiple fundraisers for Ryan, including one big donor fundraiser that raised over \$70,000 for CFR. During this same period, Warner helped arrange for three large campaign contributions through real estate entities

with which he was affiliated;

10) On or about October 7, 1997, Warner made a \$95,000 loan to essentially pay off an existing loan related to Comguard (discussed below); and

11) For the period of Ryan's tenure at the SOS Office, Warner provided Ryan other gifts and financial benefits.

As part of the conspiracy, Warner omitted all of the gifts and payments from his Lobbyist Registration Statements and Ryan omitted all Warner gifts and payments from his Statements of Economic Interests.

a Ryan's Relationship with, and Promotion of, Comguard

As noted above, Warner provided \$145,000 in financial benefits to Comguard, a company in the business of electronic monitoring of parolees on home detention. Defendant Ryan's brother, Tom Ryan, was one of the original owners of Comguard when it was founded in late 1991-1992 and had an ownership interest in Comguard through late 1999, when he sold the majority of his shares in the firm. Throughout his term as SOS and during his first year as Governor, defendant Ryan used his governmental offices to support and promote Comguard, while Warner advanced a total of approximately \$145,000 in "loans" to Comguard.

Comguard obtained its first contract with the Illinois Department of Corrections (IDOC) in early 1992. Even though he was an owner at the time, Tom Ryan's financial interest in Comguard was not disclosed on the bidder's application submitted to the State. Moreover, while Comguard's bid for the contract was one of the highest of the eight firms bidding on the contract, IDOC gave the bidding vendors an opportunity to submit a "best and final" offer for the contract. In response to that invitation, Comguard slashed its original bid (\$4.95 per prisoner per day) in

half and proposed a contract price (\$2.46 per prisoner per day) that was a mere two cents above the lowest bidder. While defendant Ryan, as Secretary of State, played no overt role in the review of bids, Comguard records show a priority package was delivered to defendant Ryan from Comguard one day before IDOC decided to invite “best and final” offers.

After the highly questionable bidding process, Comguard was one of three firms awarded a share of the IDOC business for electronic monitoring. Thereafter, Comguard was under contract with IDOC for over seven years through December of 1999, when the owners of Comguard sold the majority of their shares in the company to an Israeli firm. Comguard’s performance on its IDOC contract was sub-par from the outset. Indeed, the State incurred out-of-pocket costs due to Comguard’s deficient performance, yet Comguard was never required to pay the out-of-pocket costs and, to the contrary, was rewarded with several contract renewals by the State.

In addition, Comguard struggled financially throughout the 1990's and in order to alleviate its financial woes, sought special or expedited treatment of its vouchers by the Illinois Comptroller’s Office. While defendant Ryan, as Secretary of State, had no governmental oversight over or role related to IDOC contracts, he nonetheless had his SOS staff contact the Comptroller’s Office to arrange for expedited handling of vouchers for Comguard, resulting in Comguard receiving preferential treatment over other state vendors. Further, he continued to promote business opportunities for Comguard, including, for instance, when he forwarded to Tom Ryan a May 19, 1995 letter sent to Cook County Commissioner Ted Lechowicz concerning specifications for an electronic monitoring contract in Cook County.²⁵

²⁵ Lechowicz received a personal services contract during Ryan’s first term at SOS.

Comguard was financially troubled for years. In the face of the imminent financial collapse of Comguard, defendant Warner came to the rescue in July of 1994 and made a \$50,000 loan to Comguard. Warner made the loan in the form of a check payable to Tom Ryan, with whom Warner never had any known prior business or financial relationship. Available records show that Warner was only repaid approximately \$8,300 of principal on the loan. Moreover, notwithstanding Warner's general practice of insisting that creditors make timely payments, Warner never wrote letters, threatened to sue or made any attempts to collect the balance of the loan.

Instead, with most of his "loan" outstanding, Warner lent Comguard additional money approximately three years later. In the fall of 1997, Comguard was under considerable public and press scrutiny for defaulting on a loan with Kankakee County. In 1997, the County agreed to a payment plan with Comguard. In September of 1997, Harry Lockman, a Kankakee businessman and longtime friend of the Ryans, paid \$95,000 to the County as a final settlement of its claim against Comguard. Lockman made the payment anonymously by using a Kankakee attorney, Richard Ackman, as a conduit. Within a month after Lockman paid the money, Warner reimbursed Lockman for the full \$95,000. Warner advanced this money despite never having been repaid for the previous loan he had made to Comguard in 1994. While Warner was eventually repaid the \$95,000 (although without interest), the money trail was concealed by the use of two conduits. Comguard made its loan repayments to attorney Ackman's trust account. Ackman then sent the payments to Lockman. Lockman then sent the money to Warner.

After becoming governor in 1999, Ryan again promoted the financial interests of Comguard. After his first cabinet meeting, Ryan summoned the newly appointed IDOC Director,

Don Snyder, to the private quarters of the executive mansion. Ryan then told Snyder that he (Ryan) understood that one of the electronic monitoring vendors had a lower price and, all else being equal, it would seem to make sense to use that vendor.²⁶ At the end of this brief chat, Ryan told Snyder just to do what was “best” for the Department (of Corrections).

In December of 1999, Tom Ryan sold the majority of his shares in Comguard to an Israeli company and was paid approximately \$155,000 for his shares. Two days after receiving the money, Tom Ryan’s wife wrote a check for \$3,500 to George Ryan, with the notation “gift” on the check. Ryan’s 1999 Statement of Economic Interests failed to report the \$3,500 “gift” made by Tom Ryan.

In March of 2000, the IDOC was served with a federal grand jury subpoena (for a federal investigation in the Central District of Illinois) calling for records relating to Comguard. Upon learning of the subpoena, Ryan arranged for the law firm of Altheimer & Gray, to represent the IDOC at state expense in connection with the grand jury proceeding.

5. **SOS Real Property Lease Awarded to Harry Klein**

Beginning in about 1993 and continuing until at least 2002, George Ryan and his wife went to Jamaica on a yearly basis and stayed as a guest at the Jamaican home of Harry Klein, who owned a number of currency exchanges.²⁷ Scott Fawell and his wife began accompanying the Ryans on these trips to Jamaica in 1994 and continued making these trips with Ryan until about 2000. During the time frame of 1994 to about 2000, both Ryan and Fawell and their wives

²⁶ At the time, Comguard had a lower price than the other Illinois vendor.

²⁷ Shortly before the Ryans’ first trip to Jamaica, George Ryan had been introduced to Klein through a mutual friend, Manny Hoffman.

were guests at Klein's home in Palm Springs, California, on at least two occasions.

During the trips to Jamaica, Manny Hoffman and Harry Klein and their wives would also be present. At Ryan's insistence, Ryan gave Klein checks for \$1,000 or \$2,000 (depending on whether it was a one-week or two-week stay) for the use of Klein's Jamaican home. After conversations between Ryan, Fawell and Klein, it was agreed that Klein would reimburse Ryan and Fawell by giving them an amount of cash equal to the amount of the checks that Klein received, which cash reimbursement Ryan and Fawell accepted. Ryan agreed with these sham transactions because Ryan was concerned about how it would look if the press noticed that Ryan was a guest of Klein at the same time that the SOS Office regulated the activities of currency exchanges, and the checks from Ryan to Klein provided a paper trail that made it appear that Ryan was not receiving free lodging at Klein's Jamaican home. In fact, during this time period, the Currency Exchange Association had been asking for an increase in currency exchange fees. Klein did speak to Ryan about the Currency Exchange Association's request for a fee increase, which fee increase was granted during Ryan's second term as Secretary of State.

During one of the trips to Jamaica, in approximately January 1997, Klein, Ryan, and Fawell discussed the feasibility of the SOS Office's renting a building in South Holland that Klein owned and that was going to be available for rental. When Ryan and Fawell returned from that trip, Ryan instructed Fawell to look into the possibility of placing a driver's license facility in Klein's South Holland building. In addition, Ryan personally called Michael Chamness, the Director of the Driver Services Department, who was responsible for managing the driver's license facilities. Ryan told Chamness that he had a dear friend named Harry Klein who owned a building in South Holland. Ryan instructed Chamness to work something out with Klein to use

his building for a driver's license facility, and he gave Chamness the phone number in Arizona where Klein could be reached. Ryan also told Chamness that, when the lease was worked out, Ryan wanted to be the one to tell Klein about the awarding of the lease.

Chamness called Klein, who was expecting the call, and told Klein that Chamness would have to get back to him on a number of issues involving a lease of his South Holland property. Chamness decided that, to make possible a lease at Klein's South Holland property, a driver's license facility would have to be closed and its operations moved to South Holland. Chamness decided that the driver's license facility in Lake Calumet would be the one to be closed, based on the fact that Ryan had, years earlier, expressed dissatisfaction with the Lake Calumet facility and also based on the proximity of the Lake Calumet facility to South Holland.²⁸ Chamness contacted Jim Esslinger, a Property Management Administrator in the Driver's Services Department, and informed him that the SOS Office was going to move the driver's license facility in Lake Calumet to Klein's property in South Holland. Chamness told Esslinger to contact Klein in order to work out the lease, and he told Esslinger to cancel the Lake Calumet lease.

Esslinger went to the South Holland building on a number of occasions and met with Klein several times to discuss the terms of a lease. On some occasions, Esslinger was accompanied by subordinates, including Larry Hall. During these meetings with Klein, various issues were discussed, such as the considerable remodeling, or build-out, that had to be done to the building to make it compatible with a driver's license facility and the fact that the parking lot

²⁸Prior to Ryan's phone call instructing Chamness to work out the SOS use of Klein's South Holland building, there were no plans to close or move the Lake Calumet facility.

had to be enlarged in order to be utilized for commercial driver's license testing. During these discussions, Klein told Esslinger that George Ryan was a friend of his.

In about the latter part of April 1997, Klein, Fawell and Ryan attended a Bulls game, and, during this outing, Klein thanked Ryan for the SOS lease on the South Holland property. The next day, Ryan called Chamness and very angrily reminded Chamness that he had wanted to be the one to tell Klein about the SOS lease. Chamness tried to explain to Ryan that he had not told Klein that the lease was a done deal, but Ryan said words to the effect that if Chamness could not follow directions, then Ryan would find someone who could. Chamness immediately called Fawell and told Fawell that Ryan was yelling at him about the South Holland lease. Chamness also called Klein, told him about Ryan yelling at Chamness about the lease, and asked Klein to tell Ryan that Chamness had not overstepped his bounds and that there still were issues to be addressed regarding the lease. Chamness also discussed with Klein the outstanding issues regarding the lease, including how payment would be made by the SOS Office for build-out to the property (Klein wanted a lump-sum payment of the approximately \$54,000 in build-out costs), and whether the lease would have a termination clause. (Klein did not want a termination clause -- a clause that was a part of the standard SOS Office lease -- because he was concerned that such a clause would allow a successor Secretary of State to cancel the lease on short notice once Ryan left office.) Chamness then called Ryan and discussed with him the choices regarding payment for build-out and the issue of the termination clause. With regard to each issue, Ryan asked Chamness what Klein's position was and then directed Chamness to resolve the issue in whatever way Klein wanted it resolved.

Chamness tried to get out of hot water with Ryan by suggesting that Klein go to Ryan's

office in Chicago to sign the lease. He also wrote a memo to Fawell, documenting the personal role that Ryan played in the negotiations regarding certain lease provisions and how Ryan personally told Klein that the SOS lease was awarded to his facility. In addition, Chamness wrote a memo to Ryan, with instructions regarding the various parts of the lease package that Ryan and Klein were to sign. Though Chamness was not present for the lease-signing, Fawell saw Ryan personally sign the lease, which was very unusual. Fawell later told Chamness that both Ryan and Klein were very happy with the lease.

After reviewing the process, Esslinger, who did not participate in the negotiation of the price per square footage, has estimated that the \$25 per square foot was overpriced by approximately \$2-4 a square foot. In addition, the parking lot of the South Holland facility was still too small for appropriately performing commercial driver's license testing, and the location of the facility, which has frontage road access, was less than ideal.

6. Authorizing Official Acts Relating to Arthur "Ron" Swanson

During the course of the conspiracy, and in addition to the Viisage and Honeywell sequences discussed above, defendant Ryan took official action on repeated occasions to benefit Arthur "Ron" Swanson, a prominent Springfield lobbyist and longtime Ryan friend. While taking action on Swanson's behalf on numerous issues and matters, Ryan and his family received various undisclosed gifts, payments and benefits from Swanson.

a. Gifts and Benefits from Ron Swanson

The government expects to present evidence that during Ryan's tenure as SOS and Governor, Ron Swanson provided numerous gifts, payments and benefits to Ryan, his family and his staff, including, among others, the following:

- a. In 1999, Swanson paid approximately \$2,200 for Disney World accommodations for the family of one of Ryan's daughters;
- b. In 1995, Swanson hosted Ryan and his wife at his Cancun, Mexico condominium;
- c. During a gambling trip to Lake Tahoe, Swanson provided Ryan with money to gamble;
- d. In 1995, Swanson gave Mrs. Ryan a \$550 gift, which Swanson wrote off as a business expense;
- e. Swanson gave Ryan and his wife numerous expensive gifts including a St. John's dress, limoge box, Cuban cigars, Lladro art, golf bags, cuff links and ornate figurines;
- f. During a 6-8 year period, Swanson gave cash gifts to approximately six staff employees who worked for Ryan.

As part of the conspiracy, Swanson omitted all of the gifts and payments from his Lobbyist Registration Statements, and Ryan omitted all Swanson gifts and payments from his Statements of Economic Interests.

Swanson has never admitted giving cash gifts to Ryan, but, as will be explained below, while Swanson was putting \$4,000 in Udstuen's pocket for the Wisconsin Energy lobbying referral, he told Udstuen that he was also "taking care" of Ryan. Further, during the approximately three-year period beginning on or about January 1, 1999, through December 31, 2001, Swanson withdrew or caused to be withdrawn from financial institutions approximately \$175,000 in cash. The highest volume of cash withdrawals occurred in 2001, when Swanson obtained a total of approximately \$76,859.00 in cash. The cash transactions are noteworthy, however, not just in their volume, but in their timing. Several coincide with Ryan's birthday on February 24, a date which is typically noted on Swanson's calendar. For instance, on February

24, 1998, Swanson obtained \$3,300 in cash. On February 23, 2000, at approximately 2:30 p.m., Swanson obtained \$5,000 in cash. According to his calendar, Swanson saw Ryan at 6:00 p.m. that night. On February 21, 2002, Swanson's assistant, Kent De Lay obtained \$3,000 in cash for Swanson at 10:30 a.m. Swanson's calendar reflects that he was "w/Gov. Ryan @ Capitol" at 12:45 on that same day.

b. Official Action to Benefit Swanson

As part of their corrupt relationship, Ryan took official action on numerous occasions to benefit Swanson. Those official actions included the awarding of an SOS lease at the Lincoln Towers office building in Springfield; providing Swanson with advance information about the awarding of a state prison to the City of Grayville; steering Wisconsin Energy to Swanson as a lobbying client; and arranging for Swanson to be hired as a lobbyist for the Metropolitan Pier and Exposition Authority ("MPEA"). Additionally, Ryan arranged for Swanson, a private lobbyist, to have numerous governmental privileges and "perks," which facilitated Swanson's lobbying and financial interests.

i. Lincoln Towers

For a number of years, Swanson was the rental agent for Lincoln Towers, an office complex located across from the Capitol Building in Springfield. Sometime during the latter year of his first term as SOS, Ryan told Fawell to call Swanson and arrange to rent space at Lincoln Towers on behalf of the SOS Office. Ryan also told Fawell that Swanson was willing to waive his normal commission on the deal and accept something less.

After Ryan's conversation with Fawell, Swanson met with Fawell and proposed a rental

figure for the Lincoln Towers office that far exceeded the normal price per square foot for comparable office space in the Springfield area. Based on the “marching orders” he had received from Ryan, Fawell directed SOS staff to go ahead with the lease. To conceal the excessive cost of the lease, Fawell arranged for the square footage in the lease to include non-useable space, such as hallways, so that the cost per square foot appeared to be lower than it actually was. Swanson’s commission payments for the Lincoln Towers SOS lease totaled over \$38,000.

ii. *Grayville Prison*

In late 2000, the Governor’s Office, in combination with the Illinois Department of Corrections (“IDOC”), announced that they would be commencing a process to select a new maximum security prison within the State of Illinois. Interested communities were encouraged to apply. By January 2001, after the initial applicants had all been interviewed by IDOC, the IDOC selection committee named Grayville, an economically depressed town in southeastern Illinois, as one of the three finalists. On or about February 23, 2001, at a meeting of senior staff, Ryan decided that Grayville would be selected for the prison site. After the meeting was over, Ryan came out of his office and told Swanson, who happened to be in the SOS offices,²⁹ words to the effect of, “the site for the prison is going to be Grayville.” Swanson asked Matt Bettenhausen, a senior adviser to Ryan, when and where there would be a public announcement ceremony. Bettenhausen told Swanson that the information was not public yet and that it would take some time to work out the logistics for the public announcement.

In early March, after learning that Grayville was to be the site for the new prison, but

²⁹During Ryan’s tenure as SOS and Governor, Swanson was allowed full use of the ante room next to Ryan’s governmental office, thereby allowing Swanson to carry on his lobbying business with virtually unrestricted access to Ryan and Ryan’s staff.

prior to the information being made public, Swanson entered into a contract with Dr. Clyde Wilson, a community activist from Grayville, to lobby for Grayville's selection in return for an up-front fee of \$50,000. In actuality, based on the inside information that he had received from Ryan, Swanson knew that Grayville had already been selected and no lobbying would be required. Wilson raised \$50,000 from local Grayville businessmen and paid Swanson in full on or about March 15, 2001. One of the Grayville businessmen who contributed over \$20,000 to the cause spoke to Swanson in March 2001, at which time Swanson told the businessman, in substance, that the businessman had done his job (by paying the fee), and now Swanson would do his. Swanson did not mention that he already knew that Grayville was to be selected as the prison site.

Swanson's handling of the Grayville fee corroborates the evidence that he was tipped off to Grayville's selection as part of a corrupt relationship with Ryan. Swanson deposited the \$50,000 fee he had received from Dr. Wilson on or about March 15, 2001. Thereafter, on March 26, 2001, two sequential checks for \$7,000 and \$8,000 made payable to Swanson were written on his account. The first check, for \$7,000 was cashed on March 28, 2001. Swanson's calendar reflects a meeting with Ryan on March 29, 2001 at 11:30 a.m. The second check, for \$8,000, was cashed by Swanson's secretary for him on April 4, 2001.³⁰ On April 10, 2001, the Governor's office sent an e-mail to the Department of Corrections (IDOC) officially notifying the agency that Ryan had selected Grayville as the site for the prison. Then, on or about April 12,

³⁰ In late May of 2001, Swanson duplicated the March transaction by structuring another \$15,000 cash withdrawal into a \$7,000 and \$8,000 transactions. Thus, in approximately a sixty day period after receiving the \$50,000 fee, Swanson obtained \$30,000 in cash.

2001, defendant Ryan formally announced his selection of Grayville in a public ceremony in Grayville. At the request of Swanson, Ryan publicly acknowledged the efforts of Dr. Wilson in promoting Grayville's selection.

iii. Wisconsin Energy

In or about mid-1999, Wisconsin Energy was seeking to hire a lobbyist in the State of Illinois to handle various regulatory and governmental issues in connection with a proposed project Wisconsin Energy was undertaking in Illinois. Nick Hurtgen, a Chicago investment banker, contacted Donald Udstuen on behalf of Wisconsin Energy and asked for Udstuen's recommendation for an Illinois lobbyist that Wisconsin Energy should hire. Udstuen thereafter conferred with defendant Ryan, and Ryan and Udstuen agreed that Udstuen should recommend Swanson as the lobbyist for Wisconsin Energy. Udstuen then told Swanson that Swanson was being recommended as a lobbyist for Wisconsin Energy and that his recommendation was being made with the concurrence of defendant Ryan.

After Wisconsin Energy hired Swanson as its lobbyist, Swanson gave Udstuen a \$4,000 cash payment in the men's bathroom of a Chicago restaurant for making the referral of Swanson. After providing Udstuen with the \$4,000, Swanson told Udstuen that he was also "taking care" of Ryan. Following Swanson's hiring by Wisconsin Energy, Swanson solicited another Ryan friend, Pete Peters, to "assist" Swanson in lobbying efforts on behalf of Wisconsin Energy.

iv. MPEA

After Fawell became CEO at McPier, in or about 1999, Ryan called Fawell and told him that Swanson should be hired as a lobbyist on behalf of the MPEA expansion project. Fawell told Ryan that he did not know how he could make that happen, since the MPEA already had a

competent lobbying firm, but Ryan responded that he needed Fawell to do it. Ryan also told Fawell that Swanson needed \$5,000 per month for his lobbying services. When Fawell initially failed to take any action, Ryan called Fawell once a week for a couple of weeks about hiring Swanson. Ryan then began contacting Bill Mack, Fawell's Chief of Staff, to ensure that Swanson got hired as a lobbyist for MPEA.

At the time that Ryan talked to Fawell about hiring Swanson, Roger Kiley at the law firm of Mayer, Brown and Platt ("MB & P") served as the chief lobbyist for the McCormick Place expansion project. Fawell talked to Kiley about Ryan's directive, and they agreed that while there was no need for Swanson's services on the McCormick Place expansion project, Swanson could be treated as subcontractor and MB & P could simply increase its fee to MPEA to cover the costs of paying Swanson. Kiley told Fawell that once Swanson was hired as a subcontractor, Kiley would attempt to have Swanson do something, at least write reports on pending legislation that might impact MPEA, which was minimal or none. Between January 2000 and October 2000, MB & P had very little, if any, contact with Swanson or members of his firm regarding substantive MPEA matters and stated this fact in a memo to and a meeting with Swanson. Thereafter, MB & P tasked Swanson with tracking some MPEA-related legislation, a service that MB & P otherwise provided for all of its clients and a service it had performed for MPEA in the past.

v. Governmental Perks and Privileges Provided by Ryan to Swanson

As part of the corrupt relationship between Ryan and Swanson, Ryan provided Swanson with numerous governmental perks and privileges that advanced Swanson's financial and lobbying interests. As mentioned earlier, during Ryan's tenure as SOS and Governor, Swanson

was allowed full use of the ante room next to Ryan's governmental office, and he often loitered there, carrying on his lobbying business with virtually unrestricted access to Ryan and Ryan's staff. Ryan approved and/or authorized governmental jobs or personal services contracts for Swanson's son and Swanson's associates. Through Ryan, Swanson also obtained a free parking spot at the Capitol Complex, even though Swanson held no governmental position.

7. **Awarding Low-Digit Plates to Those Providing Campaign and Personal Benefits**

In addition to the general distribution of license plates, the SOS Office issued low-digit plates, which were not generally available to the public. Shortly after Ryan was elected Secretary of State, in about early 1991, Warner and Ryan had a conversation in which Warner told Ryan that Ryan had to keep track of how the low-digit license plates are assigned. Warner said that there were not very many low-digit license plates available because Jim Edgar, the prior Secretary of State, had assigned many of them. Warner said that the disbursement of these plates was "like a plum," and Ryan replied that he would look into it and be cognizant of how these plates were assigned. From January 1991 to January 1999, Ryan personally approved the award of the most coveted low-digit plates, and many were awarded to Warner or to Warner's acquaintances and business associates.

a. **Robert Casey**

In approximately October 1990, when Ryan was running for the office of Secretary of State, he contacted an individual named Robert Casey and told Casey that his campaign was in financial straits and needed money to pay for television ads. Ryan said that he was calling as a friend and needed about \$75,000 to purchase television ad time. Ryan asked Casey if he knew

anyone who could be of assistance, and he said that the money would be repaid within about ten days of the election. Casey called a friend, who was not personally acquainted with Ryan, but who loaned the Ryan campaign the \$75,000. The money was later repaid within a week or two after Ryan was elected.

Shortly after Ryan's election, Casey received a handwritten note from Ryan, which expressed Ryan's appreciation and which contained the following sentences: "Words are sometimes inadequate when trying to express appreciation and thanks to friends. But until I can do better, words are it." Less than a year after Ryan was elected Secretary of State, he contacted Casey and Casey's friend and offered them low-digit license plates, which they accepted.

b. Anthony De Santis

For many years, Anthony De Santis was the owner of the Drury Lane Theaters. De Santis had made some campaign contributions to CFR in 1994 and 1996, though at that time, he had never personally met Ryan. In September of 1997, De Santis was invited to a Ryan event on a cruise boat, and he met Ryan at this event. De Santis told Ryan that he wanted to contribute \$2,000 to Ryan's efforts to run for governor but that he did not want to give a check for more than \$500 because he did not want the contribution to be listed on public disclosure forms. Ryan suggested that De Santis make out four checks, each for \$500. Ryan gave De Santis the names of four people, including himself (Ryan), Ryan's wife, Ryan's son and Ryan's daughter-in-law. Thereafter, De Santis made out four separate checks, each for \$500, to those individuals and mailed them to Ryan. Subsequently, De Santis sent Ryan another \$500 check in December of 1997. De Santis also sent Ryan and his wife separate checks of \$500 each in December of

1998.³¹ All of the checks were negotiated.

About three weeks after De Santis sent the two checks of \$500 each in December 1998, Ryan's secretary called De Santis and told him that a three-digit license plate, number 217, was available.³² She asked if De Santis wanted to have it. De Santis, who had accumulated a number of low digit license plates over the years from various Secretary of State administrations, including Ryan's,³³ said that he would like the three-digit plate, and, in fact, he received the plate.

c. Warner's Receipt and Distribution of Low-Digit Plates

From the beginning of the Ryan administration, Warner was very interested in obtaining low digit license plates to hand out to acquaintances and friends of his. There were a lot of requests made to the SOS Office regarding these plates, and Warner was by far the biggest player

³¹Ryan did not declare any of the De Santis money as income. Moreover, on Ryan's Statements of Economic Interest, he failed to disclose the gifts from De Santis. In 2001, when Ryan learned that the government, in the course of the Safe Road investigation, had discovered the De Santis payments, he amended his Statements of Economic Interest to reflect gifts from De Santis.

³²In fact, license plate number 217 had been in the family of an Illinois resident named Fred Morelli for over 50 years. At some point prior to September 1998, the registration for number 217 expired because the Morelli family inadvertently failed to renew it. On several occasions in the fall of 1998, the Morelli family contacted the SOS Office to have the plate reinstated, but they were never successful, and they later learned that the plate was reassigned to Anthony De Santis. Fred Morelli later unsuccessfully sued to obtain the plate again.

³³De Santis made a number of requests for low-digit and personalized license plates during the years that Ryan was Secretary of State, usually through Phil Collins, who was the Director of the SOS Office's Department of Corporations and who had a personal friendship with De Santis. In November 1992, Collins wrote a memo to Fawell requesting a personalized plate for De Santis and stating that De Santis "thinks very highly of Secretary Ryan. He has informed me he will be lending his support to the Secretary in any way possible."

in these requests.³⁴ Because the issuance of low-digit plates required a processing fee, Warner created a "kitty" in the desk drawer of one of Ryan's secretaries, and the secretary used the money in this kitty to pay the fees for the low-digit plates that were issued at Warner's request. Warner would replenish the kitty periodically. According to Warner, the kitty allowed the distribution of low-digit plates to take place as he requested with no delay.

While Ryan was Secretary of State, Warner was integrally involved in distributing low digit license plates. On occasion, Warner would enter the SOS Office and go directly to Fawell's office to ask that a specific low-digit plate be looked up in the computer to determine if it was already assigned and, if so, who it was assigned to. Warner would also go into Ryan's office to tell him that a particular low-digit plate was available and to ask if it could be assigned to someone Warner knew. After Warner would make such requests, Ryan would often chastise his secretary, asking her how Warner knew of the availability of a particular low-digit plate before Ryan did. At times, Ryan would state that he felt Warner and Fawell were going around him with regard to the distribution of low-digit plates, and Ryan was upset if he thought he was being kept out of the loop. Warner occasionally asked Ryan to keep an eye out for a particular low-digit plate because he wanted to provide a specific person with a particular plate or with a plate that was lower than the plate already assigned to that person.

During his tenure as Secretary of State, Ryan approved the distribution of over 90 low-digit license plates at Warner's request to numerous business associates, clients, employees, and acquaintances of Warner, which distributions inured to Warner's personal and financial benefit.

³⁴As early as 1991, Warner was arranging for a low-digit plate to be given to Jim O'Brien of ADM.

B. DISBANDING THE INSPECTOR GENERAL DEPARTMENT

1. CFR Fundraising Apparatus

During Ryan's first administration as Secretary of State, Fawell, acting with Ryan's knowledge and approval, put in place a fundraising and political structure in order to raise funds on behalf of Ryan for his re-election or possible run for higher office. Under this system, some SOS employees were in charge of fundraising activities and other SOS employees were strictly political operatives, with little or no governmental responsibilities. Some SOS employees did both fundraising and were involved in political activity. Fawell kept Ryan apprised as to which employees had helped raise money for CFR and which employees were the political operatives within the SOS Office.

Ryan fundraising tickets were distributed to the various departments within SOS and departments were given goals or quotas for the tickets they were expected to sell. The CFR finance director kept Fawell informed as to how ticket sales were going and, if a department was falling behind in its ticket purchases, Fawell would contact the Director of that department. Fawell kept Ryan posted as to fundraising activity, particularly, who was not participating. SOS employees who sold the most tickets for Ryan were rewarded in the form of photo opportunities with Ryan at "thank you" lunches that were paid for by CFR. These lunches were held during the work week and, typically, at least part of the event was while the employees were on state time. To cover the fact these lunches were done strictly for political purposes, some type of pretextual government meeting would be called in order to get the employees to the place where the luncheon was going to be held. The meetings were called to make it seem like some type of state business was being conducted.

SOS employees were also rewarded for their political involvement with governmental raises and promotions. Fawell met with high-level CFR operatives after elections to decide which SOS employees should receive raises and/or promotions for their political work. Ryan then signed off on some of these specific recommended promotions and raises and was fully aware and supportive of the fact that the SOS employees who received these perks worked on his campaign.

2. **Gutting of IG Department Justified By Fundraising Component**

Prior to early 1995, the SOS Office Inspector General Department’s investigators had worked at least four investigations at four separate SOS facilities—Midlothian, Libertyville, Nisivaco and McCook--- that exposed the problems wrought by the CFR fundraising and political efforts.

a. Midlothian Investigation

In approximately May 1992, Assistant States Attorney and Public Integrity Chief Patrick Quinn had a conversation with Ryan in the presence of Cook County States Attorney shortly before a press conference announcing charges in state corruption case relating to the fraudulent issuance of driver’s licenses through the Midlothian SOS licensing facility by the manager of the facility. When Quinn and O’Malley talked to Ryan about opportunities to develop more SOS related prosecutions, Ryan responded, “Fuck you, Jack, these are my guys”(referring to SOS employees). Quinn said he was stunned by the import of the statement—that Ryan’s political people were not to be touched.³⁵

³⁵Quinn made prior consistent statements to colleagues of his at the state’s attorney’s office about this Ryan conversation. Jack O’Malley has no recollection of Ryan making the statement to he and Quinn.

b. Libertyville Investigation

In March 1993, following an undercover investigation into the illegal sale of driver's licenses to illegal aliens by SOS office employees, the SOS IG Department and Lake County officials conducted a raid of the Libertyville facility. Joseph Jech, the Deputy SOS Inspector General, coordinated the activities on behalf of the SOS Office. During the raid of the facility, investigators entered the office of one of the suspected SOS employees, James Quinn, and reviewed the contents of an open briefcase in Quinn's office. The briefcase contained \$2,500 cash, CFR fundraising tickets and an accounting of ticket sales by Quinn for the annual Spring 1993 CFR fundraiser.³⁶ IG Agent Mark Lipe, who was serving as an evidence technician for the raid, called Dean Bauer into Quinn's office. Subsequently, Bauer picked up the phone in Quinn's office and called Ryan. Bauer acknowledged calling Ryan but didn't recall the substance of his conversation with Ryan that day. Bauer further indicated that Ryan "didn't like surprises" and that the briefcase find was the kind of thing that Ryan would want to know about.

After the raid, one of Jech's agents informed him of the fundraising-related contents of the briefcase. Believing that contents of the briefcase were potentially linked to the motive for the illegal license scheme, Jech and his agents sought to follow up on the fundraising aspect of the criminal investigation. Jech then proceeded to interview Deb Dettmer, the CFR finance director, as to the ticket distribution process within the Driver's Services Department (DSD). During the course of the interview, Dettmer acknowledged that CFR kept records of all persons

³⁶ Inspector General Bauer took custody of the Quinn briefcase and its contents and took it away from the facility. While Bauer eventually caused it to be logged into evidence, four years later, in October 1997, Bauer then took the contents out of evidence and the contents were never seen again.

who sold tickets for events since Ryan became SOS. At Jech's request, Dettmer showed Jech records as to campaign contributions (in the form of ticket purchases) made by the alleged middlemen in the scheme. Jech also interviewed Mark Sniegowski, the DSD liaison to CFR who was responsible for allocating tickets to zone managers like Quinn. In his interview with Sniegowski, Jech confirmed that Quinn, as a zone manager, had fundraising goals and that he arranged for the sale of up to \$30,000 in tickets per year.

After the Jech interview, Dettmer immediately contacted Fawell and notified him of Jech's fundraising inquiry related to the Libertyville investigation. Fawell later voiced specific concerns to Juliano about the fundraising inquiries Jech was making. At that time, Fawell told Juliano that he was going to talk to Roger Bickel to have Jech "reigned in."

On the day of the Libertyville raid, Fawell was with Ryan in Springfield. Shortly after they learned the raid had taken place, Fawell convinced Ryan to immediately fly to Libertyville for political damage control. When they arrived, Roger Bickel told Fawell and Ryan about the nature of the Libertyville investigation and that it centered around fundraising issues and the selling of tickets.

c. Naperville Investigation

One year later, in April 1994, a second IG fundraising-based investigation gained the attention of the SOS front office. Russell Nisivaco, the manager of the Naperville drivers license facility, became the subject of a theft investigation when over \$2,600 in daily cash receipts from the facility never made it to the bank for deposit. When IG agents Russell Sonneveld and Ed Hammer were assigned the case (there was no advance knowledge that there may have been a possible fundraising motive to the disappearance of the funds), they interviewed Nisivaco and

received several inconsistent accounts as to what happened to the funds. Given the timing of the loss (it was just weeks before the Spring 1994 CFR fundraiser) and the fact that Nisivaco had ticket obligations (he was responsible for selling 50 \$100 tickets), the agents believed that the alleged theft may have been motivated by the fundraising ticket pressures. After Nisivaco took and failed a polygraph exam, the examiner, prompted by the agents, probed the fundraising ticket motive. Nisivaco acknowledged feeling pressure to sell the tickets, but continued to deny wrongdoing. After further investigation revealed additional circumstantial evidence pointing to Nisivaco, the investigating agents believed they had a case that merited criminal consideration, or at an absolute minimum, further investigation.

After the polygraph and unbeknownst to the investigators, Nisivaco went home and wrote a letter to his political sponsor, Illinois Senate President Pate Phillip. The letter, dated April 26, 1994, recounted Nisivaco's exculpatory version of the deposit incident. In the letter, Nisivaco identified himself as a committeeman for the Naperville Township Republican organization. Nisivaco closed by telling Phillip: "The last thing I want is to cause any negative events to hurt our party. Please allow me to continue my employment with the Secretary of State's office." Shortly after this, Philip contacted Ryan to find out what was going on in the investigation. Ryan then called Dean Bauer and asked the same question. Bauer did not know the circumstances of the investigation, and Ryan told Bauer to find out what was going on.

Around this same time, Bauer told Sonneveld to contact Ryan about the Naperville investigation. As directed, Sonneveld called Ryan at a private number he was provided. This was the first time the two had spoken about any case. Ryan asked for a summary of the Nisivaco investigation, and Sonneveld related his entire involvement, including the polygraph. In the

phone call, Ryan did not express any particular opinion. Sonneveld immediately called Hammer and related his conversation with Ryan. However, shortly thereafter, when Sonneveld returned to the IG office, he and Agent Hammer were instructed by Bauer to write synopsis memos (independently) of their involvement to-date in the Nisivaco case and to do no further work on the case. Bauer then took the disk upon which the memos were written. The case was subsequently closed with no further investigation. (After Bauer left the IG office in 1999, the disk was found inside Bauer's desk drawer and was provided to federal investigators).

_____ d. Guzman Investigation

On November 9, 1994, truck driver Ricardo Guzman was traveling from Illinois to southern Wisconsin. As Guzman's rear assembly dangled precariously, Guzman apparently ignored or didn't understand the attempts (via CB radio and by gesturing drivers) to notify him of his equipment problem. Traveling behind Guzman were eight members of the Willis family in a minivan. When the rear assembly dropped, it punctured the Willis van's gas tank. Six children were instantly killed and the Willis parents were badly burned but survived.

IG Agent Sonneveld learned of the accident through extensive media reports. When Sonneveld heard that the driver was from Illinois and might not have been able to speak English, Sonneveld pulled Guzman's licensing information. The records Sonneveld obtained showed that Guzman had obtained his CDL at the McCook facility through SOS Office employee Marion Seibel two years previously. Sonneveld had received previous complaints about alleged misconduct by Seibel. Based on his previous investigations and knowledge of the SOS Office, Sonneveld was aware that Seibel was "heavy" with CFR, and likely sold significant amounts of CFR tickets for the annual fundraisers.

After gathering basic preliminary information and contacting the Wisconsin authorities by letter dated November 15, Sonneveld approached Bauer to receive approval to open an IG case file against Guzman/Seibel and pursue the investigation. Sonneveld told Bauer of the results of his preliminary investigation, including the fact that Guzman got his license from McCook and that he (Sonneveld) had been in contact with the Milwaukee authorities. Bauer told him not to open a case and to let the Wisconsin authorities handle it. Sonneveld pressed Bauer telling him that the Wisconsin authorities would have no background on McCook and Seibel; however, Bauer instructed Sonneveld not to open the Guzman case.

At the same time Bauer was telling Sonneveld not to open a case, he told another SOS Office official that the IG Department had an “active” Guzman investigation. In a confidential memo dated November 16, 1994 (the “Bauer memo”), Chief Deputy Director of SOS Police Willie Thompson wrote that Bauer had informed him of the Guzman incident, the fact that Bauer believed that Guzman illegally obtained his CDL at McCook, and that they were giving the investigation high priority. Notwithstanding the Bauer memo, nothing was ever done on this Guzman case.

e. Fawell’s Communications With Ryan Regarding Disbanding IG

At the end of 1994 and beginning of 1995, Fawell, with Ryan’s approval, was engaged in an effort to restructure the SOS Office after Ryan was elected to a second term. One of these departments Fawell wanted to effectively disband was the IG’s Office. This view was based on Fawell’s perception that some of the IG investigators were not qualified investigators, as well as his concern about the effect of certain investigators’ persistent inquiries into CFR fundraising ticket sales. In attempting to articulate his plan and motives to Ryan in writing, Fawell drafted a

December 1994 memo to Ryan in which he recommended to Ryan that the SOS disband the IG Department, but keep Dean Bauer on the SOS payroll and in a position of Inspector General. Fawell's plan was for Bauer to be IG in name only with no staff to direct. In the December 1994 memo, Fawell indicated that Ryan needed to get "someone in there who won't screw our friends, won't ask about FR (fundraising) tickets, and who will run a no-nonsense shop. Someone tough has to go in there and get the investigators to no longer freelance as they see fit." (parenthetical added). As to the term "screw our friends," Fawell meant to draw Ryan's attention to the fact that the IG investigators were ignoring Bauer and hurting the SOS by constantly asking questions about the fundraising activities Ryan and Fawell's political friends were engaged in.

After Fawell gave the memo to Ryan, Ryan and Fawell discussed the contents of the memo. Through the discussions, Fawell noted that Ryan was well aware that the IG investigators were posing a problem to the CFR fundraising apparatus by their persistent inquiries into ticket sales, and that they were not paying any attention or taking any direction from Bauer. Ryan expressed concern for the welfare of Dean Bauer and Fawell attempted to convince him that Bauer would be kept in the loop and would still be in charge of corruption with the SOS Office. Ryan approved Fawell's proposal to disband the IG Office. In a January 1995 "update" memo, after Fawell had numerous face-to-face meetings with Ryan, Fawell indicated that they had decided to "abolish" Jech's position, and that the existing IG agents who were "trouble" would have their duties changed.

Jack Pecoraro, the Police Chief of the Secretary of State Police Department, had a police background and Fawell told Pecoraro that if he was successful in getting rid of the IG's Office, Pecoraro should still keep Bauer in the loop. However, soon after Ryan agreed to Fawell's idea

to disband the IG Department, Bauer began telling Ryan that he (Bauer) was being screwed, that Pecoraro didn't tell him what was going on, and that things were not working out. Ryan then complained to Fawell and everything came back full circle to the formation of a new IG Department with Bauer as Director.

In early 1995, Fawell and Juliano discussed plans for layoffs and budgetary cutbacks within the SOS Office. In furtherance of Fawell's plans to eliminate the IG Department and fold its operations into the Department of Police, Fawell directed Juliano to attend a meeting relating to the downsizing of the IG Department. With regard to the layoffs, and in the process of determining which departments would be cut and by how much, Fawell indicated to Juliano that he wanted to cut back substantially on the current IG Department, telling him in graphic terms "you can't trust those fucks anyway."

In February 1995, Fawell began implementing the decision to gut the IG Department. On or about February 17, 1995, Fawell summoned Jech to his downtown Chicago office for an unscheduled audience. Jech, who had never met Fawell previously, was not told the reason for the meeting. Fawell told Jech that Fawell and Ryan had decided to disband the IG office and, as part of that decision, that Jech would be terminated. Fawell told Jech that the cut of the IG Department was purely a budget tightening measure, and part of across-the-board cuts at the SOS. Jech told Fawell that he thought it was a serious mistake to cut the IG function in such a large office. The meeting ended with Fawell requesting that Jech submit a resignation letter, which he did.

A short time later, Fawell implemented substantial cuts to the IG Department investigative personnel. On May 31, 1995, all IG special agents (with the exception of Bauer)

and support personnel were transferred and/or terminated forthwith. The memo announcing the consolidation was authored by Fawell, and said, in pertinent part: “Effective July 1, 1995, the Office of Inspector General will be consolidated within the Department of Police, and Dean Bauer will serve in the capacity of Inspector General. All matters which previously were referred to the Office of the Inspector General shall now be forwarded to the Department of Police.” The terminated agents included “troublemaker” Sonneveld, with Hammer and 6 other law enforcement agents, who had been detailed to the IG Department from the SOS Police, transferred back to the SOS Police payroll and assigned non-IG related work.

C. DIVERTING AND AUTHORIZING THE DIVERSION OF SOS RESOURCES

1. SOS Office Assistance to Bruce Clark’s 1992 Campaign

In the fall of 1991, Juliano attended a meeting with high level Republicans, including defendant Ryan, to discuss Bruce Clark, the husband of Ryan’s niece, seeking a state representative seat from Kankakee. Clark was also present at the meeting and was interested in running for the seat. Once Clark made the decision to run for the seat, Scott Fawell and other SOS Office officials, working on behalf of CFR under defendant Ryan’s authority, committed to assisting the 1992 campaign efforts of Clark. Prior to the 1992 November election, in a series of conversations, Fawell told SOS Office employee Brad Roseberry and other SOS Office employees that they would be dedicating efforts and resources to assist Clark in his 1992 campaign. In furtherance of this plan, Fawell directed that Roseberry, then a Chicago-area based SOS Office employee, serve as campaign coordinator for the Clark campaign in Kankakee. Roseberry then did so, spending substantial portions of his governmental time in the months leading up to the November election in the Kankakee area performing campaign functions. In

furtherance of his role as the campaign coordinator, Roseberry, with the assistance of a number of high ranking SOS Office officials, among other things, coordinated the recruitment of SOS Office volunteers to travel to Kankakee to support “field” activities relating to the Clark campaign effort. The bulk of this recruitment was conducted on state time using state resources.

Moreover, within two months of the November election, while Roseberry had been dedicating substantial efforts in Kankakee in furtherance of the campaign effort, he received a call that he was needed immediately at a meeting at the SOS Office in Chicago. Roseberry returned to Chicago for the meeting as directed. Attending the meeting, which took place in Ryan’s Chicago office during regular business hours, were a number of SOS Office officials, including Fawell, Ryan and possibly others. At the meeting, Ryan requested an update and overview of Roseberry’s activities on the Clark campaign. Roseberry, in the presence of all the participants, detailed those extensive activities. Hearing the activities and the time Roseberry (who was then a full-time SOS Office employee) was spending in Kankakee, one of the participants recommended that they should move Roseberry off the SOS payroll in the remaining weeks before the election. Fawell responded no, that they would not be changing Roseberry’s work status. Shortly thereafter, the meeting concluded and Roseberry continued to work virtually full-time for the Clark campaign through the election, even though he remained on the SOS Office payroll as a full-time employee.

2. **SOS Office Assistance to Sen. Beverly Fawell’s 1994 Campaign**

In the early 1990s, Sen. Beverly Fawell, who was Scott Fawell’s mother, was a sitting state senator. During the 1994 election cycle, Sen. Fawell faced a contested primary reelection effort. In approximately February 1994, after the airing of a media report critical of Sen. Fawell,

Fawell summoned a number of high-ranking SOS Office officials who had previously been active in CFR efforts to his SOS office and told them words to the effect of, “We’ve got to save Bev.” Summoned by Fawell to this meeting during business hours included SOS Office employees Richard Juliano, William Darr, Brad Roseberry, John Torre, Susan Twiss and Nat Shapo (the “Fawell SOS Office team”). At that time, Fawell announced to the Fawell SOS Office team that Sen. Fawell’s campaign was going to be their principal priority for the March 1994 election and that there were “a bunch of things they needed to do.” Specifically, Fawell directed that the assembled SOS Office employees provide Sen. Fawell’s campaign comprehensive campaign assistance, including press relations assistance (Torre), opposition research (Shapo), fundraising (Twiss) and polling services and related phone banking activity (Juliano), among other things. The fundraising efforts directed by Fawell included the distribution of his mother’s campaign tickets throughout the SOS Office ticket distribution process (which process is described herein).

After the meeting, and at Fawell’s direction, Fawell’s SOS Office team went about the business of assisting Sen. Fawell’s campaign as Fawell had outlined. Fawell’s SOS Office team performed substantial portions of the campaign activity on state time. In addition, as the election drew near, additional SOS Office employees were directed to conduct campaign work for Sen. Fawell on state time. For example, in and around the primary election day, SOS Office employees (including Christopher Frerichs), working out of the executive offices in Chicago, were directed, during the work day, to go to work at a phone bank at a Wheaton, Illinois, law office to support Sen. Fawell.

3. **1994 Ryan Reelection Effort Subsidized With SOS Office Workers**

In approximately early 1993, Fawell contacted Rich Juliano and told him that he wanted to begin to organize the 1994 reelection effort of George Ryan for SOS. The two then had a series of conversations about the planning and coordination for the 1994 campaign, with most of their preliminary conversations taking place within the SOS Offices on state time. In the course of their discussions, they generally discussed and formulated plans regarding the personnel needs for the “field operations” of the campaign that would be conducted through an agreed-upon campaign hierarchy.³⁷ Such coordination efforts were to include, among other things, coordinating phone banking, passing candidate petitions, precinct walking, marching in parades and attending campaign events.

The CFR reelection effort—including efforts that occurred on state time—began in 1993 and continued into the 1994 election year. In or about July 1994, a handful of the SOS/CFR coordinators, including Juliano, left the SOS Office payroll and were transferred to the CFR payroll. However, with the exception of these handful of individuals, the SOS/CFR coordinators remained full-time SOS Office employees and continued to perform campaign work on state time. Fawell himself, who made the principal decisions on behalf of the campaign and was in frequent contact with Juliano (who worked from the Rosemont campaign office) did substantial campaign work during the business day and never left the state payroll. Fawell rarely came to

³⁷For the 1994 and 1998 election cycles, CFR’s field operations were organized geographically under the following structure: The state of Illinois was divided into a metro area and a downstate area; each of these two areas were further divided into zones, which were, in turn, subdivided into regions. Each region’s campaign activities were organized by a regional manager who, in turn, reported to a zone manager. Zone managers in turn reported to their respective (metro or downstate) area coordinator. For both the 1994 and 1998 elections, virtually every regional manager, zone manager and area coordinator was an SOS Office employee.

the Rosemont campaign office and conducted much of his political activity from his state office, using state resources.

The election effort and the directives provided to the SOS/CFR coordinators, which spanned from the Fall of 1993 through November 1994, resulted in substantial campaign work being conducted on state time by SOS Officials using state resources, with both the explicit and implicit authorization of Ryan, Fawell, Juliano and others.

4. **The Gramm Campaign**

In or about the Spring of 1995, Fawell, Juliano and Ryan met in Ryan's SOS Office in Chicago to discuss endorsing Phil Gramm for President of the United States during the 1996 presidential election and thereafter coordinating the Gramm campaign in Illinois. In the meeting, Ryan, Fawell and Juliano agreed that they could make some money for their efforts on behalf of the Gramm campaign. They were all in agreement that the money could not come directly from the Gramm campaign and that there would have to be a more indirect way for them to get the money. They also did not want the Gramm campaign to find out that they were profiting from Ryan's endorsement of Gramm. In response to these concerns, Ryan called Don Udstuen to see if he knew of a way to funnel the money to Ryan, Fawell and Juliano and, thus, make it more difficult for anyone to trace the money that they would receive from the Gramm campaign. Udstuen called back in a short while saying that he had arranged for Alan Drazek to be the person who would receive the money from the Gramm campaign and then use his company, American Management Resources (AMR), the same company used to hide the ADM and IBM proceeds, as the conduit to pay the Gramm money to Ryan, Fawell and Juliano. At Udstuen's suggestion, Ryan, Fawell and Juliano agreed to give Drazek a cut of the proceeds from

the Gramm campaign in return for his services.

As a result of their agreement, Juliano and Fawell set up consulting companies to hide their receipt of the Gramm money. Drazek eventually signed a consulting contract with the Gramm campaign. While Drazek played a role in the Gramm campaign (and was paid out of the contract proceeds for that role), his Gramm activities were coordinated by Fawell and Juliano, who coordinated the bulk of the Gramm campaign activity. Ryan instructed Fawell that his cut of the money should go to his (Ryan's) adult children. Juliano was the primary person who dealt with the Ryan children and AMR in connection with arranging for the Gramm payments. Ryan asked that his first payment of the Gramm proceeds go to his daughter, Lynda Fairman.

At no time was the Gramm campaign informed that Fawell, Juliano or Ryan would be personally profiting from the consulting arrangement. Rather, the Gramm campaign was merely told—through the entry of a consulting contract with AMR—that Alan Drazek would be coordinating the consulting efforts. Furthermore, nothing in the four corners of the contract indicated that Fawell, Juliano or Ryan would be receiving any funds from the Gramm effort. In addition, at no time did any of Ryan's children perform any work for the Gramm campaign.³⁸

After Ryan decided to endorse Gramm, CFR operatives organized an official announcement of Ryan's endorsement in Chicago at the Hyatt Hotel in approximately April 1995. Leading up to the event, Juliano, at Fawell's direction, notified the active regional and zone SOS/CFR coordinators (who would be doing the bulk of the field work on behalf of the Gramm campaign) of the Gramm endorsement and invited them to a reception to meet Gramm in

³⁸ One or more of Ryan's daughters claim that they may have done a nominal amount of work for the Gramm campaign, a claim that is contradicted by Juliano and Fawell, who oversaw the Gramm effort in Illinois.

conjunction with the endorsement announcement. Approximately 40 or more SOS/CFR operatives showed up in the middle of a work day to meet with Gramm and Ryan at the Hyatt and have their pictures taken with Gramm.

During the period from the Spring of 1995 through February 1996, when Gramm withdrew from the presidential race, significant efforts were expended by the SOS/CFR apparatus to coordinate and advance the Gramm campaign, much of which occurred on state time using state resources. The campaign work included: coordinating bus loads of SOS/CFR volunteers to participate in the Iowa straw poll; coordinating public appearances for Gramm in Illinois; circulating petitions on behalf of Gramm; identifying and recruiting delegates for Gramm statewide; conducting phone banking; and doing significant advance work on behalf of the Gramm campaign. Much of the coordination work was done by SOS Office employees, in addition to Fawell and Juliano. A substantial portion of this Gramm campaign work took place on state time.

Beginning in the Summer of 1995 and continuing into early 1996, the Gramm campaign made monthly payments to AMR under the contract. After receiving the Gramm money, Drazek, acting at Fawell and Juliano's direction, issued business checks to Fawell's consulting firm, Juliano's consulting firm and certain members of Ryan's family in equal amounts. Due to the fact that Fawell and Ryan coordinated the structure of the "consulting" arrangement through AMR, none of these payments to Ryan's family, Fawell or Juliano, which totaled over \$33,000, showed up on the Gramm campaign's federal election reports.

Ryan concealed the benefits he received from the Gramm campaign by omitting them from his 1995 and 1996 Statement of Economic Interest forms. Ryan also omitted the Gramm

benefits from his original and amended 1995 and 1996 federal and state tax returns. In the wake of publicity concerning the benefits he had received from the Gramm campaign, Ryan filed second amended tax returns for 1995 and 1996 in which he made false and misleading statements to the IRS claiming that it was the Gramm campaign's idea to pay Ryan for his role in the Gramm campaign.

5. **1996 House Races**

In the Summer of 1996, George Ryan and then House Speaker Lee Daniels agreed that Ryan would dedicate selected SOS/CFR coordinators to support Daniels in his attempt to keep Republican control of the Illinois House. After Ryan and Daniels had come to an agreement, Fawell summoned his supervising SOS/CFR coordinators to a meeting at the State of Illinois building to announce the Ryan-Daniels deal and to plan the execution of the 1996 House races. In general terms, Fawell outlined the arrangement that had been struck between Ryan and Daniels and discussed how the supervisors should coordinate the effort. At the meeting, Fawell also indicated that it was likely that the SOS/CFR coordinators who were recruited would be paid for their efforts.

In the wake of the Fawell directive, SOS/CFR coordinators were assigned to the different House races. At a subsequent gathering, Fawell then announced to the recruited coordinators that it was now time to make some money for doing what they had done during the 1994 Ryan campaign as "volunteers." In furtherance of the Ryan-Daniels' accord, Fawell also discussed and arranged with Jack Dorgan, Daniels' principal representative at the House Republican Campaign Committee ("HRCC"), that Fawell's SOS/CFR people would be compensated for their efforts. Fawell then drafted a document that listed each of the individual SOS/CFR coordinators who

were to be assigned to targeted House races, the race they were to be assigned and the amount of money they were to receive. This document was then provided to Roger Stanley, a Fawell associate and HRCC ally, who agreed to make the payments to Fawell's people from a business account at Stanley's direct mail company, Unistat. By using Unistat, a private company, as a conduit for the payments, Fawell and his SOS/CFR coordinators avoided identification and disclosure on campaign expenditure disclosure forms ("D-2s") relating to the payments made to these full-time SOS Office employees who were working on the 1996 HRCC races.

Of the numerous SOS/CFR coordinators who assisted in the 1996 House races, many were recruited to the effort by Fawell or another supervising SOS/CFR coordinator and performed a significant amount of their campaign work for these races on state time.

6. 1998 Ryan Campaign for Governor

In the Summer of 1997, immediately after Governor Jim Edgar announced he was not running for reelection, Fawell immediately began to plan George Ryan's 1998 gubernatorial campaign. One of Fawell's initial steps was to contact individuals, including Richard Juliano, he believed would be key personnel for the upcoming race. In or about the Summer of 1997, Juliano was employed at a law firm. After a series of discussions with Fawell regarding a 1998 gubernatorial campaign, Juliano agreed to leave his legal job and assist in a leadership role for CFR. Fawell committed to matching Juliano's law firm salary (approximately \$6,000 per month) with CFR funds for the month of September 1997. Juliano immediately immersed himself in the campaign effort. After the month of September, Fawell indicated that he could not afford to pay Juliano with CFR funds. However, Fawell stated that he would arrange for Juliano to obtain an SOS Office employment contract which would compensate Juliano for his campaign efforts.

Juliano agreed to participate in the fraudulent arrangement. Fawell authorized an SOS Office contract paying Juliano \$5,000 per month to perform work on behalf of the SOS Office relating to the National Voter Registration Act and other SOS issues. From approximately October 1997 to in or about early February 1998, Juliano performed exclusively campaign-related work but was paid approximately \$22,500 by the SOS Office.

When Juliano began working for Fawell on behalf of CFR, one of Juliano's principal assignments was to set up a schedule, with Fawell's authorization, of SOS Office employees who would assist in the campaign effort and be transferred to the CFR payroll during the campaign. Fawell and Juliano discussed a plan that required numerous SOS Office employees be moved over to the campaign on a rolling basis (the "Diverted Employees"). When Juliano provided Fawell with the projected payroll costs to CFR for implementing Fawell's schedule for the Diverted Employees, Fawell told Juliano that the campaign could not afford to incur such a large payroll expense because CFR needed to save money for its paid advertising campaign later in the campaign. Fawell directed Juliano to delay the removal of the Diverted Employees from the SOS Office payroll, but to move forward on having the Diverted Employees begin working at CFR. In accordance with Fawell's instructions, the Diverted Employees began to conduct campaign work on state time, while being paid by the SOS Office.

At some point in the fall of 1997, Udstuen advised defendant Ryan that since Fawell was working on the campaign, he needed to be taken off the SOS payroll. Ryan agreed. Udstuen then had a breakfast meeting with Fawell in which he made it clear to Fawell that he should be taken off the SOS payroll given his work on the campaign. Nonetheless, Fawell was not taken off the SOS payroll until February 1998.

Commencing in February 1998, a growing number of SOS Office employees began working virtually full-time at CFR even though personnel records reflected that those SOS Office employees were still working up to 3/4 of their time for SOS. As March approached, campaign work performed by the Diverted Employees increased substantially. However, certain individuals, including newly-installed Assistant Secretary of State Glen Bower, were concerned about the absences of certain Diverted Employees. Fawell faxed a memo to Bower articulating the scheme to divert certain SOS Office employees and resources and to conceal the diversion. For example, speaking of the Diverted Employees, Fawell stated “they are all leaving their (SOS) spaces ‘lived in’ . . . When any calls come in they should take a message—say the person is out at a meeting.”

Various memos were issued by Ryan during the 1998 campaign cautioning SOS employees that fund-raising activity could not be conducted on behalf of the Ryan campaign while on state time. These memos were essentially “window dressing,” created to make it look like the campaign was attempting to adhere to State statute. Ryan learned early in the 1998 campaign about the dispute between Fawell and Bower concerning the diversion of SOS employees for campaign work. Rather than chastising or admonishing Fawell for his diversion of state employees, Ryan told Fawell to “work it out” and handle whatever issues Fawell had with Bower so that Ryan would not be bothered. Ryan’s cavalier approach to the issue reinforced the longstanding policy by Ryan and CFR that the ends justified the means in terms of diverting state employees for campaign work.

Consistent with the practice in the 1994 election, CFR made regular use of SOS employees to perform campaign roles. For instance, SOS computer people were used by CFR to

set up the computer systems. More generally, SOS staff, supplies and resources were frequently used by the campaign in order to save money for the CFR coffers.

In the Spring of 1998, in response to the concerns of Glen Bower, Fawell called a meeting of high-ranking SOS/CFR officials. To the extent there was any doubt about the issue, Fawell made it clear at the meeting that CFR would continue to divert SOS resources as necessary for the campaign, notwithstanding Bower's opposition. Bower again voiced objection and specifically raised the specter of a "ghost payrolling" prosecution if Fawell continued his diversionary efforts to benefit CFR. Bower told Fawell that, "several blocks from here" (a reference to the Federal Building), there was a ghost payrolling investigation going on (a reference to the Haunted Hall prosecutions) and that Fawell was headed in that direction. Fawell dismissed Bower's concerns, telling Bower that "the people who are working over here have taken the risk" and that, in any event, "the campaign cannot afford to have these people on the payroll full-time." During other portions of the meeting, Fawell noted how the campaign would make use of state cars, phones, supplies and parking spots to reduce expenditures to CFR. After the meeting, Fawell, Juliano and the other CFR operatives went about executing the Fawell plan and "cutting corners" to save the campaign money. After the meeting, the diversions of personnel and resources of the SOS Office continued. However, Fawell and Andrea (Coutretsis) Prokos—with Juliano's knowledge—took steps to cover their tracks and conceal the payroll reality. For example, as to certain employees, they authorized the falsification of time sheets and logging on to state computers (for employees actually at CFR) to mask the fact that employees were working at CFR offices on state time.

In conversations with Juliano, Fawell repeatedly justified the diversions based on the

need to save as much money as possible for paid media down the campaign stretch. The diversions of certain personnel and resources of the SOS Office continued through approximately August 1998, when Fawell authorized full funding by CFR of its payroll and resource needs.

D. OBSTRUCTION AND CONCEALMENT

1. September 1998 Shredding Incident

On or about September 8, 1998, several days after the Melrose Park driver's facility raided by state and federal law enforcement agents in the course of the Safe Road investigation, William Mack, who was then a full-time SOS Office employee whose office was located near the executive offices of the fifth floor of the Thompson Center, had a telephone conversation with Fawell. In the conversation, Fawell told Mack that he had a concern about SOS employees having campaign-related material in their work areas. Fawell also told Mack that these individuals would need to get rid of these campaign-related materials immediately. Fawell expressed concern regarding the federal investigation and the fact that "Feds" or "G" might be raiding the state offices soon. A short time after Mack and Fawell's phone conversation, Mack recalls seeing Fawell and George Ryan at the Chicago SOS Office.³⁹ Fawell was standing at one side of the office while Ryan was sitting on a couch and reading a document. Ryan then went over to where Fawell was standing and the two talked privately between themselves, and then Ryan returned to the couch. Fawell then repeated to Mack that he wanted Mack to contact everyone on the fifth floor of the SOS office to determine what campaign-related documents and materials were located on the premises and make sure that such documents and materials were

³⁹ Fawell does not recall such a meeting occurring at the SOS offices and believes that any such meeting, if it occurred, would more likely have been at the offices of CFR.

immediately destroyed. Fawell again made it a point of advising Mack that there could be some type of raid by federal authorities occurring as early as the following Friday, September 11.

Fawell made it clear that time was of the essence and that Mack should make sure that the documents were removed and destroyed as quickly as possible. After Fawell made his remarks to Mack, he turned to Ryan, who had remained seated on the couch and said to Ryan words to the effect of "hey George, I told Bill to go around and tell people to get stuff out of their offices." After Fawell made this comment to Ryan, Ryan abruptly got up from the couch and left the office. Fawell and Mack followed Ryan out of the office. Mack then saw Fawell and Ryan stop and speak privately to each other for approximately one to two minutes within the general reception area outside of Fawell's old office.

After receiving his direction from Fawell, Mack immediately went to find anyone he could locate in the area outside the Executive Office area so that they could start removing and destroying campaign-related documents. Mack asked each of the individuals whom he saw, including the department heads, to remove and destroy all campaign-related documentation. Mack then went back into the executive office area inside the glass doors. After most SOS Office employees had left for the day, Mack then directed a group of SOS/CFR individuals (a number of whom were sent over from the campaign office) to search through every office and desk within the executive offices and to remove any campaign material and shred it. Parroting Fawell's expressed concerns, Mack stated that they should gather anything that law enforcement might want to see as there might be a raid. After Mack's directives, the work began in earnest. Most of the executive offices (there were more than 10 individual offices in the executive office area) were then searched and countless documents brought over to the shredder. Collectively, the

Mack group gathered, collected and shredded campaign press releases, SOS schedules, low-digit license plate request forms, campaign volunteer lists, weekly campaign update reports, campaign disclosure reports and other general campaign materials. The search of offices and shredding lasted between 3-6 hours. When it was done, several of the participants took about 8-12 bags of shredded documents to the dumpster area. Due to the volume of shredding that Mack directed on that day, there were a lot of shredded paper fragments around the shredder when Mack's group was finished. Mack's group then used a broom and vacuum cleaner to clean up the mess so that there would be no suspicion the next day about what they had done. Once they finished with the shredding assignment, Mack called Andrea Coutretsis at CFR and told her that they were done shredding. Mack specifically told Coutretsis to tell Fawell that they had carried out his orders and cleaned up everything on the fifth floor. Coutretsis acknowledged that she would pass on the information to Fawell.⁴⁰ Within a couple of days of the shredding incident, Mack also reported to Ryan that the fifth floor of the Thompson Center had been cleaned up. Ryan made no response but also gave no indication that he did not understand what Mack was talking about.

2. Fall 1999 Destruction of SOS and CFR Records

In October 1999, another shredding incident of sensitive documents and material occurred. Months earlier, former SOS Office employee and then state employee Dean Prokos received a phone call from his then wife Andrea Coutretsis Prokos, who worked for Fawell in his

⁴⁰ On the evening that Mack's group destroyed documents, there were a couple of offices within the Executive Office area to which they could not gain access. However, the following day, Mack was able to gain access to those areas so that he could remove and destroy documents that were located there. Both offices had campaign material, including campaign county coordinator lists and documentation pertaining to opposition research on the campaign of Glen Poshard. All documents Mack found were shredded.

capacity as the CEO of the Metropolitan Pier & Exposition Authority. Andrea asked Dean to assist her in taking certain boxes from CFR's premises to their home for storage. That evening, when Andrea brought the boxes home, Dean helped unload them from Andrea's car. He then placed them into the basement of their Hawthorne Woods home. Andrea told Dean that night that Scott Fawell had directed her to dispose of the documents. Regarding the taking of the boxes from CFR, Andrea told Dean that the contents of the boxes could get a lot of people in trouble. The boxes remained untouched in their basement for a period of months. In or about October 1999, the Prokoses were concerned that federal investigators might be knocking on their door in furtherance of the ongoing investigation. In this context, Andrea told Dean that her work affiliation with Scott Fawell and CFR made it likely that the feds would come to their house with a subpoena or a search warrant. As a result, both agreed that it was too dangerous to continue keeping the documents in the house and they discussed a plan to dispose of them permanently.

On or about October 30, 1999, Dean and Andrea gathered the boxes of documents and transported them to the nearby home of Ernie and Frances Katris, Dean's sister and brother-in-law, who were also social friends of Dean and Andrea. After the boxes were brought to the Katris home, the four individuals huddled in the Katris basement to discuss their options to destroy the documents. When they went down to the basement, Andrea began to look through the boxes and identify specific documents she wanted destroyed first. Andrea indicated to Ernie that the boxes included employee and hiring records of individuals hired by George Ryan. Andrea also said that the documents contained records relating to campaign contributors. Andrea told Ernie that the information contained in the documents could get people who worked for the campaign in serious trouble, and that the information could lead up to the top, and specifically

mentioned George Ryan. Three of the participants (including Andrea) decided to try to shred the documents in Ernie's shredder that he kept in his basement office. However, after they tried to shred a couple of documents, Andrea rejected further use of the shredder because, as a line shredder, it made only one vertical cut through the document, thereby allowing for someone to recreate the sensitive documents. Andrea indicated she wanted to use a cross shredder, which Ernie did not have. The three then discussed another way to destroy the documents, and they agreed to try to burn the documents in the Katris' barbecue grill.

However, this didn't work either. When Dean and Ernie began to burn documents that Andrea had selected, their actions created a lot of smoke, with ashes blowing all around the yard and creating attention. As a result, the three mutually decided to cease their burning efforts and, rather, to store temporarily the boxes in the Katris' basement. Before they completed their activities for the day, they came upon a computer zip drive and related disk. After they had located the zip drive within the boxes, Andrea noted that the zip drive was broken and inoperable but Dean thought it was still usable. When they located a disk within the zip drive, Andrea said that they should take a hammer to it. Shortly thereafter, Dean and Andrea got into a heated argument as to whether the zip drive and disk should be kept or destroyed. Dean wanted them to keep the disk as a form of protection for themselves as a kind of "get out of jail free" card. Andrea wanted to destroy the disk right away. Andrea said that no one should ever see the contents of the disk and that she would never "roll over" on these people. Andrea also stated that the disk was her personal work disk and that it needed to be destroyed so that it wouldn't be used against "them." As a sort of compromise, they agreed that Ernie would hang on to the disk for a brief period until Andrea and Dean decided what they wanted to do with the disk and zip drive.

Ernie then took it and placed it near his office things in the basement.

Further, before Dean and Andrea left that day, Andrea asked Ernie to take a portion of the remaining boxes of documents out with the garbage each week. Andrea cautioned Ernie not to dump too much out during any one week, so as not to draw attention. For approximately the next two months, Ernie did as she asked until all the documents had been put into the garbage and taken away. After they left that day, Andrea periodically called Ernie to ask how the disposal process was going.

3. **False Statements by Ryan to the FBI**

During the course of the government's investigation, Ryan was interviewed by the FBI concerning various issues material to the investigation. During three of those interviews, Ryan lied to the FBI and in so doing, misled investigators and obstructed the investigation.

a. January 5, 2000 Interview

In an interview on January 5, 2000, Ryan falsely claimed that on each occasion when he was a guest of Harry Klein in Jamaica, he had paid his own way and also paid all his own expenses, including lodging. Ryan said that the cost for the Jamaica accommodations was \$1,000 per week, which Ryan said was the going rate for lodging at the property. Ryan further stated he paid the lodging fee out of his own pocket. In addition, and related to the Jamaica inquiries by federal investigators, Ryan caused checks purporting to be his payments for lodging to be provided to federal investigators, knowing full well that the checks were merely part of a sham transaction that he had engaged in with Klein.

During the January 5, 2000 interview, Ryan also falsely claimed that he was totally unaware of the pricing and contents of the South Holland Lease and did not personally take part

in the negotiation of the lease. He also claimed to have no recollection or knowledge of the original negotiations of the Joliet lease.

In the interview, Ryan falsely asserted that he appointed Warner to the McPier board at the recommendation of a resigning board member. Ryan also falsely claimed that Inspector General Dean Bauer never informed him of the finding of the briefcase and the campaign fundraising tickets during the law enforcement raid of the Libertyville Driver's License facility; and no one at the SOS Office, including Dean Bauer, ever linked ticket sales to improper licensing.

b. October 16, 2000 Interview

In the October 16, 2000, interview, Ryan made several material false statements about his relationship with Larry Warner, notably by claiming that he never had any discussions with Warner regarding Warner's interest in the Joliet lease or any SOS Office lease, and, that he had no personal knowledge of Warner profiting in any way regarding the Joliet lease. Ryan also claimed that he had no idea how Warner could have had advance knowledge of the SOS Office looking into a lease in the Joliet area and that Ryan had provided no advance information to Warner regarding future leases with the SOS Office. During this interview, Ryan also lied in asserting that he had no personal financial relationship with Warner.

c. February 5, 2001 Interview

In an interview with the FBI on February 5, 2001, Ryan lied with respect to the four \$500 checks given to him by Anthony De Santis. Ryan falsely claimed that he did not give De Santis the name of his son, nor did he write down the names or addresses of his son or his son's wife

and provide them to De Santis.

III. CONCLUSION

The above is an outline of the evidence that the government will introduce to establish that a conspiracy or joint venture existed involving defendants Lawrence Warner, George Ryan and the named and unnamed co-schemers. This Court should find, based upon this proffer, that coconspirator statements are admissible pending the introduction of evidence to support this proffer.

Respectfully submitted,

PATRICK J. FITZGERALD
United States Attorney

By:

PATRICK M. COLLINS
JOEL R. LEVIN
LAURIE BARSELLA
Assistant United States Attorneys
219 S. Dearborn St., 5th Floor
Chicago, Illinois 60604
(312) 353-5300