

1 McGREGOR W. SCOTT
United States Attorney
2 KENDALL J. NEWMAN
Assistant U.S. Attorney
3 501 I Street, Suite 10-100
Sacramento, California 95814
4 Telephone: (916) 554-2700

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

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10

11	UNITED STATES OF AMERICA,)	2:02-CV-00288-DFL-DAD
)	
12	Plaintiff,)	
)	
13	v.)	DECLARATION OF SRINIVASA
		)	KRISHNAN IN SUPPORT OF <i>EX PARTE</i>
		)	APPLICATION AND ORDER
14	ALL BENEFICIAL INTEREST IN A	)	AUTHORIZING TRUSTEE TO TURN OVER
	SECURED PROMISSORY NOTE	)	ASSET TO THE U.S. MARSHALS
15	DATED JULY 1, 1999, IN THE	)	SERVICE
	AMOUNT OF \$5,500,000.00,)	
16	SECURED BY DEED OF TRUST)	
	DATED MARCH 26, 1999, TO 38)	
17	UNPATENTED MINING CLAIMS IN)	
	SIERRA COUNTY, NEW MEXICO,)	
18)	
	Defendant.)	
19)	

20 I, SRINIVASA KRISHNAN, declare as follows:

21 1. I am a deputy to Robb Evans ("Evans"), who was appointed
22 on October 20, 2000, as Trustee for Certain Assets of the United
23 States of America in United States v. Larry Wilcoxson, CR-S-99-
24 0359-DFL, pursuant to 18 U.S.C. § 982(b)(1), incorporating 21
25 U.S.C. § 853(g). A copy of the Order Appointing Trustee is
26 attached hereto as Exhibit A ("Assets Trustee").

27 2. On December 1, 2000, the U. S. Department of Justice
28 authorized the appointment of Evans to act as Trustee to notify

1 potential petitioners, process petitions, and make recommendations
2 to the Chief of the Asset Forfeiture and Money Laundering Section
3 on the distribution of property to petitioners. Evans agreed to
4 act as trustee pursuant to 28 C.F.R. § 9.9(c). A copy of
5 the Notice of Appointment of Trustee Pursuant to 28 C.F.R. § 9.9(c)
6 is attached hereto as Exhibit B ("Remission Trustee").

7 3. On August 16, 2002, in this civil forfeiture case, Evans
8 was appointed as the Trustee to receive, manage, protect, and
9 liquidate the asset referred to as "All beneficial interest in a
10 secured promissory note dated July 1, 1999, in the amount of
11 \$5,500,000.00 ("Note"), secured by deed of trust dated march 26,
12 1999 ("Deed"), to 38 unpatented mining claims in Sierra County, New
13 Mexico". The Note and Deed are collectively referred to here as
14 "the Asset". A copy of the Order Appointing Trustee is attached
15 hereto as Exhibit C ("Civil Trustee").

16 4. As deputy to Evans and as a principal in Robb Evans &
17 Associates LLC, I have been entrusted with the primary
18 responsibility for the day-to-day supervision and management of the
19 related Trustee estate ["Trust"] since Evans first began to act
20 pursuant to his appointment as Trustee on October 20, 2000. I have
21 had direct and ongoing responsibility for attempting to maximize
22 value for the Trust in connection with a number of assets owned or
23 controlled by the Trustee, directly or indirectly, which have
24 included efforts to liquidate the Asset.

25 5. Evans, in his role as the Assets Trustee has completed,
26 substantially, the liquidation of the forfeited assets, handed to
27 the Remission Trustee (with the approval of the Court) an aggregate
28 sum of \$7.2 million and this amount was distributed, as approved by

1 the Department of Justice, pro rata, to the victims of
2 the Wilcoxson fraud ("First and Second Distributions"). Evans, as
3 Assets Trustee, anticipates completion of the remaining liquidation
4 and recovery of additional amounts in the next 6 to 9 months.

5 6. The only remaining asset, which may have some recovery
6 potential, is the Asset held by the Civil Trustee.

7 7. The Asset is an intangible asset - A Note and a Deed of
8 Trust on "Mining Claims" or "Mining Rights". After review, Evans
9 concluded that the Trustee could only attempt to foreclose on the
10 Deed of Trust for those Mining claims, known as NobleMet Claims 1-
11 38 inclusive, Bureau of Land Management ("BLM"), covering an
12 approximate land area of 760 acres in Sierra County, New Mexico.

13 8. Until August 2004, the annual fees payable to the owner of
14 the land, United States Department of the Interior, BLM, were
15 remitted by one of the principals of the entity, Titan Mining LLC
16 ("Titan"), which forfeited the Note and the Deed to the Trustee, as
17 ordered by this Court. Titan's principal also referred to the
18 Trustee, from time to time, potential buyers who showed some
19 interest in buying the Note and the Deed from the Trustee and the
20 mining rights that came with the Asset. None of those offers ever
21 materialized into any meaningful contract to buy.

22 9. While the Trustee became aware of engineering appraisals
23 commissioned in 1999 through 2000 by Titan to determine the value
24 of minerals, if any, on parcels of land not far from the land
25 covered by the Note and Deed, he could not rely on such unverified
26 reports. After making inquiries, the Trustee decided against
27 commissioning mining appraisals of the "mineral rights", including
28 drilling and engineering studies, in view of the very high costs

1 involved and the very limited resources of the Trustee.

2 10. The undersigned approached the State Geologist and the
3 Director of the New Mexico Bureau of Geology and Mineral Resources
4 for an informal opinion. He opined that it would be advisable to
5 renew the annual fees to the BLM to maintain the mining rights and
6 to have the land evaluated professionally before relinquishing any
7 claims on those mining rights. The Trustee has since paid the
8 annual premium/fees and kept it current through August 31, 2007.

9 11. Evans is waiting to close the Trust after submitting his
10 recommendation to this Court for the third and final distribution
11 to Wilcoxson victims. But that decision is dependent on his
12 receiving a second and final distribution from a related Federal
13 Receivership, which had earlier accepted Evans' claim to pro rata
14 restitution in that Receivership. Evans anticipates that the
15 restitution from that Receivership might come in the second quarter
16 of 2007, and that he will be able to submit Trustee's application
17 for final distribution in the Wilcoxson matter and also seek
18 closure of the Trust.

19 12. Under the circumstances, the Trustee approached the
20 United States Marshals Service ("USMS"), with the consent of the
21 United States Attorney's Office, to explore liquidation of the
22 Asset with assistance of the USMS. USMS has agreed to accept
23 transfer of the Asset, subject to approval from this Court, and to
24 start efforts to sell the Note and the Deed through sources known
25 and avenues available to the USMS.

26 13. The USMS has further agreed that it would retain 20% of
27 the net sale proceeds from the Asset to defray the costs and
28 expenses associated with the marketing and sale of the Asset and

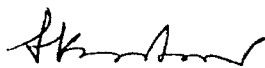
1 turnover the balance of the proceeds to the Trustee for eventual
2 distribution to the Wilcoxson victims.

3 14. If Evans were to close the Trust, and if he already
4 completed his final distribution to the Wilcoxson victims before
5 the USMS could find a buyer, the USMS would then distribute the
6 remaining net sale proceeds directly to the victims in the
7 Wilcoxson case, upon approval from the Chief of the Asset
8 Forfeiture and Money Laundering Section.

9 15. Speaking for the Trustee, I believe that the arrangement
10 proposed is cost-effective, would help facilitate closure of the
11 Trust sooner, and will be in the best interests of the Wilcoxson
12 victims.

13 I declare under penalty of perjury that the foregoing is true
14 and correct to the best of my knowledge.

15 Executed this 1st day of November, 2006.

16 

17 _____
18 SRINIVASA KRISHNAN
19 Deputy to Trustee
20
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EXHIBIT A

1 PAUL L. SEAVE
United States Attorney
2 BENJAMIN B. WAGNER
Assistant U.S. Attorney
3 COURTNEY J. LINN
Assistant U.S. Attorney
4 501 I Street, Suite 10-100
Sacramento, California 95814-2322
5 Telephone: (916) 554-2755
6 Attorneys for United States of America

FILED

OCT 20 2000

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY
DEPUTY CLERK

7 **LOGGED**

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9 OCT 6 2000

IN THE UNITED STATES DISTRICT COURT

10 U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA
EASTERN DISTRICT OF CALIFORNIA

11 BY
DEPUTY CLERK

12 UNITED STATES OF AMERICA,
13 Plaintiff,
14 v.

CR-S 99-0359 DFL
[Proposed] ORDER
APPOINTING TRUSTEE

15 LARRY WILCOXSON,
16 DAVID BAXTER,
17 C. WILLIAM GORDIN,
ROXANNE ALBAUGH, and
JOHN F. WITZKE,
18 Defendants.

19
20 This matter comes before the Court on October 19, 2000,
21 on the Government's motion for appointment of a Trustee to receive
22 assets subject to the preliminary order of forfeiture entered
23 October 19, 2000, as described more particularly in
24 Exhibit "A" attached hereto (hereinafter the "Subject Property"),
25 and to manage such assets, and liquidate them for the purpose of
26 forfeiture. See 18 U.S.C. § 982(b)(1), incorporating 21 U.S.C. §
27 853(g). Substantially for the reasons given in the Government's
28 Motion, the Court has determined that it would be in the interest

1 of all parties, and in the public interest, to appoint a Trustee
2 for these purposes. Accordingly, the Court makes the following
3 orders:

4 Robb Evans is hereby appointed Trustee for the purposes
5 of receiving the Subject Property, managing the Subject Property,
6 and liquidating the Subject Property for the protection of the
7 United States. The Trustee shall have the power to transfer,
8 assign, turnover or otherwise convey the Subject Property, with
9 directions and authority to accomplish the following:

- 10 A. Assume and maintain full control of the Subject
11 Property.
- 12 B. Collect, marshal, maintain and take custody,
13 control, and possession of the Subject Property,
14 wherever located, including the income and profits
15 therefrom, and all sums of money now or hereafter
16 due or owing.
- 17 C. Perform all acts necessary in any jurisdiction to
18 protect, conserve, preserve, and prevent from waste
19 or dissipation the funds, property, premises,
20 accounts, and other assets of the Subject Property
21 in order to insure that funds are available for the
22 protection of the United States.
- 23 D. Enter into agreements in connection with
24 administration of the Subject Property, including,
25 but not limited to: (1) the retention and employment
26 of managers, agents, investigators, attorneys or
27 accounts of the Trustee's choice, including, without
28 limitation members and employees of the Trustee's

1 firm, to assist, advise, and represent the Trustee;
2 (2) the movement and storage of any equipment,
3 furniture, records files or other physical property
4 relating to the Subject Property; and (3) the
5 retention of auctioneers or other professional to
6 assist in the liquidation of the Subject Property.

7 E. Prosecute, compromise, adjust, intervene in or
8 become party to such actions or proceedings in
9 state, federal, or foreign courts that the Trustee
10 deems necessary and advisable to reserve or increase
11 the value of the Subject Property, or that the
12 Trustee deems necessary and advisable to carry out
13 the Trustee's mandate under this Order, and likewise
14 to defend, compromise, or adjust or otherwise
15 dispose of any and all actions or proceedings
16 instituted against the Trustee or the Subject
17 Property that the Trustee deems necessary and
18 advisable to preserve the Subject Property or that
19 the Trustee deems necessary and advisable to carry
20 out the Trustee's mandate under this Order.

21 F. Liquidate the Subject Property and all assets
22 transferred to the Trustee in accordance with the
23 terms of this Order or any prior or subsequent order
24 of this Court; and to transfer the Subject Property
25 to storage facilities, cancel leases, terminate and
26 enter contracts.

27 G. Execute all bills of sale and deeds to personal and
28 real property coming into the possession of the

Trustee.

1
2 H. Prepare and submit periodic reports, as necessary,
3 to this Court and to the Plaintiff United States,
4 describing the Trustee's efforts to comply with the
5 terms of this Order, and recommendations of any
6 additional action required by this Court to ensure
7 that the Subject is preserved in order to protect
8 the United States and any third-party claimant, as
9 may be approved by the Court.

10 I. The Trustee and those he employs are entitled to
11 reasonable compensation for the performance of
12 duties pursuant to this Order, and for the costs of
13 actual out-of-pocket expenses incurred by them,
14 including ordinary and necessary expenses incurred
15 by the Trustee for professional and other services,
16 from the Subject Property without the need for Court
17 approval and such payments shall have priority over
18 all other distributions from the Subject Property
19 assets. The periodic reports to the Court, as
20 referenced in paragraph H. above, shall include
21 information regarding the Trustee's fees and out-of-
22 pocket expenses.

23 J. The Trustee shall maintain with the Clerk of this
24 Court a bond in the sum of \$50,000 with sureties to
25 be approved by the Court, conditioned that the
26 Trustee will well and truly perform the duties of
27 the office and abide by and perform all acts the
28 Court directs.

1 K. The Subject Property shall be liquidated and held
2 and maintained by the Trustee pending further Order
3 of this Court.

4 L. Consistent with the provisions in section II.B. of
5 his plea agreement, Larry Wilcoxson shall cooperate
6 fully with the Trustee in: (A) collecting,
7 marshaling, or maintaining of custody, possession
8 and control of the Subject Property, or with the
9 liquidation of the Subject Property; (B) executing
10 any documents required to forfeit the Subject
11 Property to the Government; and (C) preventing
12 disbursement of any money, property, or assets
13 derived from unlawful activities, if said
14 disbursements are within the defendant's direct or
15 indirect custody or control.

16 M. If, in the course of executing his duties, the
17 Trustee discovers or has reason to believe the
18 existence of other assets not identified in the
19 preliminary order of forfeiture, the Trustee shall
20 notify counsel for the United States who shall take
21 any action deemed appropriate under the
22 circumstances.

23 IT IS SO ORDERED.

24
25 DATED: October 19, 2006

26 David F. Levi
27 DAVID F. LEVI
28 UNITED STATES DISTRICT JUDGE

EXHIBIT A

- 1
- 2 (a) All U.S. currency, discovered and restrained on or about
- 3 August 13, 1999, in the following accounts:
- 4 (1) Bank of America account numbered 210342911, located
- 5 at a branch in Las Vegas, Nevada, in the name of
- 6 JRAM International Enterprises;
- 7 (2) Bank of the West account numbered 1079- 125011163,
- 8 located at a branch in Modesto, California, in the
- 9 name of IFR Trust;
- 10 (3) Wells Fargo account numbered 0047-553763, located at
- 11 a branch in Modesto, California, in the name of C.
- 12 William Gordin Accountancy Corp.;
- 13 (4) Pacific State Bank accounts numbered 830710
- 14 (savings), and 2204040 (checking), located at a
- 15 branch in Modesto, California, in the name of
- 16 C. William Gordin Accountancy Corp.;
- 17 (5) Union Bank of California account numbered
- 18 6353010371, located at a branch in Modesto,
- 19 California, in the name of C. William Gordin
- 20 Accountancy Corp. Trust Account;
- 21 (b) U.S. currency in the amount of \$32,000, in Union Bank of
- 22 California account numbered 350005305, located at a
- 23 branch in Modesto, California, in the name of Albaugh
- 24 Land & Cattle;
- 25 (c) Real property in the name of Albaugh Land & Cattle,
- 26 together with all improvements and appurtenances thereon
- 27 located at Twenty Six Mile Road in Oakdale, California,
- 28 assessor's parcel numbers 002-59-04, and 002-12-63;
- (d) Net proceeds of the sale of one 1999 Chevrolet, 4-door,
- registered to Roxanne Albaugh, VIN #1GNEK13R7XJ445332,
- bearing California license plate 4ENX243, sold pursuant
- to Stipulation and Order filed November 4, 1999;
- (e) Net proceeds of the sale of the following vehicles, each
- registered to Roxanne Albaugh and Albaugh Land & Cattle,
- sold pursuant to Stipulation and Order filed November 4,
- 1999:
- (1) One 1999 Chevrolet, VIN # 1GBHC34R4XF035429, bearing
- California license plate 5Y45177, including its
- tools and appurtenances;
- (2) One 1999 Chevrolet, VIN # 1GBHC34R0XF034021, bearing
- California license plate 5Y45178, including its
- tools and appurtenances;

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- (3) One 1999 Chevrolet, VIN # 1GNEK13R9XJ440486, bearing California license plate 4EOK910, including its tools and appurtenances;
- (4) One 1999 Chevrolet, VIN # 2GCEK19T3X1170788, bearing California license plate 5Z00124, including its tools and appurtenances; and
- (5) One 1999 Chevrolet, VIN # 1GNEK13R0XJ441266, bearing California license plate 4EOK912, including its tools and appurtenances.

(f) One 1999 Lexus RX300, bronze in color, registered to Stan R. Wilcoxson, VIN #JT6HF10U9X0088512, bearing California license plate 4GSM106, including its tools and appurtenances;

(g) The following Notes Secured by Deeds of Trusts, the Deeds of Trust with Assignment of Rents, and all rights, title and interests secured thereby:

- (1) A Note to Larry Wilcoxson, from Bambi L. Marquez, for \$20,000, due March 1, 2002, secured by real property located in Modesto, California;
- (2) A Note to IFR Trust, from Raymond Lee, for \$40,000, due June 26, 2002, secured by real property in San Joaquin County, consisting of three parcels in Manteca, California;
- (3) A Note to JRAM International Enterprises, from Seven-to-One Construction, Inc., for \$120,000, due April 6, 2000, secured by real property in Tulare County, California, assessor's parcel # 169-320-091;
- (4) A Note to JRAM International Enterprises, from Seven-to-One Construction, Inc., for \$120,000, due May 17, 2000, secured by real property in Tulare County, California, assessor's parcel # 169-320-084;
- (5) A Note to JRAM International Enterprises, from Seven-to-One Construction, Inc., for \$120,000, due June 17, 2000, secured by real property in Tulare County, California, assessor's parcel # 169-320-086;
- (6) A Note to JRAM International Enterprises, from Seven-to-One Construction, Inc., for \$120,000, due July 23, 2000, secured by real property in Tulare County, California, assessor's parcel # 169-320-004;
- (7) A Note to JRAM International Enterprises, from Seven-to-One Construction, Inc., for \$120,000, due in May, 2000, secured by real property in Tulare County, California, assessor's parcel # 169-320-031;

- 1 (8) A Note to JRAM International Enterprises, from
2 Seven-to-One Construction, Inc., for \$120,000, due
3 in June, 2000, secured by real property in Tulare
4 County, California, assessor's parcel # 169-320-085;
- 5 (9) A Note to JRAM International Enterprises, from
6 Gilton's Family Ranch, LP, for \$380,000, due in May,
7 2000, secured by real property in Tulare County,
8 California, assessor's parcel # 126-020-017;
- 9 (10) A Note to Sundial Financial Services, from Gary J.
10 Lash and Deanna L. Lash, for \$100,000, due July 20,
11 2014, secured by real property in Ripon, California;
- 12 (11) A Note to Sundial Financial Services, from Carl L.
13 Jackson, for \$30,000, due August 3, 2000, secured by
14 real property at 735 Calmar Ave., Oakland,
15 California;
- 16 (12) A Note to Sundial Financial Services, from Robert
17 John Blackstar, for \$20,000, due February 1, 2002,
18 secured by real property in Riverbank, California;
19 and
- 20 (13) A Note to Sundial Financial Services, from John
21 Shearer, for \$156,000, due May 20, 2002, secured by
22 real property in Stanislaus County, California,
23 assessor's parcel # 052-55-69-101.
- 24 (h) One Lo Profile Orchard tractor (engine #U6399788 & serial
25 #F19236);
- 26 (i) One Massey Ferguson loader;
- 27 (j) Two field booms with swivels (serial #M7436 & M7437);
- 28 (k) One Strathmore 9-foot disk harrow with 24" blades (serial
#L9637);
- (l) Five All Terrain Vehicles (ATV), as follows: (1) Honda
model TRX300FWLX, engine #91215484, frame #100698; (2)
Honda model TRX300FWL, engine E9121756, frame #100709;
(3) Honda model TRX300FWLX, engine #9121911, frame
#100570; (4) Honda model TRX300FWLX, engine #9121560,
frame #100585; (5) Honda model EM5000SXX1, VIN:
EA71159899, including each ATV's tools and appurtenances;
- (m) Three All Terrain Vehicle ramps;
- (n) One D-6 Caterpillar tractor;
- (o) Approximately \$126,548.00 in U.S. currency, remitted by
defendant John R. Witzke to the Government, and placed on
deposit with the Clerk of the U.S. District Court on
June 2, 2000;

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- (p) Approximately \$500,000 in a bank account in Samoa in the name of World Cultural Center;
- (q) A sum of money equal to the total sums involved in the violations set forth in Counts 20, 25, 32, 35, 36 and 37 of the Superseding Indictment, to wit, \$7,195,000;
- (r) The sum of \$30,000.00, to be remitted to the government by Walter Wilcoxson, to be forfeited in lieu of the following assets:
 - (1) Real property in the name of Walter A. Wilcoxson and Nancy J. Wilcoxson Trust located at Lot 25, Cow Creek Tract, Cow Creek, Tuolumne County, California, assessor's parcel number 020-150-01; and
 - (2) A 1998 Cadillac, pearl white in color, registered to the Wilcoxson Family Trust, VIN #1G6KY5491WU919257, bearing Arizona license plate 470CFR.

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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Eastern District of California and is a person of such age and discretion as to be competent to serve papers.

That on October 6, 2000 she served a copy of the attached [proposed] ORDER APPOINTING TRUSTEE by placing said copy in a postpaid envelope addressed to the persons(s) hereinafter named, at the place(s) and address(es) stated below, which is/are the last know address(es), and by depositing said envelope and contents in the United States Mail at Sacramento, California.

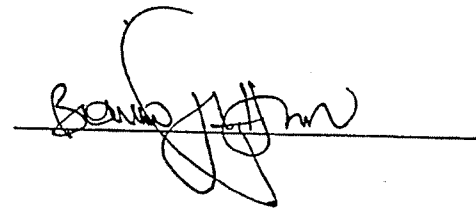
ADDRESSEE(S) :

Malcolm Segal, Esq.
Segal & Kirby
One City Centre
770 L Street, Suite 1440
Sacramento, CA

Mary French, Esq.
Assistant Federal Defender
801 K Street, 10th Floor
Sacramento, CA 95814

Geoffrey A. Goodman, Esq.
Murphy, Austin, Adams,
& Schoenfeld
1000 G Street, Third Floor
Sacramento, CA 95812-1319

Clifford E. Tedmon, Esq.
A Professional Corporation
717 K Street, Suite 200
Sacramento, CA 95814



United States District Court
for the
Eastern District of California
October 20, 2000

ljr

* * CERTIFICATE OF SERVICE * *

2:99-cr-00359

USA

v.

Wilcoxson

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

That on October 20, 2000, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

Benjamin B Wagner
United States Attorney
501 I Street
Suite 10-100
Sacramento, CA 95814

HV/DFL

Malcolm S Segal
Segal and Kirby
The Bank of California Center
770 L Street
Suite 1440
Sacramento, CA 95814

SERVICE BY INTER OFFICE:

US MARSHAL

PROBATION

PRETRIAL SERVICES

CHAMBERS

Jack L. Wagner, Clerk

BY: 
Deputy Clerk

EXHIBIT B

02/06/01 TUE 09:21 FAX 9165542900

US ATTORNEY

013

1 PAUL L. SEAVE
 United States Attorney
 2 BENJAMIN B. WAGNER
 Assistant U.S. Attorney
 3 COURTNEY J. LINN
 Assistant U.S. Attorney
 4 501 I Street, Suite 10-100
 Sacramento, California 95814
 5 Telephone: (916) 554-2700

6 Attorneys for Plaintiff

ORIGINAL
 FILED
 DEC - 1 2001
 CLERK, U.S. DISTRICT COURT
 EASTERN DISTRICT OF CALIFORNIA
 BY _____

9 IN THE UNITED STATES DISTRICT COURT FOR THE
 10 EASTERN DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,	)	CR. NO. S-99-0359 DFL
)	
13 Plaintiff,	)	NOTICE OF APPOINTMENT
	)	OF TRUSTEE PURSUANT TO
14 v.	)	28 C.F.R. § 9.9(c)
)	
15 LARRY WILCOXSON,)	
DAVID BAXTER,)	
16 C. WILLIAM GORDIN,)	
ROXANNE ALBAUGH, and)	
17 JOHN F. WITZKE,)	
)	
18 Defendants.)	

19

20 PLEASE TAKE NOTICE that, pursuant to 28 C.F.R. § 9.9(c), the
 21 Attorney General, through Gerald E. McDowell, Chief, Asset
 22 Forfeiture and Money Laundering Section (AFMLS), Criminal Division,
 23 U.S. Department of Justice, has authorized the appointment of Robb
 24 Evans to act as trustee to notify potential petitioners, process
 25 petitions, and make recommendations to the Chief of AFMLS on the

26 ////
 27 ////
 28 ////

02/06/01 TUE 09:22 FAX 9165542900


US ATTORNEY

014

1 distribution of property to petitioners. Mr. Evans has agreed to
2 act as trustee pursuant to 28 C.F.R. § 9.9(c).

3 DATED: 12/07/00

PAUL L. SEAVE
United States Attorney

By: 
COURTNEY J. LINN
Assistant U.S. Attorney

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02/06/01 TUE 09:22 FAX 9165542900

US ATTORNEY

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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Eastern District of California and is a person of such age and discretion as to be competent to serve papers.

That on 12/1/00 she served a copy of the attached NOTICE OF APPOINTMENT OF TRUSTEE PURSUANT TO 28 C.F.R. § 9.9(c) by placing said copy in a postpaid envelope addressed to the persons(s) hereinafter named, at the place(s) and address(es) stated below, which is/are the last know address(es), and by depositing said envelope and contents in the United States Mail at Sacramento, California.

ADDRESSEE(S) :

Malcolm Segal, Esq.
Segal & Kirby
One City Centre
770 L Street, Suite 1440
Sacramento, CA

Mary French, Esq.
Assistant Federal Defender
801 K Street, 10th Floor
Sacramento, CA 95814

Geoffrey A. Goodman, Esq.
Murphy, Austin, Adams,
& Schoenfeld
1000 G Street, Third Floor
Sacramento, CA 95812-1319

Clifford E. Tedmon, Esq.
A Professional Corporation
717 K Street, Suite 200
Sacramento, CA 95814

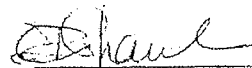


EXHIBIT C

FILED

AUG 16 2002

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

1 JOHN K. VINCENT
United States Attorney
2 COURTNEY J. LINN
Assistant U.S. Attorney
3 501 I Street, Suite 10-100
Sacramento, California 95814-2322
4 Telephone: (916) 554-2755
5 Attorneys for United States of America

LODGED

AUG 15 2002

8 CLERK, U.S. DISTRICT COURT IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
BY _____ DEPUTY CLERK FOR THE EASTERN DISTRICT OF CALIFORNIA

11	UNITED STATES OF AMERICA,	)	CIV S 02-0288 DFL/DAD
12	Plaintiff,)	
13	v.	)	ORDER
14	ALL BENEFICIAL INTEREST IN A	)	APPOINTING TRUSTEE
15	SECURED PROMISSORY NOTE)	
16	DATED JULY 1, 1999, IN THE)	
17	AMOUNT OF \$5,500,000.00,)	
18	SECURED BY DEED OF TRUST)	
19	DATED MARCH 26, 1999, TO 38)	
20	UNPATENTED MINING CLAIMS IN)	
21	SIERRA COUNTY, NEW MEXICO,)	
22	Defendant.)	

20 This matter comes before the Court on the United States of
21 America's ex parte application for appointment of a Trustee to
22 receive the defendant asset which has been forfeited to the United
23 States by Final Judgment of Forfeiture entered on or about August
24 14, 2002.

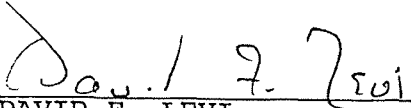
25 Substantially for the reasons given in the United States'
26 application, the Court has determined that it would be in the
27 interest of the Government, and in the public interest, to appoint
28 a Trustee. Accordingly, the Court makes the following orders:

241

1 Robb Evans is hereby appointed Trustee for the purposes of
2 receiving the above-captioned asset), managing it, and liquidating
3 it for the protection of the United States. The trusteeship shall
4 be carried out in accordance with the terms of the Court's Order
5 Appointing Trustee filed October 20, 2000, which order appointed
6 Robb Evans to serve as trustee over assets forfeited in the related
7 case of United States v. Wilcoxson, CR S-99-0359 DFL, as
8 appropriate to the defendant asset herein. A copy of the
9 October 20, 2000 Order Appointing Trustee is attached hereto as
10 Exhibit A and its terms are incorporated herein by reference.

11 IT IS SO ORDERED.

12
13 DATED: 8/16/2002

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15 DAVID F. LEVI
16 UNITED STATES DISTRICT JUDGE
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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Eastern District of California and is a person of such age and discretion as to be competent to serve papers. That on 8/15/02 she served a copy of the attached

[Proposed] ORDER APPOINTING TRUSTEE

by placing said copy in a postpaid envelope addressed to the persons(s) hereinafter named, at the place(s) and address(es) stated below, which is/are the last know address(es), and by depositing said envelope and contents in the United States Mail at Sacramento, California.

Addressee(s) :

James Henderson, Esq.
12121 Wilshire Blvd.
Suite 1120
Los Angeles, CA 90025-1123

Mark E. Beck, Esq.
601 W. Fifth Street
12th Floor
Los Angeles, CA 90071-2025

Larry Wilcoxson ID#59759-004
USP Atwater
Federal Prison Camp
#1 Federal Way
Atwater, CA 95301

Bluegrass Nut Farms, LLC
Dennis D. Walden-Registered Agent
11999 Newport Road
Ballico, CA 95303

Jammy Jegelia

Exhibit A

1 of all parties, and in the public interest, to appoint a Trustee
2 for these purposes. Accordingly, the Court makes the following
3 orders:

4 Robb Evans is hereby appointed Trustee for the purposes
5 of receiving the Subject Property, managing the Subject Property,
6 and liquidating the Subject Property for the protection of the
7 United States. The Trustee shall have the power to transfer,
8 assign, turnover or otherwise convey the Subject Property, with
9 directions and authority to accomplish the following:

- 10 A. Assume and maintain full control of the Subject
11 Property.
- 12 B. Collect, marshal, maintain and take custody,
13 control, and possession of the Subject Property,
14 wherever located, including the income and profits
15 therefrom, and all sums of money now or hereafter
16 due or owing.
- 17 C. Perform all acts necessary in any jurisdiction to
18 protect, conserve, preserve, and prevent from waste
19 or dissipation the funds, property, premises,
20 accounts, and other assets of the Subject Property
21 in order to insure that funds are available for the
22 protection of the United States.
- 23 D. Enter into agreements in connection with
24 administration of the Subject Property, including,
25 but not limited to: (1) the retention and employment
26 of managers, agents, investigators, attorneys or
27 accounts of the Trustee's choice, including, without
28 limitation members and employees of the Trustee's

1 firm, to assist, advise, and represent the Trustee;
2 (2) the movement and storage of any equipment,
3 furniture, records files or other physical property
4 relating to the Subject Property; and (3) the
5 retention of auctioneers or other professional to
6 assist in the liquidation of the Subject Property.

7 E. Prosecute, compromise, adjust, intervene in or
8 become party to such actions or proceedings in
9 state, federal, or foreign courts that the Trustee
10 deems necessary and advisable to reserve or increase
11 the value of the Subject Property, or that the
12 Trustee deems necessary and advisable to carry out
13 the Trustee's mandate under this Order, and likewise
14 to defend, compromise, or adjust or otherwise
15 dispose of any and all actions or proceedings
16 instituted against the Trustee or the Subject
17 Property that the Trustee deems necessary and
18 advisable to preserve the Subject Property or that
19 the Trustee deems necessary and advisable to carry
20 out the Trustee's mandate under this Order.

21 F. Liquidate the Subject Property and all assets
22 transferred to the Trustee in accordance with the
23 terms of this Order or any prior or subsequent order
24 of this Court; and to transfer the Subject Property
25 to storage facilities, cancel leases, terminate and
26 enter contracts.

27 G. Execute all bills of sale and deeds to personal and
28 real property coming into the possession of the

Trustee.

1
2 H. Prepare and submit periodic reports, as necessary,
3 to this Court and to the Plaintiff United States,
4 describing the Trustee's efforts to comply with the
5 terms of this Order, and recommendations of any
6 additional action required by this Court to ensure
7 that the Subject is preserved in order to protect
8 the United States and any third-party claimant, as
9 may be approved by the Court.

10 I. The Trustee and those he employs are entitled to
11 reasonable compensation for the performance of
12 duties pursuant to this Order, and for the costs of
13 actual out-of-pocket expenses incurred by them,
14 including ordinary and necessary expenses incurred
15 by the Trustee for professional and other services,
16 from the Subject Property without the need for Court
17 approval and such payments shall have priority over
18 all other distributions from the Subject Property
19 assets. The periodic reports to the Court, as
20 referenced in paragraph H. above, shall include
21 information regarding the Trustee's fees and out-of-
22 pocket expenses.

23 J. The Trustee shall maintain with the Clerk of this
24 Court a bond in the sum of \$50,000 with sureties to
25 be approved by the Court, conditioned that the
26 Trustee will well and truly perform the duties of
27 the office and abide by and perform all acts the
28 Court directs.

1 K. The Subject Property shall be liquidated and held
2 and maintained by the Trustee pending further Order
3 of this Court.

4 L. Consistent with the provisions in section II.B. of
5 his plea agreement, Larry Wilcoxson shall cooperate
6 fully with the Trustee in: (A) collecting,
7 marshaling, or maintaining of custody, possession
8 and control of the Subject Property, or with the
9 liquidation of the Subject Property; (B) executing
10 any documents required to forfeit the Subject
11 Property to the Government; and (C) preventing
12 disbursement of any money, property, or assets
13 derived from unlawful activities, if said
14 disbursements are within the defendant's direct or
15 indirect custody or control.

16 M. If, in the course of executing his duties, the
17 Trustee discovers or has reason to believe the
18 existence of other assets not identified in the
19 preliminary order of forfeiture, the Trustee shall
20 notify counsel for the United States who shall take
21 any action deemed appropriate under the
22 circumstances.

23 IT IS SO ORDERED.

24
25 DATED: October 19, 2002

David F. Levi
26 DAVID F. LEVI
27 UNITED STATES DISTRICT JUDGE
28

EXHIBIT A

1
2 (a) All U.S. currency, discovered and restrained on or about
3 August 13, 1999, in the following accounts:

4 (1) Bank of America account numbered 210342911, located
5 at a branch in Las Vegas, Nevada, in the name of
6 JRAM International Enterprises;

7 (2) Bank of the West account numbered 1079- 125011163,
8 located at a branch in Modesto, California, in the
9 name of IFR Trust;

10 (3) Wells Fargo account numbered 0047-553763, located at
11 a branch in Modesto, California, in the name of C.
12 William Gordin Accountancy Corp.;

13 (4) Pacific State Bank accounts numbered 830710
14 (savings), and 2204040 (checking), located at a
15 branch in Modesto, California, in the name of
16 C. William Gordin Accountancy Corp.;

17 (5) Union Bank of California account numbered
18 6353010371, located at a branch in Modesto,
19 California, in the name of C. William Gordin
20 Accountancy Corp. Trust Account;

21 (b) U.S. currency in the amount of \$32,000, in Union Bank of
22 California account numbered 350005305, located at a
23 branch in Modesto, California, in the name of Albaugh
24 Land & Cattle;

25 (c) Real property in the name of Albaugh Land & Cattle,
26 together with all improvements and appurtenances thereon
27 located at Twenty Six Mile Road in Oakdale, California,
28 assessor's parcel numbers 002-59-04, and 002-12-63;

(d) Net proceeds of the sale of one 1999 Chevrolet, 4-door,
registered to Roxanne Albaugh, VIN #1GNEK13R7XJ445332,
bearing California license plate 4ENX243, sold pursuant
to Stipulation and Order filed November 4, 1999;

(e) Net proceeds of the sale of the following vehicles, each
registered to Roxanne Albaugh and Albaugh Land & Cattle,
sold pursuant to Stipulation and Order filed November 4,
1999:

(1) One 1999 Chevrolet, VIN # 1GBHC34R4XF035429, bearing
California license plate 5Y45177, including its
tools and appurtenances;

(2) One 1999 Chevrolet, VIN # 1GBHC34R0XF034021, bearing
California license plate 5Y45178, including its
tools and appurtenances;

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- (3) One 1999 Chevrolet, VIN # 1GNEK13R9XJ440486, bearing California license plate 4EOK910, including its tools and appurtenances;
 - (4) One 1999 Chevrolet, VIN # 2GCEK19T3X1170788, bearing California license plate 5Z00124, including its tools and appurtenances; and
 - (5) One 1999 Chevrolet, VIN # 1GNEK13R0XJ441266, bearing California license plate 4EOK912, including its tools and appurtenances.
- (f) One 1999 Lexus RX300, bronze in color, registered to Stan R. Wilcoxson, VIN #JT6HF10U9X0088512, bearing California license plate 4GSM106, including its tools and appurtenances;
- (g) The following Notes Secured by Deeds of Trusts, the Deeds of Trust with Assignment of Rents, and all rights, title and interests secured thereby:
- (1) A Note to Larry Wilcoxson, from Bambi L. Marquez, for \$20,000, due March 1, 2002, secured by real property located in Modesto, California;
 - (2) A Note to IFR Trust, from Raymond Lee, for \$40,000, due June 26, 2002, secured by real property in San Joaquin County, consisting of three parcels in Manteca, California;
 - (3) A Note to JRAM International Enterprises, from Seven-to-One Construction, Inc., for \$120,000, due April 6, 2000, secured by real property in Tulare County, California, assessor's parcel # 169-320-091;
 - (4) A Note to JRAM International Enterprises, from Seven-to-One Construction, Inc., for \$120,000, due May 17, 2000, secured by real property in Tulare County, California, assessor's parcel # 169-320-084;
 - (5) A Note to JRAM International Enterprises, from Seven-to-One Construction, Inc., for \$120,000, due June 17, 2000, secured by real property in Tulare County, California, assessor's parcel # 169-320-086;
 - (6) A Note to JRAM International Enterprises, from Seven-to-One Construction, Inc., for \$120,000, due July 23, 2000, secured by real property in Tulare County, California, assessor's parcel # 169-320-004;
 - (7) A Note to JRAM International Enterprises, from Seven-to-One Construction, Inc., for \$120,000, due in May, 2000, secured by real property in Tulare County, California, assessor's parcel # 169-320-031;

- 1 (8) A Note to JRAM International Enterprises, from
- 2 Seven-to-One Construction, Inc., for \$120,000, due
- 3 in June, 2000, secured by real property in Tulare
- 4 County, California, assessor's parcel # 169-320-085;
- 5 (9) A Note to JRAM International Enterprises, from
- 6 Gilton's Family Ranch, LP, for \$380,000, due in May,
- 7 2000, secured by real property in Tulare County,
- 8 California, assessor's parcel # 126-020-017;
- 9 (10) A Note to Sundial Financial Services, from Gary J.
- 10 Lash and Deanna L. Lash, for \$100,000, due July 20,
- 11 2014, secured by real property in Ripon, California;
- 12 (11) A Note to Sundial Financial Services, from Carl L.
- 13 Jackson, for \$30,000, due August 3, 2000, secured by
- 14 real property at 735 Calmar Ave., Oakland,
- 15 California;
- 16 (12) A Note to Sundial Financial Services, from Robert
- 17 John Blackstar, for \$20,000, due February 1, 2002,
- 18 secured by real property in Riverbank, California;
- 19 and
- 20 (13) A Note to Sundial Financial Services, from John
- 21 Shearer, for \$156,000, due May 20, 2002, secured by
- 22 real property in Stanislaus County, California,
- 23 assessor's parcel # 052-55-69-101.
- 24 (h) One Lo Profile Orchard tractor (engine #U6399788 & serial
- 25 #F19236);
- 26 (i) One Massey Ferguson loader;
- 27 (j) Two field booms with swivels (serial #M7436 & M7437);
- 28 (k) One Strathmore 9-foot disk harrow with 24" blades (serial
- #L9637);
- (l) Five All Terrain Vehicles (ATV), as follows: (1) Honda
- model TRX300FWLX, engine #91215484, frame #100698; (2)
- Honda model TRX300FWL, engine E9121756, frame #100709;
- (3) Honda model TRX300FWLX, engine #9121911, frame
- #100570; (4) Honda model TRX300FWLX, engine #9121560,
- frame #100685; (5) Honda model EM5000SXX1, VIN:
- EA71159899, including each ATV's tools and appurtenances;
- (m) Three All Terrain Vehicle ramps;
- (n) One D-6 Caterpillar tractor;
- (o) Approximately \$126,548.00 in U.S. currency, remitted by
- defendant John R. Witzke to the Government, and placed on
- deposit with the Clerk of the U.S. District Court on
- June 2, 2000;

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(p) Approximately \$500,000 in a bank account in Samoa in the name of World Cultural Center;

(q) A sum of money equal to the total sums involved in the violations set forth in Counts 20, 25, 32, 35, 36 and 37 of the Superseding Indictment, to wit, \$7,195,000;

(r) The sum of \$30,000.00, to be remitted to the government by Walter Wilcoxson, to be forfeited in lieu of the following assets:

- (1) Real property in the name of Walter A. Wilcoxson and Nancy J. Wilcoxson Trust located at Lot 25, Cow Creek Tract, Cow Creek, Tuolumne County, California, assessor's parcel number 020-150-01; and
- (2) A 1998 Cadillac, pearl white in color, registered to the Wilcoxson Family Trust, VIN #1G6KY5491WU919257, bearing Arizona license plate 470CFR.

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Eastern District of California and is a person of such age and discretion as to be competent to serve papers.

That on October 6, 2000 she served a copy of the attached [proposed] ORDER APPOINTING TRUSTEE by placing said copy in a postpaid envelope addressed to the persons(s) hereinafter named, at the place(s) and address(es) stated below, which is/are the last know address(es), and by depositing said envelope and contents in the United States Mail at Sacramento, California.

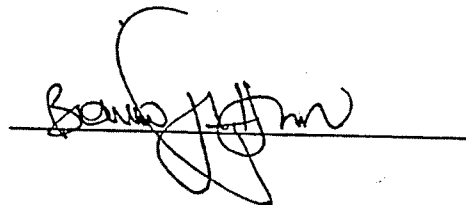
ADDRESSEE(S) :

Malcolm Segal, Esq.
Segal & Kirby
One City Centre
770 L Street, Suite 1440
Sacramento, CA

Mary French, Esq.
Assistant Federal Defender
801 K Street, 10th Floor
Sacramento, CA 95814

Geoffrey A. Goodman, Esq.
Murphy, Austin, Adams,
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Clifford E. Tedmon, Esq.
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717 K Street, Suite 200
Sacramento, CA 95814



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United States District Court
for the
Eastern District of California
October 20, 2000

ljr

* * CERTIFICATE OF SERVICE * *

2:99-cr-00359

USA

v.

Wilcoxson

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

That on October 20, 2000, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

Benjamin B Wagner
United States Attorney
501 I Street
Suite 10-100
Sacramento, CA 95814

HV/DFL

Malcolm S Segal
Segal and Kirby
The Bank of California Center
770 L Street
Suite 1440
Sacramento, CA 95814

SERVICE BY INTER OFFICE:

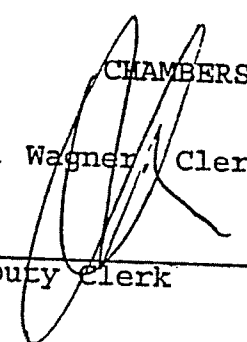
US MARSHAL

PROBATION

PRETRIAL SERVICES

CHAMBERS

Jack L. Wagner, Clerk

BY: 
Deputy Clerk