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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY ~~JANET PADILLA, et al~~
DEPUTY CLERK
Plaintiff

) CIVIL ACTION NO. 05-CV-0478
)
)
)

VERSUS

) JUDGE MONTALVO
)
)

UNITED STATES OF AMERICA, et al
Defendants

)
)
)

**APPENDIX OF MATERIAL AND DISPUTED FACTS IN SUPPORT
OF THE UNITED STATES'S MOTION TO DISMISS OR, IN THE
ALTERNATIVE, FOR SUMMARY JUDGMENT**

Pursuant to Local Rule CV-7(b-c), the United States submits the following Appendix of Material and Disputed Facts in Support of the United States Motion to Dismiss or, in the Alternative, for Summary Judgment.

The following affidavits, deposition testimony, and other competent evidence are attached and incorporated by reference to this appendix:

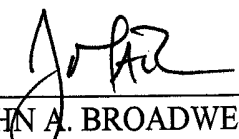
<u>Document</u>	<u>Exhibit Number</u>
Joint Statement of Facts	A
Affidavit of Raul Bencomo	B
Affidavit of Curtis Compton	C
Affidavit of Giovanni Gaudio	D
Letter to Jorge Rosas Garcia Dated August 15, 2003 (with certified English translation)	E
Instruction to Confidential Sources (Spanish and English versions)	F

Termination Letter, dated March 12, 2004	G
Statement of Guillermo Eduardo Ramirez-Peyro at Mexican Consulate, dated February 12, 2004	H
Deposition of Guillermo Eduardo Ramirez-Peyro, dated August 17, 2006	I
Declaration of Scott Whitted	J

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

JANET PADILLA, ET AL.,

Plaintiffs,

v.

UNITED STATES OF AMERICA, ET AL.,

Defendants.

CIVIL ACTION NO. EP-05-CA-0478

JUDGE MONTALVO

DEFENDANTS' JOINT STATEMENT OF UNDISPUTED FACTS

Pursuant to the Court's Standing Order Governing Motions for Summary Judgment, Defendants Raul Bencomo, Curtis Compton, and Giovanni Gaudioso (collectively, "Defendants") submit the following Statement of Undisputed Facts in Support of the Joint Motion for Summary Judgment:

1. The allegations set forth in Plaintiffs' Complaint allegedly occurred during a period of time from August 5, 2003, through August 25, 2004. (Plaintiffs' First Amended Complaint, hereinafter "Complaint")

2. During that period of time, Defendants Bencomo, Compton, and Gaudioso were employed with the United States Department of Homeland Security, Bureau of Immigration and Customs Enforcement ("ICE"), at its field office in El Paso, Texas. (Affidavits of Curtis Compton ("Compton Aff.") at ¶ 2, Affidavit of Giovanni Gaudioso ("Gaudioso Aff.") at ¶ 2, Affidavit of Raul Bencomo ("Bencomo Aff.") at ¶ 2.)

EXHIBIT

A

3. Each of the Defendants was experienced in narcotics investigations, the use of confidential informants, and had participated in many hours of training. Defendant Bencomo has been employed with ICE since 1998, Defendant Compton has been employed with ICE over 18 years, and Defendant Gaudioso has been employed with ICE for over 27 years. (*Id.*)

4. No Defendant was aware of any of the killings described in the Plaintiffs' Complaint prior to the events taking place. Moreover, no one at ICE or the United States Department of Justice was aware that the murders would take place prior to their occurrence. (Compton Aff. at ¶ 8.)

5. Defendants only learned about the murders through interviews of Guillermo Eduardo Ramirez Peyro, a/k/a "Lalo," (hereinafter "Ramirez") after the fact. (*Id.*, Gaudioso Aff. at ¶ 12.)

6. During a period of time from in or around 2000 through March 2004, Ramirez had provided information to ICE concerning narcotics trafficking. Specifically, beginning in February 2003, Ramirez provided information concerning the narcotics trafficking activities of Heriberto Santillan-Tabares ("Santillan") and his associates. (Compton Aff. at ¶ 11.)

7. The first time anyone at ICE or the U.S. Department of Justice learned about the August 5, 2003, alleged murder of Fernando Reyes Aguado ("Reyes") was at a debriefing of Ramirez that took place late on August 5, 2003. At that debriefing, which occurred several hours after the alleged murder, Ramirez denied knowing prior to the occurrence that the murders would take place. Ramirez told the agents that Reyes was murdered by two State Judicial police officers at a house located at 3633 Parsioneros in Ciudad Juarez, Chihuahua, Republic of Mexico. (*Id.* at ¶ 12.)

8. The substance of Ramirez's statements on August 5, 2003, was reported up the chain of command at the El Paso ICE office, and was subsequently communicated to ICE headquarters. (*Id.* at ¶ 13, Gaudio Aff. at ¶ 13.)

9. On or about August 6, 2003, supervisors at ICE in El Paso and at ICE headquarters in Washington, D.C., instructed the case agents to continue the investigation, continue to use Ramirez as a confidential informant, and work on getting Santillan arrested and into the United States. (*Id.*)

10. On or about August 15, 2003, Luis Alvarez, Customs Attaché for the U.S. Department of Homeland Security, sent a letter to Jorge Rosas García, Interim Head of the Branch of Specialized Investigations on Organized Crime for the Mexican Office of the Attorney General, noting that on August 6, 2003, the Mexican officials and the United States officials discussed the August 5, 2003, murder of Reyes. (Letter of August 15, 2003, attached hereto at Exhibit E, along with a certified translation of that letter.) Specifically, the letter confirmed that the officials jointly agreed that Ramirez would "continue with the work he/she was undertaking in Chihuahua, Mexico, in order to obtain more information about the drug-trafficking organization or Carrillo-Fuentes, as well as trying to obtain information on the whereabouts of the body of the person who was supposedly assassinated." (*Id.*)

11. Subsequent to August 6, 2003, ICE agents worked diligently with the prosecutor to gather evidence and prepare an indictment of Santillan so that they could get authorization to arrest Santillan in the United States. (Compton Aff. at ¶ 15.)

12. No Defendant, or anyone else at ICE, monitored any communications during the alleged time of the murder and did not hear the murder take place. Additionally, no Defendant was aware of any monitored communications prior to August 5, 2003, that indicated that a

murder was to take place or even identified Fernando Reyes Aguado as a potential victim. (*Id.* at ¶ 16, Gaudio Aff. at ¶ 15.)

13. None of the Defendants knew Mr. Reyes, nor did any Defendant ever have any reason to know that Mr. Reyes would be killed by Santillan's associates. (*Id.* at ¶ 17.)

14. On December 10, 2003, Santillan was indicted by a federal grand jury in El Paso, Texas, on charges related to the importation and distribution of cocaine. Once the indictment was returned, ICE agents prepared a memorandum to headquarters concerning the need to get Santillan into the United States and arrested. ICE agents began working diligently to get Santillan into the United States and under arrest. (*Id.* at ¶ 18.)

15. To arrest Santillan, ICE agents in El Paso needed approvals from ICE headquarters, and the ICE agents submitted all materials to get those approvals as expeditiously as possible. Defendant Compton was informed on several occasions that Santillan, who was a Mexican citizen in Mexico, could not be arrested without the necessary approval of individuals at ICE, the U.S. Department of Justice, the U.S. Department of State, and the Mexican country attaché. (*Id.* at ¶ 19.)

16. On or about December 18, 2003, ICE agents met with the prosecutor, Defendant Fielden, to arrange for the arrest of Santillan and the relocation of Ramirez, for his safety, once the arrest took place. On or about December 23, 2003, Defendant Compton sent a copy of the memorandum requesting authorization to arrest Santillan in the United States to ICE officials in Mexico City, Mexico, in order to ensure that Mexican officials were also aware of the plans for arrest. (*Id.* at ¶ 20.)

17. On January 12, 2004, Ramirez informed ICE agents that three murders had taken place in Juarez on January 8, 2004. ICE agents reported this information up the chain of

command in El Paso. According to Ramirez, these individuals had been operating a cocaine smuggling and distribution organization in the Juarez, Mexico area without Santillan's permission. Ramirez stated that Santillan called him on January 8th and instructed him to open up the residence at Parsioneros. Upon arrival at that house, Ramirez observed the bodies of two dead individuals being transported to the house. They had been killed prior to Ramirez's arrival at the house. Ramirez learned that a third victim had been shot and left in the street. Ramirez stated that he did not know these individuals and only learned about the murders from conversations with Santillan after the occurrence. Ramirez further stated that he had nothing to do with these killings, and that he only saw the two bodies after the fact. (*Id.* at ¶ 21.).

18. On January 14, 2004, ICE agents learned from Ramirez that Santillan had ordered the killing of three individuals and that those killings had taken place in Ciudad Juarez earlier in the day on January 14, 2004. It did not appear that Ramirez was in Ciudad Juarez at the time of those murders, he did not know the victims, and he did not participate in the murders. (*Id.* at ¶ 22, Gaudioso Aff. at ¶ 20.)

19. On or about January 15, 2006, ICE agents received the authorization to lure Santillan into the United States and effect his arrest. They immediately commenced the operation and, within several hours of getting the approval, ICE agents arrested and detained Santillan in El Paso, Texas. (Compton Aff. at ¶ 23.)

20. On or about March 10, 2004, Ramirez provided additional details to ICE agents about the alleged murder of several individuals that took place on January 14, 2004. According to Ramirez, Santillan contacted him to open up the house at Parsioneros, as Humberto Portillo, a/k/a "Saddam," had ordered Santillan to kill three individuals who were responsible for the

seizure of approximately 4,000 pounds of marijuana. Ramirez did not know the identities of any of these individuals. (*Id.* at ¶ 25.)

21. On several occasions in 2003, Ramirez had been provided an instruction form, in Spanish, that prohibited him, among other things, from participating in any illegal activity and required Ramirez to be truthful with ICE agents. (*See* Instructions for Confidential Sources Form (along with an identical form provided to English speaking informants), attached hereto at Exhibit F.)

22. On or about March 12, 2004, Ramirez was terminated as an informant for ICE for violating the instructions of the ICE agents. (*See* Termination Letter, attached hereto at Exhibit G.)

23. ICE agents believed that Ramirez was in San Antonio after assisting in relocating him there. ICE agents had no reason to believe that Ramirez had returned to the El Paso area and, other than a few telephone calls to obtain historical information in preparation for an upcoming trial, had little contact with Ramirez after March 12, 2004. (Compton Aff. at ¶ 27.)

24. In the early hours of August 26, 2004, Defendants were informed that Abraham Guzman had been murdered at a Whataburger restaurant in El Paso. No one at ICE or the United States Department of Justice was aware that the murder was to take place, that Ramirez was in the El Paso/Juarez area, or that Ramirez had any involvement with the deceased victim. ICE agents were not investigating Guzman, had no information concerning Guzman, and had no information linking him to Ramirez. (*Id.* at ¶ 28.)

25. Other than the killing of Mr. Guzman, none of the events leading up to the murders occurred in the United States. Everything happened in Ciudad Juarez or its environs in the Republic of Mexico. There were no precursor events in the United States. Moreover, none

of the murdered individuals other than Guzman were citizens of the United States. (*Id.* at ¶ 29, Gaudioso Aff. at ¶ 23.)

26. On February 12, 2004, Ramirez provided a statement to Mexican law enforcement officials at the Mexican Consulate in Dallas, Texas. The Spanish language version of that statement was offered as Exhibit A by Plaintiffs' counsel at Ramirez's deposition. (The Spanish version and the certified English translation are attached hereto at Exhibit H.) In that statement, Ramirez stated that, other than the Reyes murder, he had no involvement in the other murders, and importantly, stated that, other than Reyes, who he only knew by first name, he did not know any of the victims identified in this Complaint, only that they had been "killed by the criminal group headed by Luis Portillo, Sadam, Santillan and Loya." (*Id.* at 8 (certified translation).)

27. On August 17, 2006, Plaintiffs' counsel deposed Ramirez at a videotaped deposition pursuant to the Court's Order. (*See* Transcript of Videotaped Deposition of Guillermo Ramirez-Peyro, attached hereto at Exhibit I.) Ramirez invoked his Fifth Amendment privilege and refused to answer specific questions relating to the allegations set forth in the Complaint. (*Id.* at 12-13.) During the deposition, Ramirez did not identify any specific acts or omissions by the Defendants or any other ICE or U.S. Department of Justice employee giving rise to any deprivation of constitutional rights. (*Id.*)

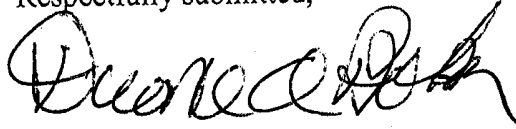
28. None of the Defendants knew any of the victims identified in the Complaint and only learned their identities subsequent to the murders. (Compton Aff. at ¶ 8.)

29. All decisions and actions made and taken by the Defendants were taken in accordance with federal statutes and the United States Constitution. (*Id.* at ¶ 31, Gaudioso Aff. at ¶ 25.)

30. Plaintiffs' constitutional rights were not violated by any of the Defendants. (*Id.*)

31. Defendants all acted within the course and scope of their employment at all times and related to all incidents alleged in the Complaint and, as such, are protected by immunity that has not been waived by their respective acts or omissions. (*Id.*)

Respectfully submitted,



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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

JANET PADILLA, ET AL.,

Plaintiffs,

v.

UNITED STATES OF AMERICA, ET AL.,

Defendants.

CIVIL ACTION NO. EP-05-CA-0478

JUDGE MONTALVO

AFFIDAVIT OF RAUL BENCOMO

On this day, personally appeared to person known to me to be raul Bencomo, who after having been duly sworn, stated upon oath as follows:

1. My name is Raul Bencomo, and I am over 21 years of age. I am competent to make an oath. I am familiar with the allegations set forth in the First Amended Complaint filed in the above-referenced matter. I have personal first hand knowledge of all facts and matters stated in this affidavit. All facts and matters set forth herein are true and accurate.

2. I am currently employed as a Senior Special Agent with the Department of Homeland Security, Immigration and Customs Enforcement ("ICE"). I have been a special agent with ICE (formerly known as the United States Customs Service) since 1998. From 1991 through 1998, I was an inspector with the United States Customs Service (now Customs and Border Protection). I held both of these positions with the Customs Service in El Paso, Texas. From 1988 through 1991, I was employed as a United States Border Patrol Officer in Laredo, Texas. I received Title 21 cross-designation as a special agent, and have been assigned to

narcotics investigations since this time. However, I have also worked investigations in other areas, such as Fraud, General Smuggling and Money Laundering.

3. As a Special Agent with ICE, I am responsible for enforcing the wide variety of laws enforced by ICE in addition to the laws enforced by ICE on behalf of other law enforcement agencies. I worked investigations covered by the various laws under United States Code Titles 18, 19, 21, 22, 31, and 49. I have attended numerous courses and seminars on investigations and the handling of informants.

4. I was not aware of any of the killings described in the Plaintiffs' Complaint prior to the events taking place. Moreover, to my knowledge, no one at ICE or the United States Department of Justice was aware that the murders would take place prior to their occurrence. We only learned about the murders through interviews of Guillermo Eduardo Ramirez Peyro, a/k/a "Lalo," (hereinafter "Ramirez") after the fact.

5. I am familiar with Mr. Ramirez. During a period of time from in or around 2000 through March 2004, Ramirez provided information as a confidential informant to ICE concerning the narcotics trafficking activities of Heriberto Santillan-Tabares, his associates and other smuggling organizations. I have participated in several debriefings of Mr. Ramirez since 2001.

6. The Santillan investigation began in February 2003. I was Mr. Ramirez' handler at that time. As his handler, I was the primary person responsible for communications with him. I was removed as Mr. Ramirez' handler in late June 2003, and reinstated as his handler in mid-August 2003.

7. With regard to the allegations set forth in Plaintiffs' Complaint, I learned about the August 5, 2003 alleged murder of Fernando Reyes Aguado ("Reyes") at a debriefing of Ramirez

that took place on August 5, 2003. At that debriefing, which occurred several hours after the alleged murder, Ramirez denied knowing prior to the occurrence that the murders would take place, and initially believed that he was the intended victim. Ramirez informed us that Reyes had been murdered by two State Judicial police officers at a house located at 3633 Parsioneros in Ciudad Juarez, Chihuahua, Republic of Mexico.

8. The substance of Ramirez's statements on August 5, 2003 was reported up the chain of command at the El Paso ICE office, and was subsequently communicated to ICE headquarters. I was later reassigned to the source and instructed to continue the investigation, continue to use Ramirez as a confidential informant, and work on getting Santillan arrested and into the United States.

9. I and other ICE agents worked diligently with the prosecutor to gather evidence and prepare an indictment of Santillan so that we could get authorization to arrest Santillan in the United States.

10. Neither I nor anyone at ICE monitored any communications during the alleged time of the murder and did not hear the murder take place. Additionally, I am not aware of any monitored communications prior to August 5, 2003 that indicated that a murder was to take place or even identified Fernando Reyes Aguado as a potential victim. I learned on the evening of August 5 or the early morning hours of August 6 that Ramirez had taped the activities at the Parsioneros house on August 5, 2003, but did not know in advance that Ramirez would make a tape. I did not instruct him to record anything.

11. I did not know Mr. Reyes, nor did I ever have any reason to know that he would be killed by Santillan's associates.

12. As with Mr. Reyes' murder, I had no advance knowledge or reason to suspect that any of the victims named in the Complaint would be killed before they were killed. Whenever I received information from Mr. Ramirez, I communicated it to the case agent and my supervisors.

13. I repeatedly instructed Mr. Ramirez that he was prohibited from engaging in any illegal conduct. I further instructed him that he was not allowed to return to El Paso without the agency's specific permission in the summer of 2004. He was not given such permission by me, nor anyone else that I am aware of, to return to El Paso in August 2004.

14. During the time period encompassed in the Complaint, I adhered to and followed the laws of the United States, and the administrative requirements of ICE at all times. All actions that I took, and all action that I observed the other ICE agents and U.S. Department of Justice personnel take, concerning the incidents described above, were all done without malice, ill will or wrongful intent, and were in the scope of the discretionary authority of agents of ICE, employees of the U.S. Department of Justice, and employees of the United States Government. At all times I acted in good faith belief that all of my actions were legal and proper. At no time did I observe any actions by any other agent or employee of the United States Government act in bad faith or in violation of law or administrative procedures with regard to the incidents described above. In this case, I acted as any reasonable law enforcement agent would, given the

same circumstances and knowledge, wholly within the laws of the United States and the regulations imposed by ICE. I did not violate any clearly established law of the United States.

Signed on this, the 16th day of September 2006.



RAUL BENCOMO, Affiant

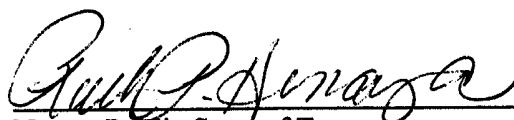
STATE OF TEXAS §

§

COUNTY OF EL PASO §

BEFORE ME, the undersigned authority on this 18th day of September, 2006, appeared RAUL BENCOMO, who after being by me duly sworn stated that he is the Affiant and that all matters of material fact set out herein are within his personal knowledge and are true and correct.

SWORN AND SUBSCRIBED to before me on September 18, 2006.



Notary Public State of Texas

My Commission Expires: 8-8-09

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

JANET PADILLA, ET AL.,)	
)	
)	CIVIL ACTION NO. EP-05-CA-0478
)	
Plaintiffs,)	
)	
v.)	JUDGE MONTALVO
)	
UNITED STATES OF AMERICA, ET AL.,)	
)	
Defendants.)	
)	

AFFIDAVIT OF CURTIS R. COMPTON

On this day, personally appeared to person known to me to be Curtis R. Compton, who after having been duly sworn, stated upon oath as follows:

1. My name is Curtis R. Compton, and I am over 21 years of age. I am competent to make an oath. I am familiar with the allegations set forth in the Complaint filed in the above-referenced matter. I have personal first hand knowledge of all facts and matters stated in this affidavit. All facts and matters set forth herein are true and accurate.

2. I am currently employed as a Supervisory Special Agent with the Department of Homeland Security, Bureau of Immigration and Customs Enforcement ("ICE"). I have been employed with ICE (formerly known as the United States Customs Service) for over 18 years. I have been assigned to the El Paso, Texas office of ICE for my entire career. I received Title 21 cross-designation authority in December 1988, and have been assigned to narcotics investigations since this time. However, I have worked investigations in each of the different program areas under U.S. Customs Service authority and jurisdiction, such as Fraud, General

EXHIBIT

C

Smuggling, Money Laundering, and Narcotics Smuggling. Prior to my employment with the U.S. Customs Service I was a Police Officer with the City of Irving (Texas) for approximately two years. I received a bachelor's degree from North Texas State University in Business Administration in 1986.

3. As a Special Agent with ICE, I am responsible for enforcing the wide variety of laws enforced by ICE in addition to the laws enforced by ICE on behalf of other law enforcement agencies. I worked investigations covered by the various laws under United States Code Titles 18, 19, 21, 22, 31, and 49. In 2003, I received Title 8 training, and the certification for Title 8 authority. I now enforce the wide range of laws relating to Illegal Immigration and alien smuggling. I have attended numerous courses and seminars on investigations and the handling of informants, totaling several hundred hours of training.

4. In addition to working border-related narcotics seizures, I have worked long-term complex conspiracy investigations involving the indictment, arrest, and conviction of multiple defendants. These investigations focused on international and national smuggling organizations with the goal of the complete disruption and dismantling of entire organizations. These investigations targeted the smuggling and distribution of large quantities of narcotics, the laundering of the monetary proceeds, and identification and seizure of the assets gained through the group's illegal activities.

5. I was promoted in October 1999 to Group Supervisor and was assigned to a narcotics interdiction group. I began teaching and training Special Agents the methods and techniques I learned while assigned to the HIDTA Task Force and the experience I gained while conducting these types of investigations, including the handling of confidential informants and

sources of information. The group has been successful in conducting ten long-term investigations resulting in the indictment, arrest, and convictions of numerous defendants.

6. As a Group Supervisor, I have accumulated a wealth of experience with the use of various investigative techniques, including the use of electronic surveillance and confidential sources. Based on my experience, I have been certified through the El Paso U.S. Attorney's Office as an expert witness in the area of Title III (wiretap) investigations.

7. I received training on the guidelines at the two Customs academies, implemented that training in my 18 years as an agent, and trained new agents on the handling of confidential informants.

8. I have reviewed the allegations contained in the Plaintiffs' Complaint. I did not know any of the victims identified in the Complaint. I only learned their identities subsequent to learning about their alleged murders.

9. I was not aware of any of the killings described in the Plaintiffs' Complaint prior to the events taking place. Moreover, to my knowledge, no one at ICE or the United States Department of Justice was aware that the murders would take place prior to their occurrence. We only learned about the murders through interviews of Guillermo Eduardo Ramirez Peyro, a/k/a "Lalo," ("Ramirez") after the fact.

10. I am familiar with Mr. Ramirez. During a period of time from in or around 2000 through March 2004, Ramirez provided information as a confidential informant to ICE concerning the narcotics trafficking activities of Heriberto Santillan-Tabares ("Santillan") and his associates. I have participated in several debriefings of Mr. Ramirez since 2001.

11. The Santillan investigation began in February 2003 by agents under my supervision. Starting in March 2003, the investigation was transferred from my supervision to

the supervision of Group Supervisor Todd Johnson. My group had been re-designated as a National Security Investigative Group. In late July or early August 2003, my group was designated to play a supporting role in the Santillan investigation. My group's role was to assist Group Supervisor Johnson's team in the operation, and in particular, the court-authorized wiretap interceptions and administrative tasks.

12. With regard to the allegations set forth in Plaintiffs' Complaint, I learned about the August 5, 2003 alleged murder of Fernando Reyes Aguado ("Reyes") at a debriefing of Ramirez that took place on August 5, 2003. At that debriefing, which occurred several hours after the alleged murder, Ramirez denied knowing prior to the occurrence that the murders would take place, and initially believed that he was the intended victim. Ramirez informed us that Reyes had been murdered by two State Judicial police officers at a house located at 3633 Parsioneros in Ciudad Juarez, Chihuahua, Republic of Mexico.

13. The substance of Ramirez's statements on August 5, 2003 was reported up the chain of command at the El Paso ICE office, and was subsequently communicated to ICE headquarters. On or about August 6, 2003, I received instructions by supervisors at ICE in El Paso and at ICE headquarters in Washington, D.C. to instruct the case agents to continue the investigation, continue to use Ramirez as a confidential informant, and work on getting Santillan arrested and into the United States.

14. Additionally, I am aware that on or about August 5, 2003, Mexican authorities were made aware of the murder of Reyes, and that the Mexican authorities authorized our Attaché in Mexico to proceed with the investigation and to allow Ramirez to continue traveling to Mexico. (See Exhibit E).

15. Subsequent to August 6, 2003, ICE agents worked diligently with the prosecutor to gather evidence and prepare an indictment of Santillan so that we could get authorization to arrest Santillan in the United States.

16. Neither I nor anyone at ICE monitored any communications during the alleged time of the murder and did not hear the murder take place. Additionally, I am not aware of any monitored communications prior to August 5, 2003 that indicated that a murder was to take place or even identified Fernando Reyes Aguado as a potential victim. I learned on the evening of August 5 or the early morning hours of August 6 that Ramirez had taped the activities at the Parsioneros house on August 5, 2003, but did not know in advance that Ramirez would make a tape of the murder.

17. I did not know Mr. Reyes, nor did I ever have any reason to know that he would be killed by Santillan's associates.

18. On December 10, 2003, Santillan was indicted by a federal grand jury in El Paso, Texas on charges related to the importation and distribution of cocaine. Once we had the indictment, I worked with another ICE agent in preparing a memorandum to headquarters concerning the need to get Santillan into the United States and arrested. I informed the other law enforcement agents working on the Santillan case about the need to get Santillan arrested, and we agreed to work diligently to get Santillan into the United States and under arrest.

19. To arrest Santillan, we needed approvals from ICE headquarters, and I submitted all materials to get those approvals as expeditiously as possible. I was informed on several occasions, and knew from a reading of the administrative guidelines and the applicable statutes that we could not implement the arrest of Santillan, who was a Mexican citizen in Mexico,

without the necessary approval of individuals at ICE, the U.S. Department of Justice, the U.S. Department of State, and the Mexican country attaché.

20. On or about December 18, 2003, I met with ICE agents and the prosecutor, Juanita Fielden, to arrange for the arrest of Santillan and the relocation of Ramirez once the arrest took place. We wanted to make sure that once Santillan was arrested, none of his associates would try to find Ramirez and kill him. On or about December 23, 2003, I sent a copy of the memorandum requesting authorization to arrest Santillan in the United States to ICE officials in Mexico City, Mexico in order to ensure that Mexican officials were also aware of our plans.

21. On January 12, 2004, Ramirez informed ICE agents that three murders had taken place in Juarez on January 8, 2004. I learned about the debriefing of Ramirez from the case agents. That same day, I reported this information to my supervisor, ASAC Pete Gonzalez. I learned that, according to Ramirez, these individuals had been operating a cocaine smuggling and distribution organization in the Juarez, Mexico area without Santillan's permission. According to Ramirez, Santillan called him on January 8th, and instructed him to open up the residence at Parsioneros. Upon arrival at that house, Ramirez observed the bodies of two dead individuals being transported to the house. They had been killed prior to Ramirez's arrival at the house. Ramirez learned that the third victim had been shot and left in the street. Ramirez stated that he did not know these individuals, and only learned about the murders from conversations with Santillan after the occurrence. Ramirez further stated that he had nothing to do with these killings, and that he only saw the two bodies after the fact.

22. On January 14, 2004, I learned from Todd Johnson that Ramirez had relayed to another ICE agent, Luis Rico, that Santillan had ordered the killing of three individuals, and that

those killings had taken place in Ciudad Juarez earlier in the day on January 14, 2004. It did not appear that Ramirez was in Ciudad Juarez at the time of those murders, and he did not participate in the murders. I did not learn any information at that time about the identities of the victims.

23. On or about January 15, 2006, we received the authorization to lure Santillan into the United States and effectuate his arrest. We immediately commenced the operation and within several hours of getting the approval, ICE agents arrested and detained Santillan in El Paso, Texas.

24. I did not know that the January 14 murder victim was identified as Luis Padilla until late January or early February, 2004. I did not know Mr. Padilla, was not investigating Mr. Padilla, did not know that he was going to be murdered, and learned the specific details of the killing from Ramirez only in March 2004, some two months after the killing.

25. With regard to the murder of David Castro, I did not know Mr. Castro or the circumstances of any alleged murder of him. I know that the Federal Bureau of Investigation ("FBI") conducted an investigation into an alleged kidnapping of Castro, and was told at one point that the FBI had closed its investigation. I do not know what happened to Mr. Castro, and do not know whether he was murdered, disappeared, or is currently living in the Republic of Mexico.

26. On or about March 10, 2004, Ramirez provided further details about the alleged murders that took place on January 14, 2004, in a debriefing in which I participated. According to Ramirez, Santillan had contacted him to open up the house at Parsioneros, as Humberto Portillo, a/k/a "Saddam," had ordered Santillan to kill three individuals who were responsible for the seizure of approximately 4,000 pounds of marijuana. Ramirez did not know the identities of any of these individuals.

27. On or about March 12, 2004, Ramirez was terminated as an informant for ICE (See Termination Letter, at Exhibit G). I believed that Ramirez was in San Antonio after assisting in relocating him there. I had no reason to believe that Ramirez had returned to the El Paso area, and other than a few telephone calls to obtain historical information in preparation for an upcoming trial, I had no contact with Ramirez subsequent to March 2004.

28. On August 26, 2004, at approximately 2:00 a.m., I was informed that Abraham Guzman had been murdered at a Whataburger restaurant in El Paso. Neither myself, nor anyone at ICE or the United States Department of Justice to my knowledge, was aware that the murder was to take place, that Ramirez was in the El Paso/Juarez area, or that Ramirez had any involvement with the deceased victim. We were not investigating Guzman, had no information concerning Guzman, and had no information linking him to Ramirez.

29. Other than the killing of Mr. Guzman, I believe that none of the events leading up to the murders occurred in the United States. Everything happened in Ciudad Juarez or its environs in Mexico. There were no precursor events in the United States. Moreover, I believe that none of the murdered individuals other than Guzman were citizens of the United States.

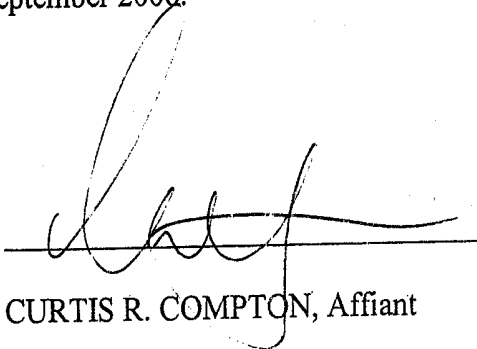
30. I was not in the Republic of Mexico during any of the time period alleged in the Complaint. In fact, I have conducted no business in, or had any personal trips to, the Republic of Mexico for at least the last eight years.

31. I am aware that Ramirez was provided an instruction form, in Spanish, that prohibited him from participating in any illegal activity (See Instructions for Confidential Sources Form, at Exhibit F (an identical form that we provided to English speaking informants is also attached at Exhibit F)). Ramirez was provided the instruction form on several occasions.

Ramirez was terminated after failing to follow those instructions and failing to be truthful with the ICE agents.

32. During the time period encompassed in the Complaint, I adhered to and followed the laws of the United States. All actions that I took, and all action that I observed the other ICE agents and U.S. Department of Justice personnel take, concerning the incidents described above, were all done without malice, ill will or wrongful intent, and were in the scope of the discretionary authority of agents of ICE, employees of the U.S. Department of Justice, and employees of the United States Government. At all times I acted in good faith belief that all of my actions were legal and proper. At no time did I observe any actions by any other agent or employee of the United States Government act in bad faith or in violation of law with regard to the incidents described above. In this case, I acted as any reasonable law enforcement agent would given the same circumstances and knowledge, wholly within the laws of the United States. I did not violate any clearly established law of the United States.

Signed on this, the 15 day of September 2006.



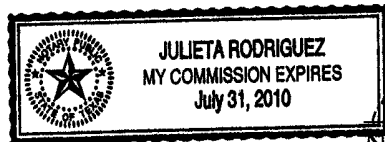
CURTIS R. COMPTON, Affiant

I

STATE OF Texas §
COUNTY OF El Paso §

BEFORE ME, the undersigned authority on this 15th day of September, 2006, appeared CURTIS R. COMPTON, who after being by me duly sworn stated that he is the Affiant and that all matters of material fact set out herein are within his personal knowledge and are true and correct.

SWORN AND SUBSCRIBED to before me on September 15, 2006.



Julieta Rodriguez
Notary Public State of Texas

My Commission Expires: 7-31-2010

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

JANET PADILLA, ET AL.,

Plaintiffs,

v.

UNITED STATES OF AMERICA, ET AL.,

Defendants.

CIVIL ACTION NO. EP-05-CA-0478

JUDGE MONTALVO

AFFIDAVIT OF GIOVANNI GAUDIOSO

On this day, personally appeared to person known to me to be Giovanni Gaudioso, who after having been duly sworn, stated upon oath as follows:

1. My name is Giovanni Gaudioso, and I am over 21 years of age. I am competent to make an oath. I am familiar with the allegations set forth in the Complaint filed in the above-referenced matter. I have personal first hand knowledge of all facts and matters stated in this affidavit. All facts and matters set for the herein are true and accurate.

2. Since on or about June 2004, I have been on detail in Washington, D.C. as the Acting Deputy Assistant Director, Mission Support Division, Office of Investigations (OI), with the Department of Homeland Security, U.S. Immigration and Customs Enforcement ("ICE"). I have been employed with ICE and the former U. S. Customs Service for nearly 27 years.

3. I was promoted to the Special Agent in Charge (SAC) El Paso, Texas in July 2003. As the SAC El Paso, I was responsible for nearly 300 subordinate employees. I was responsible for ICE investigative and operational law enforcement activities pertaining to

contraband smuggling, money laundering and financial crimes, commercial fraud, national security, strategic crimes, human trafficking, alien smuggling, and identity and benefit fraud in 18 counties in the Western Judicial District of Texas and the entire District of New Mexico.

4. Prior to my selection as the SAC El Paso, I was the Associate Special Agent in Charge of the U.S. Customs Service in Tampa, Florida, where I was appointed to act as the SAC for one year. I was responsible for U.S. Customs Service investigative and operational law enforcement activities pertaining to drug smuggling, money laundering and financial crimes, and commercial fraud in the Middle and Northern Judicial Districts of Florida.

5. Prior to my selection as the Associate Special Agent in Charge in Tampa, I was the Director of the Investigative Services Division at U.S. Customs Service Headquarters in Washington, D.C., where I was responsible for Investigative Support Services, Asset Seizure and Forfeiture, Technical Surveillance Operations and Polygraph Operations for the U.S. Customs Service.

6. Prior to my selection as the Director of the Investigative Services Division, I was the Assistant Director of the Smuggling Investigations Division at U.S. Customs Service Headquarters, where I was responsible for program oversight of all investigations and operations involving the smuggling of illegal drugs, other contraband, commercial merchandise, and art and cultural artifacts.

7. Prior to my selection as the Assistant Director of the Smuggling Investigations Division, I was an Assistant Special Agent in Charge of the U.S. Customs Service in Tucson, Arizona, where I was responsible for drug smuggling and money laundering investigations and operations, and for administrative operations throughout the State of Arizona.

8. I also served as a Supervisory Special Agent and Senior Special Agent in Tucson, Arizona and Senior Special Agent and Special Agent in San Francisco, California. I received a Bachelor of Science degree in Criminal Justice from Northeastern University in Boston, Massachusetts.

9. As a Senior Executive, manager, supervisor and Special Agent, I have directed or conducted hundreds of investigations covered by the various laws under United States Code Titles 8, 18, 19, 21, 22, and 50. I have attended numerous courses and seminars on investigations, law enforcement operations, and the handling of informants, totaling more than one thousand hundred hours of training.

10. I have worked and directed long-term complex conspiracy investigations involving the indictment, arrest, and conviction of multiple defendants. These investigations focused on transnational smuggling, money laundering and other criminal organizations with the goal of the complete disruption and dismantling of these criminal organizations and the identification and seizure of the assets obtained through their illegal activities.

11. I have reviewed the allegations contained the Plaintiffs' Complaint. I did not know any of the victims identified in the Complaint. I only learned of some of their identities subsequent to learning about their alleged murders.

12. I was not aware of any of the killings described in the Plaintiffs' Complaint prior to the alleged events taking place. I only learned about the alleged murders after the fact.

13. With regard to the allegations set forth in Plaintiffs' Complaint, I learned about the August 5, 2003 murder of Fernando Reyes Aguado (hereinafter "Reyes") from subordinate managers, supervisors and agents after Guillermo Eduardo Ramirez Peyro, a/k/a "Lalo," (hereinafter "Ramirez") reported the murder after the fact on August 5, 2003. Ramirez denied

knowing prior to the occurrence that the murder would take place. Ramirez believed that Heriberto Santillan-Tabares (hereinafter "Santillan") wanted to murder him. Ramirez admitted that he purchased supplies, but denied participating in the murder of Reyes. Ramirez informed ICE agents that Reyes had been murdered by two State Judicial police officers and Alejandro Garcia Cardenas ("Garcia") at a house located in Ciudad Juarez, Chihuahua, Republic of Mexico.

14. In the late evening of August 5, 2003, I communicated the substance of Ramirez's statements to the United States Attorney's Office in El Paso, to ICE Headquarters, and to the ICE Attache in Mexico City, Mexico.

15. I did not monitor any communications during the alleged time of the murder of Reyes and I did not hear the murder take place. Additionally, I am not aware of any monitored communications prior to August 5, 2003 that indicated that a murder was to take place or even identified Reyes as a potential victim. I learned in the late evening of August 5, 2003 or early morning hours of August 6, 2003 that Ramirez had taped the activities in Ciudad Juarez and at the Parsioneros house on August 5, 2003, but did not know in advance that Ramirez would make an audiotape.

16. I was informed that on or about August 6, 2003, Mexican authorities were made aware of the alleged murder of Reyes, and subsequently I was informed that the Mexican authorities authorized the ICE Attaché in Mexico to proceed with the investigation and to allow Ramirez to continue traveling to Mexico.

17. Subsequent to being informed of alleged murder of Reyes, I instructed Associate SAC Patricia Kramer to have two independent law enforcement officers conduct an in-depth interview of Ramirez. Ramirez was debriefed and denied having prior knowledge of the murder and further denied being a willful participant in any murder.

18. Subsequently, I provided the ICE Attache in Mexico City, Mexico with additional details of the alleged murder of Reyes.

19. I did not know Mr. Reyes, nor did I ever have any reason to know that he would be killed by Santillan and his associates.

20. On or about January 14, 2004, I was informed that Ramirez reported to ICE agents that Santillan and his associates had allegedly killed three unknown individuals. I did not know that one of the murder victims was identified as Luis Padilla until well after the murder occurred. I did not know Mr. Padilla, ICE was not investigating Mr. Padilla, and did not know that he was going to be murdered.

21. With regard to Ramiro Ortiz, Oscar Rodriguez and David Castro, I did not know these individuals or the circumstances of any of their alleged murders. I do not know what happened to them, and do not know whether they were murdered, disappeared, or are currently living in the Republic of Mexico.

22. I was on detail to Washington, D.C. and not in charge of the ICE SAC El Paso office when Abraham Guzman was murdered at a Whataburger restaurant in El Paso. I was not aware that the murder was to take place, that Ramirez was in the El Paso/Juarez area, or that Ramirez had any involvement with the deceased victim.

23. Other than the killing of Mr. Guzman, I believe that none of the events leading up to the murders occurred in the United States. Everything happened in Ciudad Juarez or its environs in Mexico. There were no precursor events in the United States. Moreover, I believe that none of the murdered individuals other than Guzman were citizens of the United States.

24. I was not in the Republic of Mexico during any of the time period alleged in the Complaint. In fact, I have conducted no business in, or had any personal trips to, the Republic of Mexico since I was assigned to the SAC El Paso in July 2003.

25. During the time period encompassed in the Complaint, I adhered to and followed the laws of the United States, and the administrative requirements of ICE at all times. All actions that I took concerning the incidents described above, were all done without malice, ill will or wrongful intent, and were in the scope of the discretionary authority of agents of ICE, employees of the U.S. Department of Justice, and employees of the United States Government. At all times I acted in good faith belief that all of my actions were legal and proper. In this case, I acted as any reasonable law enforcement agent would, given the same circumstances and knowledge, wholly within the laws of the United States and the regulations imposed by ICE. I did not violate any clearly established law of the United States.

Signed this the 14 day of September, 2006.


GIOVANNI GAUDIOSO

District of Columbia

STATE OF _____ §
Washington §
COUNTY OF _____ §

BEFORE ME, the undersigned authority on this 14 day of September, 2006, appeared GIOVANNI GAUDIOSO, who after being by me duly sworn stated that he is the Affiant and that all matters of material fact set out herein are within his personal knowledge and are true and correct.

SWORN AND SUBSCRIBED to before me on 14 Sept., 2006.

Robin M. Fletcher

Notary Public State of _____

Robin M. Fletcher
Notary Public, District of Columbia
My Commission Expires 8-14-2009

My Commission Expires: _____

U.S. CUSTOMS AND BORDER PROTECTION
Department of Homeland Security

Lic. Jorge Rosas García
Titular Interino de la
Subprocuraduría de Investigación Especializada
en Delincuencia Organizada (SIEDO)
Plaza de la República #43, Piso 3
Col. Tabacalera
México, D.F. CP 06200

15 de agosto del 2003

Estimado Lic. Rosas:

Por medio de la presente, quisiéramos informarle que una fuente de información del Departamento de Seguridad Interna de los Estados Unidos (Dept. of Homeland Security) viajó al estado de Chihuahua, México el día 3 de agosto del 2003 para reunirse con integrantes de la organización de contrabando de Vicente Carrillo Fuentes para discutir el transporte de un cargamento de marijuana. El 5 de agosto del presente, la fuente de información fué testigo del asesinato del dueño de los estupefacientes.

De acuerdo a nuestra conversación con Usted del día 6 de agosto del 2003, acordamos que la fuente seguiría su trabajo en Chihuahua, México con la finalidad de obtener mayor información sobre la organización de narcotráfico Carrillo-Fuentes, así como tratar de obtener información sobre el paradero del cuerpo del sujeto supuestamente asesinado. En el momento en que el Departamento de Seguridad Interna de los EE.UU decida descontinuar este trabajo investigativo por motivos de seguridad o cualquier otro motivo, pondremos a su disposición a la fuente de información para tomarle sus declaraciones, junto con Inteligencia de números de teléfono, nombres de las personas involucradas, etc. que le puedan ayudar a continuar con esta investigación del lado de las autoridades mexicanas.

Sin más por el momento, aprovecho la ocasión para enviarle cordiales saludos, y quedo a su disposición para cualquier aclaración al respecto.



ATENTAMENTE

[Signature]
Luis Alvarez
Agregado de Aduanas del
Departamento de Seguridad Interna
De los EE.UU.

Vigilance ★ *Service* ★ *Integrity*

EXHIBIT

E

U.S. CUSTOMS AND BORDER PROTECTION
Department of Homeland Security

August 15th, 2003

Lic. Jorge Rosas García
Interim Head of the Branch of Specialized Investigations
on Organized Crime,
Office of the Attorney General,
Plaza de la República #43, 3rd Floor
Col. Tabacalera
Mexico, D.F. CP 06200

Dear Mr. Rosas:

We wish to hereby inform you that an informant from the U.S. Department of Homeland Security traveled to the State of Chihuahua, Mexico on August 3rd, 2003 to meet with members of the contraband organization of Vicente Carrillo Fuentes to discuss the transport of a cargo of marijuana. On August 5th of this year, the informant was a witness to the assassination of the owner of the drugs.

According to the conversation we had with you on August 6th 2003, we agreed that the informant would continue with the work he/she was undertaking in Chihuahua, Mexico in order to obtain more information about the drug-trafficking organization of Carrillo-Fuentes, as well as trying to obtain information on the whereabouts of the body of the person who supposedly had been assassinated. As soon as the U.S. Department of Homeland Security decides to discontinue this investigative work for security reasons or for any other reason, we will make the informant available to you to take his/her statements and we will provide you with intelligence including telephone numbers, names of people involved, etc. that might help you to continue with this investigation together with the Mexican authorities.

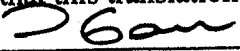
With nothing further, I take this opportunity to send you my kindest regards and remain available for any further information you might need in this regard.

SINCERELY
{Signature}
Luis Alvarez
Customs Attaché,
U.S. Department of Homeland Security

Stamp:
12:00
August 15, 2003
{illegible}
Received by {illegible}

Vigilance * Service * Integrity

I hereby certify that this translation is true and correct to the best of my knowledge.

 **IRENE R. DE GAIR, CERTIFIED**
TRANSLATOR BY THE STATES OF MARYLAND, VIRGINIA AND
WASHINGTON, D.C. 8415 OVERLOOK ST. VIENNA, VA 22182(703) 698-9281

SA9135P

DEPARTMENT OF THE TREASURY
U.S. Customs Service
Office of Investigations

INSTRUCCIONES PARA FUENTE CONFIDENCIAL

Este documento sera *leído y explicado* a todos individuos quienes estan trabajando como fuentes confidenciales o fuentes participantes. Este contenido debe ser presentado por el agente de control de la fuente y otro oficial. Se requiere que la forma se firme y sea fechada por la fuente, el agente de control, y el testigo. (CHAPTER 41.09.09)

- 1.) Usted NO es un empleado del Servicio de Aduana de los Estados Unidos.
- 2.) Usted NO es un Oficial de la Policia y NO se presentara como Oficial de la Policia a nadie.
- 3.) Usted NO esta permitido violar ninguna ley.
- 4.) Su documentacion como fuente confidencial NO quiere decir que tiene la autoridad estatutaria para cargar un arma.
- 5.) Usted NO esta permitido de poseer contrabando/evidencia SIN el conocimiento previo y consentimiento de su agente de control.
- 6.) Usted NO usara su asociacion con el Servicio de Aduana de los Estados Unidos para resolver problemas personales.
- 7.) Usted SEGUIRA las instrucciones de su agente de control a cualquier hora.
- 8.) A todo tiempo, usted dira la VERDAD SIEMPRE que proporcione informacion a los oficiales del Servicio de Aduana de Los Estados Unidos. Le podran EXIGIR que tome un examen con el aparato detector de mentira para VERIFICAR su informacion.
- 9.) Usted NO engañara deliberadamente ningun individuo que NO este de lo contrario PREDISPUUESTO a cometer un crimen.
- 10.) Usted NO debe revelar que usted proporciona un servicio al Servicio de Aduana de los Estados Unidos, SIN el consentimiento de su agente de control.
- 11.) La informacion que usted proporcione puede ser usada en un proceso criminal. Aunque el Servicio de Aduana de Los Estados Unidos use todos los medios legales para proteger su confidencialidad, esto NO se puede garantizar.

Firmando este pacto, yo confirmo que yo he leído y entiendo las condiciones antedichas y puestas ante mi.

JESUS CONTRERAS
(SUPEUESTO NOMBRE)/FECHA

JESUS CONTRERAS
(SUPUESTO NOMBRE)/FECHA

JESUS CONTRERAS
(SUPUESTO NOMBRE)/FECHA

2-6-02
AGENTE DE CONTROL/FECHA

020602
TESTIGO/FECHA

I have reviewed these instructions
with the confidential source and
have determined the source is
suitable as defined in Chapter 41.04.04

2/6/02
Supervisor/Fecha

I have reviewed and approve these
Instructions to Source to be filed in
the source file.

02-06-02
Assistant SAIC (initials)

EXHIBIT

F

DEPARTMENT OF THE TREASURY
U.S. Customs Service
Office of Investigations

SH 913EP

INSTRUCCIONES PARA FUENTE CONFIDENCIAL

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- 7.) Usted **SEGUIRA** las instrucciones de su agente de control a cualquier hora.
- 8.) A todo tiempo, usted dira la **VERDAD SIEMPRE** que proporcione informacion a los oficiales del Servicio de Aduana de Los Estados Unidos. Le podran **EXIGIR** que tome un examen con el aparato **detector de mentira** para **VERIFICAR** su informacion.
- 9.) Usted **NO** engañara deliberadamente ningun individuo que **NO** este de lo contrario **PREDISPUUESTO** a cometer un crimen.
- 10.) Usted **NO** debe revelar que usted proporciona un servicio al Servicio de Aduana de los Estados Unidos, **SIN** el consentimiento de su agente de control.
- 11.) La informacion que usted proporcione puede ser usada en un proceso criminal. Aunque el Servicio de Aduana de Los Estados Unidos use todos los medios legales para proteger su confidencialidad, esto **NO** se puede garantizar.

Firmando este pacto, yo confirmo que yo he leído y entiendo las condiciones antedichas y puestas ante mi.

JESUS CONTRERAS 03/20/03
 (SUPUESTO NOMBRE)/FECHA

JESUS CONTRERAS 03/20/03
 (SUPUESTO NOMBRE)/FECHA

JESUS CONTRERAS 03/20/03
 (SUPUESTO NOMBRE)/FECHA

[Signature] 3/20/03
 AGENTE DE CONTROL/FECHA

[Signature] 3/20/03
 TESTIGO/FECHA

I have reviewed these instructions
 with the confidential source and
 have determined the source is
 suitable as defined in Chapter 41.04.04

[Signature] 3/20/03
 Supervisor/Fecha

I have reviewed and approve these
 Instructions to Source to be filed in
 the source file.

[Signature] 3/20/03
 Assistant SAIC (initials)

DEPARTMENT OF THE TREASURY
U.S. Customs Service
Office of Investigations

INSTRUCCIONES PARA FUENTE CONFIDENCIAL

Este documento sera *leído y explicado* a todos individuos quienes estan trabajando como fuentes confidenciales o fuentes participantes. Este contenido debe ser presentado por el agente de control de la fuente y otro oficial. Se requiere que la forma se firme y sea fechada por la fuente, el agente de control, y el testigo. (CHAPTER 41.09.09)

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- 8.) A todo tiempo, usted dira la VERDAD SIEMPRE que proporcione informacion a los oficiales del Servicio de la Aduana de Los Estados Unidos. Le podran EXIGIR que tome un examen con el aparato dectector de mentira para VERIFICAR su informacion.
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- 10.) Usted NO debe revelar que usted proporciona un servicio al Servicio de la Aduana de los Estados Unidos, SIN el consentimiento de su agente de control.
- 11.) La informacion que usted proporcione puede ser usada en un proceso criminal. Aunque el Servicio de la Aduana de Los Estados Unidos use todos los medios legales para proteger su confidencialidad, esto NO se puede garantizar.

Firmando este pacto, yo confirmo que yo he leído y entiendo las condiciones antedichas y puestas ante mi.

JESUS CONTRERAS 07/02/03
 (SUPEUESTO NOMBRE)/FECHA

JESUS CONTRERAS 07/02/03
 (SUPUESTO NOMBRE)/FECHA

JESUS CONTRERAS 07/02/03
 (SUPUESTO NOMBRE)/FECHA

[Signature] 7/2/03
 AGENTE DE CONTROL/FECHA
[Signature] 7-2-03
 TESTIGO/FECHA

I have reviewed these instructions with the confidential source and have determined the source is suitable as defined in Chapter 41.04.04

[Signature]
 SUPERVISOR/FECHA

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration & Customs Enforcement

INSTRUCTIONS TO CONFIDENTIAL SOURCE

This document is to be read and explained to all individuals who are working as confidential or participating sources. This reading must be witnessed by the controlling agent and another special agent. It is required to have the form signed and dated by the source, controlling agent and the witness.

- 1.) You are **NOT** an employee of the U.S. Immigration and Customs Enforcement.
- 2.) You are **NOT** a police officer and **WILL NOT** represent yourself as a police officer to anyone.
- 3.) You are **NOT** permitted to violate any laws and could be prosecuted for any unauthorized criminal activity in the past or any future unauthorized criminal conduct.
- 4.) Your status as a confidential source **DOES NOT** convey any statutory authority to carry a firearm. You **WILL NOT** carry a firearm when participating in authorized activity, even if state regulations would otherwise allow you to have one.
- 5.) You are **NOT** permitted to possess contraband/evidence **WITHOUT** the prior knowledge and consent of your controlling special agent.
- 6.) You are **NOT** to use your association with the U.S. Immigration and Customs Enforcement to resolve personal matters.
- 7.) You **SHALL** follow the directions/instructions of your controlling officer at **ALL** times and must not take or seek any independent action on behalf of the United States Government.
- 8.) At all times, you **WILL** be truthful when providing information to officers of U.S. Immigration and Customs Enforcement. You **MAY** be required to submit to a polygraph examination to verify your information.
- 9.) You **WILL NOT** deliberately entrap any individual, who would not otherwise be predisposed to commit a crime.
- 10.) You are **NOT** to disclose that you provide a service to U.S. Immigration and Customs Enforcement **WITHOUT** the approval of the contact special agent.
- 11.) The information you provide may be used in a criminal proceeding. Although U.S. Immigration and Customs Enforcement will use all lawful means to protect your confidentiality, this **CANNOT** be guaranteed.
- 12.) Your assistance and the statements you make to U.S. Immigration and Customs Enforcement are entirely voluntary.

By signing this agreement, I, confidential source, hereby state that I have read and understood the above conditions set out to me.

 (ASSUMED NAME) Signature/Date

 Controlling Agent/Date

 (ASSUMED NAME) Signature/Date

 Witness/Date

 (ASSUMED NAME) Signature/Date

I have reviewed these instructions with the confidential source and have determined the source is suitable as defined in Chapter 41.04.04

I have reviewed and approve these instructions to Source to be filed in the source file.

 Supervisor/Date

 Assistant SAIC (Initials)

Office of Investigations
U.S. Department of Homeland Security
425 I Street, NW
Washington, DC 20536



U.S. Immigration
and Customs
Enforcement

MAR 12 2004

ACTION

MEMORANDUM FOR: John P. Clark
Director, Office of Investigations

FROM: Paul M. Kilcoyne *Paul M. Kilcoyne*
Deputy Assistant Director, Investigative Services

SUBJECT: Deactivation of Confidential Informant SA-913-EP

This memorandum serves to inform you of the deactivation of Confidential Informant (CI) SA-913-EP. The SAC El Paso initially documented SA-913-EP on July 17, 2000, and has had a continuous relationship with the CI since that time. Under the direction of the SAC El Paso, SA-913-EP provided information concerning narcotics and cigarette smuggling from Mexico into the United States that resulted in numerous seizures and arrests. To date, the SAC El Paso has paid SA-913-EP monetary awards totaling \$224,650. (See attachment A for specific details concerning information provided by SA-913-EP and related payments).

On June 28, 2003, SA-913-EP was arrested for his/her involvement in the smuggling of one hundred and two pounds (102) of marijuana into the United States near Las Cruces, New Mexico. Prosecution of the case was declined by the United States Attorney's Office. On that same date, the case was presented to the Las Cruces, New Mexico, District Attorney's Office and SA-913-EP was arrested and booked into the Dona Ana County Jail for state narcotics violations. The charges remained pending until December, 2003, at which time they were dismissed as a result SA-913-EP's assistance in the instant investigation.

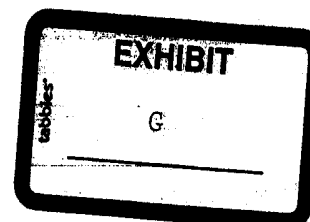
Although the Source remains a critical witness in a number of ICE cases, further and/or continued use of the Source is not anticipated at this time.

Based on the facts outlined above, I hereby recommend that the SAC El Paso deactivate SA-913-EP.

Approve *John P. Clark* Disapprove _____

Modify _____ Needs more discussion _____

Attachment



Que compareceran a las reuniones y a los negocios y enserado
ampliamente de los negocios y a los negocios y enserado
novecientos noventa y nueve mil quinientos y ochenta y
como me queda en la memoria que en el mes de mayo del
hábito de drogas y en el mes de mayo del hábito de drogas
toneladas de drogas y en el mes de mayo del hábito de drogas
Colima, luego la droga se iba a vender en el Estado de
lugar, en el Estado de Colima, en el Estado de Colima y
almacenarla, para la venta de la droga y en el Estado de
un pueblo a rescatarla y en el Estado de Colima y en el
cantidad de la droga que se iba a vender en el Estado de
Tijuana, México, en el Estado de Colima y en el Estado de
yo que hablar por teléfono y en el Estado de Colima y en el
ya sabían que venían a buscar la droga y en el Estado de
ciudad de Ciudad Juárez, por lo que se iba a vender la droga para la
venta y para la alimentación de las tropas y en el Estado de
solamente un remanente de droga y en el Estado de Colima se le
quedaban a JESUS BELTRAN y luego se iba a vender con una persona de
TELEvisa LA LAGUNA de la que me quedo su nombre pero llevaba
una camioneta con los logos de la empresa y con un carro y transportaban
hasta ochenta kilos de la droga y en el Estado de Colima y en el
recibían la droga JAVIER LOPEZ y GARCIA y luego se iba a vender, inclusive a
JAVIER lo mataron con el logotipo de la empresa, como JESUS
BELTRAN empezó a tener celos porque tenía buena relación con los
colombianos en mil novecientos noventa y ocho de la droga para JESUS
BELTRAN, posteriormente en mil novecientos noventa y ocho como me
juntaba en Gómez Palacio, Durango, con las personas que traficaban droga
conocí a HUMBERTO SANTILLAN, quien había estado en la cárcel y
como ELIAS MEDINA era el encargado de la droga en Gómez Palacio
HUMBERTO SANTILLAN que se iba a vender en el Estado de drogas con
ELIAS MEDINA pero no se llevo a cabo esta relación porque ARTURO
HERNANDEZ ALIAS EL CHAKY le dijo a HUMBERTO SANTILLAN
que se dejara de venderla y que trabajara para él y para VICENTE
CARRILLO FUENTES y así fue que empezaron a trabajar, después,

[illegible]

1. miss
grad. hole