

# **VERSION 13**

**A F F I D A V I T**

I, FARRELL A. BINDER, being duly sworn on oath, do hereby depose and say:

I.

**INTRODUCTION**

1. I am a Special Agent ("SA") for the Federal Bureau of Investigation ("FBI") and have served in that capacity for more than ten years. I am currently assigned to the Los Angeles Office, White Collar Division, Public Corruption Squad. My main responsibility involves the investigation of public corruption matters, including violations of the Foreign Corrupt Practices Act ("FCPA"). During my employment with the FBI, I have participated in investigations involving public corruption, bribery, fraud against the government, bank and loan fraud, wire fraud, mail fraud, social security fraud, and money laundering. Many of these investigations have involved the use of informants and cooperating witnesses, and have required financial analysis. I have also participated in the execution of numerous search and arrest warrants. I have conducted physical surveillance and have monitored electronic surveillance. In addition, I have attended numerous training sessions on the investigation of white collar crimes, including specialized training for FCPA investigations and international contract corruption. The opinions I have formed and set forth in this affidavit are based on my experience

and training, as well as my consultation with other experienced investigators and agents of the FBI.

II.

**PURPOSE OF AFFIDAVIT**

2. This affidavit is made in support of the issuance of a search warrant to search the business offices and address of LINDSEY MANUFACTURING COMPANY and LINDSEY INTERNATIONAL INCORPORATED ("LINDSEY") (described with particularity below). LINDSEY is believed to contain evidence of corrupt payments made to a senior official in the Mexican government, in violation of Title 18, United States Code, Section 371 (Conspiracy), Title 15, United States Code, 78dd-1, et seq. (Corrupt Payments to Foreign Officials), and Title 18, United States Code, Sections 1956 and 1957 (Money Laundering).

3. This affidavit is intended to establish probable cause for the requested search warrant and does not include all information known to me related to this investigation. Where conversations are referred to herein, they are related in substance and in part, except where quotation marks are used. Where dollar figures and calculations are set forth herein, they are approximate and based on United States currency, unless expressly stated otherwise.

4. The facts set forth in this affidavit are based upon my own personal observations, my training and experience,

and information obtained during this investigation from other sources, including: (a) other law enforcement agents; (b) statements made or reported by various witnesses with personal knowledge of relevant facts; and (c) my review of records obtained during the course of my investigation, as well as summaries and analyses of such documents and records that have been prepared by others.

III.

PREMISES TO BE SEARCHED

5. The SUBJECT PREMISES to be searched are described as follows (and in Attachment 1 to this affidavit):

a. The business address and offices of LINDSEY located at 760 N. Georgia Avenue, Azusa, California 91702 ("SUBJECT PREMISES"), which is made up of five separate buildings located along the east side of North Georgia Avenue, between Foothill Boulevard and Eighth Street.

BUILDING #1

b. BUILDING #1 is located on the SUBJECT PREMISES. BUILDING #1 is a tan one story office building facing North Georgia Avenue with the numbers "760" affixed above the front door in black numerals on a white background. The front door to BUILDING #1 is made of tinted glass and is centered between two tinted glass windows that are the same length as the front door. The numbers "760" are also painted in black on a

white background on the front of a cement walkway that leads to the front door. The exterior of BUILDING #1 has a brick facade with a flat pale blue metal roof. On either side of the front door of BUILDING #1 are four windows, and a planter, which holds bushes that grow between each window. At the top of the blue metal roof overhang of BUILDING #1, centered above the door, is a sign written in black letters on a yellow background that reads "LINDSEY." At the south end of BUILDING #1, also on the blue metal roof overhang, is another sign with black lettering on a yellow background that reads "L" and has a lightning bolt running through the "L." Running perpendicular to, and in front of, BUILDING #1 are several parking spaces. All of the parking spaces are marked "reserved," with the exception of three spaces to the south, marked "visitor." Also visible from North Georgia Avenue is a side entrance on the south side of BUILDING #1. The side entrance is located approximately six to eight feet from the front of BUILDING #1, and has six steps leading up to the door from two sides.

BUILDING #2

c. BUILDING #2 is located on the SUBJECT PREMISES and is immediately to the south of BUILDING #1. BUILDING #2 is a pale blue corrugated metal building with three large sliding metal doors that face North Georgia Avenue and are protected by two chain link fences positioned directly in front

of the metal doors. BUILDING #2 has a sign on the south side of the front facade written in black letters on a yellow background that reads "Lindsey Shipping & Receiving" with an arrow pointing north on North Georgia Avenue. BUILDING #2 has another sign written in black letters on a yellow background attached to the southeast corner of the building that reads "South Yard."

BUILDING #3

d. BUILDING #3 is located on SUBJECT PREMISES and is immediately to the south of BUILDING #2. BUILDING #3 is a blue corrugated metal structure that faces North Georgia Avenue and is separated from BUILDING #2 by two gates and a tan brick wall that runs in between the two gates. The two gates between BUILDING #2 and BUILDING #3 are made of chain link, topped with barbed wire, and have warning signs indicating hazardous materials and private property. The tan brick wall between BUILDING #2 and BUILDING #3 is also topped with barbed wire, and has bushes running in front of it. BUILDING #3 has a door in the center of the building and a window on each side of the door. The numbers "730" are affixed towards the top of the door. Above the door and the numbers "730" is a sign written in black letters with a yellow background that reads "Lindsey."

BUILDING #4

e. BUILDING #4 is located on the SUBJECT PREMISES and is immediately to the north of BUILDING #1.

BUILDING #4 is a blue building that faces North Georgia Avenue and is separated from BUILDING #1 by a small space of approximately two feet. BUILDING #4 has a door centered in the middle of the building, with two windows on each side of the door and a single step leading up to the door. There are bushes in front of all the windows. There is a light high above the door of BUILDING #4 and another light attached at the southeast corner of BUILDING #4. At the northeast corner of BUILDING #4 there is a sign written in black letters on a yellow background that reads "North Yard."

BUILDING #5

f. BUILDING #5 is located on SUBJECT PREMISES and is north of BUILDING #4. A chain link gate runs between BUILDING #4 and BUILDING #5, just to the north of BUILDING #4. The chain link gate connects to a tan brick wall that continues all the way to the north end of the SUBJECT PREMISES. Both the gate and wall that run between BUILDING #4 and BUILDING #5 are topped with barbed wire. BUILDING #5 is located immediately behind the brick wall and to the north of the chain link gate. BUILDING #5 is a blue structure with the words "Shipping & Receiving" written in white letters directly on the structure just below the roof line.

g. SUBJECT PREMISES include buildings 1, 2, 3, 4, and 5, and all attached and unattached rooms, attics,

basements, garages, storage areas, computers, safes, lockers, containers, trash areas, surrounding grounds and outbuildings assigned to or a part of the SUBJECT PREMISES.

IV.

**SUMMARY OF APPLICABLE FEDERAL STATUTES**

6. The anti-bribery provisions of the Foreign Corrupt Practices Act ("FCPA"), codified at Title 15, United States Code, Sections 78dd-1, et seq., among other things, make it unlawful for any "domestic concern," or for any officer, director, employee, or agent of such domestic concern, to knowingly make use of any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" for purposes of influencing any act or decision of such foreign official in his (or her) official capacity, in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person. 15 U.S.C. § 78dd-2(a) and (g).

7. The definition of a "domestic concern" under the FCPA includes: (a) any individual who is a citizen, national, or resident of the United States; and (b) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization or sole proprietorship which has its



principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States. 15 U.S.C. § 78dd-2(h).

8. The definition of a "foreign official" under the FCPA includes: any officer or employee of a foreign government or any department, agency or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization. 15 U.S.C. § 78dd-2(h).

9. A violation of the FCPA constitutes a "specified unlawful activity" under Title 18, United States Code, Section 1956(c)(7)(D), making certain financial transfers and/or transactions done in connection with an FCPA violation punishable under federal money laundering statutes.

10. The money laundering provisions codified at Title 18, United States Code, 1956, among other things, make it unlawful for any person, who, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity, with the intent to promote the carrying on of specified unlawful activity . . . or knowing that

the transaction is designed in whole or in part to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity. 18 U.S.C. § 1956(a)(1).

11. The money laundering provisions codified at Title 18, United States Code, 1957, among other things, make it unlawful for any person, who, knowingly engages or attempts to engage in a monetary transaction in criminally derived property of a value greater than \$10,000 and is derived from specified unlawful activity. 18 U.S.C. § 1957(a).

V.

PROBABLE CAUSE

A. OVERVIEW OF PROBABLE CAUSE

12. The instant investigation arose out of a FCPA and money laundering investigation conducted by the Department of Justice (DOJ), the Securities and Exchange Commission (SEC), and the Federal Bureau of Investigation's (FBI) Houston Field Office (FBI-Houston).

13. On April 18, 2005, ABB Ltd., an energy equipment and services company based in Switzerland ("ABB Switzerland"), reported to the SEC and the DOJ that its Sugarland, Texas subsidiary, ABB Network Management ("ABB Sugarland"), had possibly provided bribe payments to public officials in Mexico to obtain contracts with a Mexican state-owned utility company named

Comision Federal de Electricidad ("CFE Mexico"). According to ABB Switzerland, the possible bribe payments were paid by ABB Sugarland using three intermediary companies, including a company named Sorvill International, SA (Sorvill).

14. Based upon the information provided by ABB Switzerland, the SEC conducted a financial investigation into the three intermediary companies. The SEC discovered, among other things, that LINDSEY, a privately-held manufacturing company located in Azusa, California made several large payments to Sorvill and to Global Financial (Global), a brokerage firm located in Houston, Texas. LINDSEY's payments to Global were to an account in the name of Grupo Internacional De Asesores S.A. (Grupo).

15. According to bank records, Sorvill and Grupo are controlled by ENRIQUE FAUSTINO AGUILAR NORIEGA (ENRIQUE AGUILAR) and ANGELA GOMEZ CEPEDA AGUILAR (ANGELA AGUILAR), Mexican citizens who claim to be relatives of NESTOR MORENO DIAZ (NESTOR MORENO), a Mexican public official who, at the time of the LINDSEY's payments to Grupo, was Assistant Director of Generation for CFE Mexico.

16. Between September 2003 to May 2008, Grupo received \$5,330,022.38 in payments from LINDSEY. There is probable cause to believe that ENRIQUE AGUILAR, ANGELA AGUILAR and an individual named CESAR MORNEO, used the money Grupo received from LINDSEY

for the benefit of NESTOR MORENO. In fact, records show that part of the money LINDSEY provided to Grupo was used to help buy NESTOR MORENO a Ferrari automobile, a yacht, and to make over \$100,000 in payments towards NESTOR MORENO's American Express (AMEX) credit card bills.

17. At the same time LINDSEY's payments to Grupo were benefitting NESTOR MORENO, CFE Mexico, where NESTOR MORENO acted as a foreign official, awarded nineteen (19) government contracts to LINDSEY worth \$160,029,918 Mexican pesos (or \$14,911,659 dollars).

B. ORIGINS OF THE INVESTIGATION

18. In June 2008, myself and FBI Special Agent Susan Guernsey (SA Guernsey) spoke with Tonia J. Tornatore, Senior Counsel, SEC Division of Enforcement (Ms. Tornatore) and learned the following:

a. On or about April 18, 2005, ABB Switzerland disclosed to the SEC and the DOJ that its subsidiary, ABB Sugarland, may have paid bribes to Mexican foreign officials at CFE Mexico.

b. The potential bribes were paid to CFE Mexico through three intermediary companies, namely, Sorvill, Obras Maritimas, and Equipos Systemos Mexicanos.

c. The three intermediaries were purportedly retained by ABB Sugarland to facilitate contract negotiations,

shipment of equipment, communications, and contract interpretations.

d. ABB Switzerland conducted an internal investigation and found that for many of the payments no goods or services were provided by the intermediaries. In other instances, the goods and services provided were not commensurate with the size of the payments.

e. Sorvill, one of the intermediaries that received payments from ABB Sugarland, also received payments from LINDSEY, a privately-held manufacturing company located in Azusa, California.

f. In addition to Sorvill, LINDSEY made several large payments to Global Financial, a brokerage firm located in Houston, Texas. LINDSEY's payments to Global were to an account in the name of Grupo Internacional De Asesores S.A. (Grupo).

g. The investigation into ABB Sugarland's payments to Sorvill and other intermediaries is still on-going.

C. SORVILL AND GRUPO

19. On or about \_\_\_\_\_, 2008, I reviewed copies of Sorvill's bank records, which the SEC had obtained pursuant an administrative subpoena. Sorvill listed ENRIQUE AGUILAR as the Director of Sorvill and ANGELA AGUILAR as one of the signatories on the bank account. ENRIQUE AGUILAR's and ANGELA AGUILAR's

Mexican passports were included in the Sorvill bank records I reviewed. Although all of the biographical information listed on the passports was readable, the photographs on the passports were unreadable.

20. On or about \_\_\_\_\_, 2008, I reviewed copies of Grupo's Global Financial records, which the SEC had obtained pursuant to an administrative subpoena. Grupo listed ANGELA AGUILAR as a Director of Grupo and ENRIQUE AGUILAR had authorized several transfers of funds from Grupo's account.

D. LINDSEY MANUFACTURING

21. On or about May 22, 2008, I reviewed search results from a database commonly used by law enforcement personnel and learned that LINDSEY was founded by L.E. Lindsey in 1947 and incorporated in the State of California on July 5, 1962. LINDSEY is currently located at the SUBJECT PREMISES and L.E. Lindsey's son, Dr. Keith E. Lindsey, currently serves as its president.

22. On or about June 3, 2008, I learned from Ms. Tornatore and LINDSEY's website ([www.lindsey-usa.com](http://www.lindsey-usa.com)) that LINDSEY is a privately-held manufacturing company that specializes in utility products like Emergency Restoration Systems, Current and Voltage Monitoring Devices, and Transmission and Distribution Lines Hardware. LINDSEY has supplied over 1000 Emergency Restoration System structures to over 50 Electric

Transmission Asset Owners in over 20 countries, including Mexico.

23. Based upon my review of law enforcement databases, my conversations with Ms. Tornatore, my internet searches and my training and experience, I determined that LINDSEY qualifies as "domestic concern" under the FCPA.

E. CFE MEXICO

24. On or about June 3, 2008, I spoke with Ms. Tornatore, who is involved in the on-going investigation of ABB Sugerland's payments to CFE Mexico, and learned that CFE Mexico is a federal company owned by the Mexican government that generates, transmits, and distributes electrical power to all of Mexico, except the Mexico City area.

F. NESTOR MORENO

25. On July 13, 2008, I performed various internet searches on the name NESTOR MORENO and learned the following:

a. The Business News America's website ([www.bnamericas.com](http://www.bnamericas.com)) contains a company profile for CFE Mexico and currently lists NESTOR MORENO as CFE Mexico's Operation Director and his email address as [nestor.moreno@cfe.gob.mx](mailto:nestor.moreno@cfe.gob.mx).

b. According to news articles posted on the internet, NESTOR MORENO has served as CFE Mexico's Operations Director since April 2007. Before becoming the Operations Director, NESTOR MORENO served as CFE Mexico's Assistant Director of Generation from 2002 to 2007.

26. Based upon my internet searches and my training

and experience, I have determined that NESTOR MORENO qualifies as a "foreign official" under the FCPA.

G. CORRUPT PAYMENTS

27. For the reasons set forth below, there is probable cause to believe that LINDSEY wired \$2,262,301 into Grupo's Global account, which ENRIQUE AGUILAR, ANGELA AGUILAR and CESAR MORENO, who all claim to be NESTOR MORENO's relatives, then used to help buy NESTOR MORENO a Ferrari automobile, a yacht, and to make over \$100,000 in payments towards his AMEX credit card bills.

THE FERRARI

28. On July 10, 2008, myself and SA Guernsey interviewed Bryant Kreaden (Bryant), the Sales Manager for Ferrari of Beverly Hills, located at 9372 Wilshire Blvd, Beverly Hills, CA 90212 (the "Ferrari dealership"), and learned the following:

a. Bryant sold ENRIQUE AGUILAR a Ferrari in 2007.

b. ENRIQUE AGUILAR came into the Ferrari dealership several times before purchasing the Ferrari and, on one occasion, was accompanied by someone who appeared to be his friend.

c. The person who appeared to be ENRIQUE AGUILAR's friend may have been the one who later picked up the car for ENRIQUE AGUILAR.



29. On July 10, 2008, myself and SA Guernsey interviewed Sharon Berman (Berman), the Office Manager for the Ferrari dealership, and learned the following:

a. On February 16, 2007, ENRIQUE AGUILAR executed a sales contract with the Ferrari dealership for the purchase of a 2005 Ferrari F430 F1 Spider at a cost of \$297,500.

b. There is an undated "Statement of Facts" accompanying the sales contract that states,

I/WE ANGELA MARIA GOMEZ CEPEDA THE UNDERSIGNED, HEREBY STATE THAT THE VEHICLE/VESSEL DESCRIBED ABOVE HAVE PAID IN FULL THE AMOUNT OF USD \$297,500.00 (TWO HUNDRED NINETY SEVEN THOUSAND FIVE HUNDRED 00/100 USD) AND WITH THE PAYMENT TO BE APPLIED TO THE ABOVE-MENTIONED VEHICLE AND TITLED IN THE NAME OF ENRIQUE AGUILAR. I AUTHORIZE **MR. NESTOR MORENO** TO PICK UP THE CAR AT YOUR FACILITIES. (Emphasis added)

c. An insurance paper from Robert Moreno Insurance Services lists the drivers of the Ferrari as ENRIQUE AGUILAR and NESTOR MORENO, and states that both ENRIQUE AGUILAR and NESTOR MORENO have been employees of Global for twenty years.

d. On or about February 16, 2007, ANGELA AGUILAR wrote a check against Grupo's Global account in the amount of \$297,500 and made it payable to the Ferrari dealership.

30. On July 11, 2008, I reviewed the Ferrari sales contract and accompanying paperwork and observed the following:

a. A sales contract between the Ferrari dealership and ENRIQUE AGUILAR, with what purports to be ENRIQUE AGUILAR's signature on the contract.

b. A copy of a Mexican passport in the name of ANGELA MARIA GOMEZ DE AGUILAR (ANGELA AGUILAR) and a passport photograph that was unreadable. The information listed on the passport in the Ferrari sales contract matched the information listed on the ANGELA AGUILAR passport contained in Sorvill's bank records.

c. A Texas Department of Public Safety Identification Card in the name of ENRIQUE FAUSTINO AGUILAR (ENRIQUE AGUILAR) and a photograph on that was unreadable. The information listed on the Texas identification card matched the information listed on the ENRIQUE AGUILAR passport contained in Sorvill's bank records.

31. On July 11, 2008, I reviewed Grupo's Global account records between February 1, 2007 and February 28, 2007 (the time period when the Ferrari was purchased from the Ferrari dealership), and discovered that a check written by ANGELA AGUILAR in the amount of \$297,500 that was posted to Grupo's Global account on February 23, 2007.

32. On July 11, 2008, I reviewed LINDSEY's Preferred Bank records (Account #XXXXXXXXXXBB701) between January 18, 2007 and February 15, 2007 (the time period when the Ferrari was purchased from the Ferrari dealership for \$297,500), and discovered that LINDSEY had wired a total of \$297,038.56 into Grupo's Global account. There were no other wires into Grupo's Global account during this time period and all of the wires from

LINDSEY referenced "CFE, Mexico," where NESTOR MORENO was acting as a foreign official at the time.

THE YACHT

33. On September 11, 2008, myself and SA Guernsey interviewed Robin Goodman (Goodman), owner of South Shore Yacht Sales, located at 550 Marina Parkway D-3, Chula Vista, CA 92154 (the "Yacht dealership"), and learned the following:

a. Goodman was the broker for a Mexican buyer named NESTOR MORENO, who purchased a yacht costing \$1.8 million.

b. The yacht was purchased through a limited liability corporation named Baja Horizon.

c. Goodman met NESTOR MORENO, who said he owned a metal company in Mexico.

d. Goodman had NESTOR MORENO sign all of the paperwork relating to the purchase of the yacht himself, to include the offer to purchase, the purchase agreement, the counter offer, and the conditional acceptance of vessel, because Goodman required the actual owner of the yacht to sign such paperwork.

e. Much of the transaction was handled by CESAR MORENO, someone who said he was NESTOR MORENO's brother and lived in Chula Vista, California.

f. Although CESAR MORENO handled much of the transaction, CESAR MORENO made it clear to Goodman that the yacht was being purchased for his brother, NESTOR MORENO, who lived in

Mexico and intended to take the yacht back to Mexico.

g. The payments for the yacht came in "lumps," some of it by wire, and some through checks from ENRIQUE AGUILAR.

h. Goodman did not recall meeting ENRIQUE AGUILAR, but said he thought he was NESTOR MORENO's business partner.

34. On July 12, 2008, I reviewed documents the Yacht dealership provided to the SEC pursuant to an SEC subpoena and learned the following:

a. Three separate payments totaling \$1,800,000 were made towards the purchase of the yacht. The first payment was a check for \$540,000. It came from Grupo's Global account and was dated August 28, 2006. The second and third payments were wires for \$360,000 and \$450,000. Both wires came from Sorvill's bank account and were dated August 25, 2006 and September 11, 2006, respectively. The payments from Sorvill were authorized by ENRIQUE AGUILAR. The last five payments were wires totaling \$450,000. The last five wires came from Assets Management Plus, a Mexican company about which little is known. The Asset Management Plus wires were dated September 18, 2006 (\$85,900), September 21, 2006 (\$91,430), September 21, 2006 (\$79,220), September 22, 2006 (\$93,450), and September 27, 2006 (\$100,000).