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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SECURITIES AND EXCHANGE)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
MARK LESLIE, et al.,)
)
Defendants.)
_____)

Case No. C 07-03444 JF (PVT)
**FURTHER INTERIM ORDER RE
DEFENDANT LONCHAR’S MOTION
FOR ISSUANCE OF LETTERS
ROGATORY**

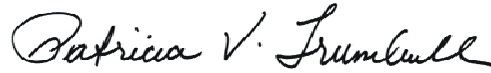
On March 16, 2009, the court granted defendant Kenneth Lonchar’s motion for issuance of letters rogatory pursuant to the Hague Convention. (“March 16, 2009 Order”). On March 23, 2009, defendant Lonchar filed his proposed letter of request for international judicial assistance pursuant to the Hague Convention on the taking of evidence abroad in civil or commercial matters. (“letter of request”). Having reviewed the letter of request, the court finds that the first sentence of paragraph 1 on page 7, which states that “[t]his court has further determined that the depositions sought may be taken for use at trial in lieu of personal appearances by the witnesses” shall be omitted. In the March 16, 2009 Order, this court did not make that finding.

Though the court is aware that defendant Lonchar moved for the letters rogatory to obtain evidence “to be used as proof in the actual trial,” the court has made no findings with respect to the ultimate admissibility of such evidence at trial. *See, e.g., DBMS Consultants Limited v.*

1 *Computer Associates International, Inc.*, 131 F.R.D. 367, 369 (D. Mass. 1990) (“ . . . the Court
2 will not ordinarily weigh the evidence to be elicited by deposition . . .”). In the event, defendant
3 Lonchar wishes to include the above-specified sentence in the letter of request, leave from the
4 district court judge should be obtained.

5 IT IS SO ORDERED.

6 Dated: March 24, 2009

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8 PATRICIA V. TRUMBULL
9 United States Magistrate Judge
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