

MARK J. RICE (SBN 124934)  
MCNEIL, SILVEIRA, RICE, WILEY & WEST  
55 Professional Center Parkway, Suite A  
San Rafael, CA 94903  
Telephone: (415) 472-3434  
Facsimile: (415) 472-1298

Attorney for Defendants  
MAZZETTI & ASSOCIATES, INC., WALTER VERNON,  
ALBERT OSTROY AND ANGELICA GRAHAM

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ROBIN RODERICK,	) Case No.: C04 2436 MHP
	)
Plaintiff,	) <b>NOTICE OF PETITION AND PETITION TO</b>
	) <b>CONFIRM ARBITRATION AWARD</b>
vs.	)
	) <b>Date: October 3, 2005</b>
MAZZETTI & ASSOCIATES, INC., et al.	) <b>Time: 2:00 p.m.</b>
	) <b>Ctrm: 15, 18th Floor</b>
Defendants.	) <b>Judge: Honorable Marilyn Hall Patel</b>
	)

Hovsepian v. Apple, Inc.

Doc. 1633 Att. 13

TO PLAINTIFF ROBIN RODERICK AND TO HIS ATTORNEY OF RECORD HEREIN:

PLEASE TAKE NOTICE that at the above time and Department of the above-court, Defendant Mazzetti & Associates, Inc. hereby will and does petition and move this Court to Confirm the Arbitration Award of Joseph A. Lasky, of the American Arbitration Association. A copy of the Final Award is attached hereto as Exhibit 1 and made a part hereof by this reference.

This Petition is based upon the following facts and circumstances involving the completed arbitration between the parties, as set forth in the Memorandum of Points and Authorities and Declaration of Mark J. Rice, filed concurrently herewith, specifically:

A. The parties held arbitration before AAA, Joseph A. Lasky, Esq., Arbitrator, which resulted in a final award dated July 19, 2005, attached as Exhibit 1.

1 B. The Arbitration take place pursuant to a binding arbitration cause between the  
2 parties, and upon order of this Court compelling that arbitration take place.

3 C. As per this Court Order compelling arbitration, the Arbitrator decided the stock  
4 price for Plaintiff's 20 shares of Mazzetti & Associates, Inc. stock. In turn, the awarded stock  
5 price was paid, resulting in exchange of the award's stock price of \$987.75 per share plus  
6 interest, which was paid on July 26, 2005. In exchange, Plaintiff Robin Roderick on August 2,  
7 2005, surrendered Share Certificate No. 20, representing 20 shares of Mazzetti stock.

8 D. As per the Court's Order compelling arbitration, the Arbitrator also ruled on  
9 Roderick's claims over fiduciary duty and independent management, which the Arbitrator  
10 rejected finding no breach of fiduciary duty by Mazzetti or its management.

11 E. In their initial written comments to the underlying Tentative Award dated June 8,  
12 2005, both sides accepted the Tentative Award (each claimed either fees or costs which the  
13 Arbitrator denied to both sides).

14 F. The Final award is proper in all respects, and is entitled to confirmation and  
15 judgment upon award, in the form of proposed order filed herewith.

16 G. Within 10 days of the Final Award of July 19, 2005, each party complied with the  
17 award therewith by exchange of the stock for share price awarded. On August 2, 2005, the  
18 stock was returned after Mazzetti paid the awarded stock price. Therefore, upon the Court's  
19 Order confirming the Award, there is no need for further arbitration proceedings.  
20

21 Dated: August 29, 2005 Respectfully submitted,

22 McNEIL, SILVEIRA, RICE, WILEY & WEST

23 By:   
24

25 MARK J. RICE  
26 Attorneys for Defendants  
27 MAZZETTI & ASSOCIATES, INC.,  
28 WALTER VERNON, ALBERT OSTROY  
AND ANGELICA GRAHAM