

Exhibit 18

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MARK CUBAN,)	
)	
Plaintiff,)	
)	
v.)	Case: 1:09-cv-00996 (RBW)
)	Assigned: Walton, Reggie B.
SECURITIES AND EXCHANGE)	Description: FOIA/Privacy Act
COMMISSION,)	
)	
Defendant.)	

SECOND SUPPLEMENTAL DECLARATION OF NOELLE L. MALONEY

I, Noelle L. Maloney (formerly Frangipane), declare as follows:

1. I am the Deputy Inspector General in the Office of Inspector General (“OIG”) of the Securities and Exchange Commission (“SEC”). I assist the Inspector General in promoting the integrity, economy, efficiency and effectiveness of the SEC. In this capacity, I am responsible for all phases of management in support of OIG operations, including administrative, financial, and human capital management, policy development, information systems management, and management analysis. I am also responsible for the oversight of the OIG Office of Investigations, which responds to and investigates allegations of violations of statutes, rules and regulations, and other misconduct by SEC staff and contractors, and oversight of the OIG Office of Audits, which conducts, coordinates and supervises independent audits and evaluations of the SEC’s programs and operations. I have served in this capacity at all times relevant to the above-captioned litigation.

2. I make the following statements based upon my personal knowledge and

information made available to me in my official capacity at the Commission and about which I have become knowledgeable. I make this second supplemental declaration in support of the Commission's motion for reconsideration of its motion for partial summary judgment in the above- referenced matter.

3. This declaration supplements my January 15, 2010 and March 12, 2010 declarations and provides additional information about the search conducted to identify any OIG documents that could be responsive to the two FOIA requests attached to my January 15, 2010 declaration. This declaration also addresses four documents being withheld under Exemption 7(C).

OIG Search for Responsive Documents

4. With respect to the FOIA/Privacy Act Request (Exhibit A to Jan. 15, 2010 Decl.), a search was conducted for documents responsive to Request Nos. 2, 6 and 7. The OIG did not search for documents responsive to the remaining requests, which appear to seek documents that would be in the possession of the Commission's Division of Enforcement, to the extent they exist. With respect to the FOIA Request (Exhibit B to Jan. 15, 2010 Decl.), a search was conducted for documents responsive to all of the requests.

5. The OIG generally maintains documents relating to its two main offices as described in paragraph 1 of this declaration: investigations and audits. In conducting the search for documents responsive to the requests listed in paragraph 4, above, we initially determined that none of the requests sought information that we would reasonably expect to be maintained in our audit files. The OIG Office of Audits generally conducts independent audits or evaluations related to SEC internal programs and operations;

identifies deficiencies in particular Commission operations, programs, activities, functions or organizations; and recommends improvements in existing controls and procedures. Reports issued by the OIG Office of Audits typically do not focus on specific people or companies. The FOIA requests at issue in the present litigation, however, seek information about specific people and companies and do not refer to general Commission programs and operations that an audit would focus on.

6. In general, I used the following methods to search for responsive documents related to investigations conducted by the OIG. I reviewed indexes of investigations maintained by the OIG; relied on my recollection of investigations conducted by the OIG; and asked the Inspector General, Counsel to the Inspector General, and the Assistant Inspector General for Investigations if they were aware of any responsive documents. The Inspector General has oversight of both the audit and investigative functions of the office, and is thoroughly familiar with the parties and entities involved in all of the audits, evaluations, investigations, and inquiries conducted by this office. The Counsel to the Inspector General has been with the office since 1994, and has maintained our case tracking database since its inception. The Assistant Inspector General for Investigations supervises all of the investigations conducted by the OIG.

7. Just how I relied on these methods varied somewhat depending on the nature of the request. The requests can be divided into three types: (1) requests seeking documents from specific investigations and inquiries described in a Semiannual Report issued by the OIG (FOIA Request Nos. 8-10); (2) requests seeking documents from investigations of specific people or companies (FOIA Request Nos. 1-6, 8-9;

FOIA/Privacy Act Request Nos. 2, 6, and 7); and (3) requests seeking documents from investigations about certain issues (FOIA Request Nos. 11-13; FOIA/Privacy Act Request No. 7). My searches for documents responsive to those three types of requests is described further below.

Requests Referenced in the Semiannual Report

8. In searching for documents from investigations and inquiries described in the Semiannual Report, I used the OIG internal case tracking database to identify the investigations referenced in the Semiannual Report that were requested. The case tracking database is maintained and updated by the Counsel to the Inspector General and includes, among other things, the OIG Case number, the date the case was opened, the name of the subject(s), a short phrase describing the nature of the allegations, the staff person assigned, the status of the matter (closed vs. open), and if applicable, the date the investigation was closed. This database contains information on all OIG investigations since they were first tracked, and starts with OIG investigation # 1, which was opened in March 1989. The database is updated as investigations are opened and closed.

9. I also discussed the investigations I identified as responsive with the Counsel to the Inspector General to ensure that I had identified the appropriate investigations, and together we identified and pulled the relevant files from the OIG file room. I then reviewed all of the files to make sure that they had been properly filed and were relevant to the items requested in the FOIA Request. The Counsel to the Inspector General and the Assistant to the Inspector General also reviewed the files with me to further ensure the accuracy of the search and the completeness of the records we retrieved.

10. Using these procedures, I identified the investigations and inquiries described in paragraphs 6 and 7 of my January 15, 2010 declaration as responsive.

Requests Naming Specific Persons or Companies

11. When a request sought documents from an investigation of a specific person or company, I relied on two indexes maintained by the OIG to conduct a search. One index, the case tracking database, is described in paragraph 8 above. The second index lists each open investigation and each investigation completed during the current Semi-Annual Reporting Period, the investigator(s) assigned to the matter, the OIG case number, the name of the subject(s), and the status of the matter (closed vs. open). This list is updated by the Assistant Inspector General for Investigations on a weekly basis, and is circulated to investigative staff at our OIG monthly investigation status meeting so that each investigator can verify that it is complete and accurate.

12. I searched both indices in consultation with the Assistant Inspector General for Investigations and the Counsel to the Inspector General, by searching key words such as, but not limited to, Cuban, Norris, Aderton, Chaudoin, Friestad, Kaplan, O'Rourke, Riewe, Turner, Coveo, Besner, Gwin, Harding, Hogue, Lajoie, Lavigueur, Leclerc, Lieberman, Michaud, Negler, O'Leary, Sanfacon, Simoneau, Tessier, Tetu, Waters, Yopez, Intermediary Lines Overseas Management, Jormian Capital, Spiegel Sohmer, Irving Kott, Ian Kott, Michael Kott, Mamma.com, Intasys, Smartel, Celltech, Health Care Products, and Quartet Management. This search did not reveal any responsive investigations other than the one that is described in paragraphs 5 and 7 of my January 15, 2010 declaration and in paragraph 4 of the October 20 Declaration of H. David Kotz filed in the above-captioned case (Document 32-3). As the Kotz declaration

states, documents from that ongoing investigation are being withheld under Exemption 7(A).

13. In addition to searching the indexes for specific individuals and companies, I discussed the requests with staff, including the Assistant Inspector General for Investigations, the Counsel to the Inspector General, and the Inspector General, to ensure that any and all potentially responsive records would be identified. No additional investigations were identified or located as a result of those discussions.

Requests Describing Issues

14. For the requests that described issues that may have been the subject of an investigation, I relied primarily on discussing the requests with staff, including the Assistant Inspector General for Investigations, the Counsel to the Inspector General, and the Inspector General. Also, for each investigation in the case tracking database, I reviewed the fields in the database that identify the nature of the allegations or would cause us to believe that the investigative file would contain potentially responsive documents. For all investigations that seemed potentially responsive, I discussed the entries with staff, and I personally pulled and reviewed the relevant investigative files for potentially responsive information. I did not identify any investigations that have responsive documents other than the investigation that is being withheld under Exemption 7(A).

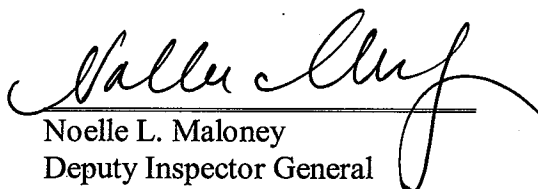
15. I am not aware of any additional records systems or methods that we could use to find responsive documents. In addition, I believe the procedures I used have revealed any and all responsive documents that existed within the OIG at the time of the search.

Exemption 7(C) Documents

16. I have reviewed the documents listed as documents numbers 9 and 16 through 18 on the revised *Vaughn* Index. It is clear from the face of those documents that they are from the OIG, and the documents suggest that persons named in the emails were subjects or witnesses in an OIG investigation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 5, 2010 in Washington, D.C.



Noelle L. Maloney
Deputy Inspector General
Office of Inspector General
Securities and Exchange Commission