

Exhibit 20

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MARK CUBAN,

Plaintiff,

v.

SECURITIES AND EXCHANGE
COMMISSION,

Defendant.

Case: 1:09-cv-00996 (RBW)
Assigned: Walton, Reggie B.
Description: FOIA/Privacy Act

SECOND SUPPLEMENTAL DECLARATION OF DAVID M. PINANSKY

I, David M. Pinansky, declare as follows:

1. From June 2002 to July 2010, I was employed as a Senior Special Counsel in the Office of the General Counsel ("OGC") of the U.S. Securities and Exchange Commission in Washington, D.C. ("SEC" or "Commission"). As part of my duties at the SEC, I provided legal counsel to the Commission's Office of Human Resources ("HR") and to management within the Commission with respect to labor and employment law matters. As of July 2010, I am employed at the Federal Deposit Insurance Corporation ("FDIC") as a counsel for the Legal Division in the Section of Labor and Employment and Administration.

2. I make the following statements based upon my personal knowledge. 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-captioned matter.

3. I have reviewed the documents listed as Document Nos. 1-77 in the revised *Vaughn* Index dated October 2010. I am generally familiar with these documents from my experience of working at the SEC.

4. The documents withheld under the work-product doctrine (other than documents 49, 50, 51, 65, and 72) were prepared by or at the direction of an OGC attorney contacted by HR staff in November 2008 to obtain legal advice on a personnel matter. It is my understanding that HR staff sought legal advice because they recognized that the personnel matter could result in discipline that could be appealed to the Merit Systems Protection Board. OGC attorneys are regularly asked to provide legal advice to HR staff on such matters because they are the ones that are most likely to result in litigation. This particular matter was one that I believed could result in either administrative or court litigation because the staff was considering discipline that would have a significant impact on the employee, and the employee did not agree with management's view of the events at issue. In providing legal advice on this matter, I specifically considered issues relevant to possible future litigation. The documents withheld as work product (other than documents 49, 50, 51, 65, and 72) reflect consideration of those issues. In fact, the matter did evolve into litigation. At the time I left the Commission, that matter was still in pending litigation.

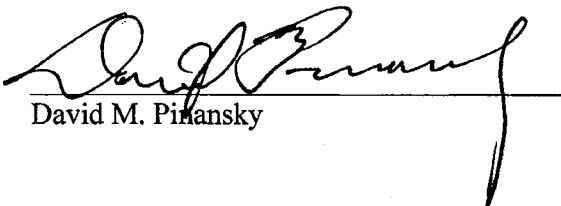
5. All the communications that I had with the HR staff or the managers who were involved in the decision whether to impose discipline in the relevant personnel matter were confidential. I did not disclose them to anyone other than attorneys within the Office of the General Counsel whom I consulted on the matter, HR staff providing guidance to management, and the managers who were deciding what, if any, discipline to impose. As far as I am aware, no one else disclosed these communications outside of that group. In my experience and practice at the SEC, Commission staff are aware that information about disciplinary matters is sensitive and confidential and provide that information only to staff responsible for imposing the discipline, namely managers of the employee, those providing advice or assistance regarding the discipline,

or supervisors of those persons. The only exceptions of which I am aware are when documents are requested in Congressional or Inspector General inquiries, but the decision making process addressed in the withheld documents has not been the subject of such an inquiry.

6. The documents withheld under the work-product doctrine in the revised *Vaughn* Index (and other documents on the *Vaughn* Index from the same time period) pertain to a decision whether to discipline an employee for conduct other than sending emails to Mark Cuban. The decision to discipline an employee for that conduct was handled separately before this issue that was the subject of the work-product documents arose.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on November 5, 2010.


David M. Pinansky