

Exhibit 23

have become knowledgeable. I make this third supplemental declaration in support of the Commission's Renewed Motion for Partial Summary Judgment Pursuant to July 1, 2011 Court Order in the above-referenced matter.

3. This declaration supplements my January 15, 2010, March 12, 2010 and November 5, 2010 declarations and provides additional information about the search I conducted to identify any OIG documents responsive to Categories 11-13 of the FOIA letter that my previous declarations have referred to as the FOIA Request (Exhibit B to Jan. 15, 2010 Decl. (Document No. 34-2)).

4. Paragraphs 14-15 of my November 5, 2010 Second Supplemental Declaration (Document No. 34-7) describe my search for documents responsive to Categories 11-13. Those paragraphs do not explicitly refer to Categories 11-13, but paragraph 7 of my Second Supplemental Declaration divided all of Mr. Cuban's requests for which I conducted a search into three categories. Paragraph 7 said that Categories 11-13 came within my third category, which I described as "requests seeking documents from investigations about certain issues."

5. Paragraph 14 of my Second Supplemental Declaration refers to steps I took to search for documents responsive to Categories 11-13.

6. My first step was to discuss the requests with OIG staff, including the Inspector General, the Assistant Inspector General for Investigations, and the Counsel to the Inspector General, to determine if anyone knew of responsive documents or places to look for them. I personally showed a copy of the requests to each person with whom I discussed the requests, and each person carefully and thoroughly read the FOIA Request in my presence in the process of considering and discussing with me what, if any, responsive documents might exist.

7. When I discussed the FOIA Request with the Inspector General, we carefully read

the request together and discussed past and pending investigations and inquiries and their potential for responsiveness to each category in the FOIA Request. The Inspector General also searched for potentially responsive investigations by looking at various Microsoft Word files and electronic mail on his computer. The Inspector General did not identify any investigations that might contain responsive documents other than the investigation referred to in paragraph 14 of my Second Supplemental Declaration. (The OIG has recently completed that investigation and has made its files available to the SEC's FOIA Office for processing as its previous assertion of Exemption 7(A) no longer applies.)

8. When I discussed the FOIA Request with the Assistant Inspector General for Investigations, I sat in his office while he read through his case status list (which is described in paragraph 11 of my Second Supplemental Declaration and is referred to there as the "second index"). The Assistant Inspector General for Investigations and I discussed the responsiveness of the investigations on the case status list while carefully and fully cross-referencing the FOIA Request. The Assistant Inspector General for Investigations did not identify any investigations that might contain responsive documents other than the investigation referred to in paragraph 14 of my Second Supplemental Declaration.

9. When I discussed the FOIA Request with the Counsel to the Inspector General, I stood behind her while she researched information in the OIG internal case tracking database (which is described in paragraph 8 of my Second Supplemental Declaration) on her computer.

10. In researching the case tracking database, the Counsel to the Inspector General and I initially did not use search terms because we believed the index would not contain any of the specific terms used in Categories 11-13 of the FOIA Request. Categories 11-13 request records from investigations about very specific types of conduct: premature initiation of the

SEC's Wells process, instructions from SEC personnel that a witness not communicate with a particular person involved in an SEC investigation, and failing to provide a Wells Submission to the Commission. The case tracking database, however, does not contain a detailed description of specific issues investigated, and we believed that using the terms provided would not help us identify responsive investigations.

11. Because we believed we could not rely on search terms, for every investigation in the database (i.e., all investigations conducted by the OIG since March 1989 when investigations were first tracked) we read the description of the nature of the allegations for every single OIG investigation initiated since March 1989. We looked for all investigations that could have addressed any of the issues identified in Categories 11-13, including all investigations that appeared to concern staff misconduct in the course of an Enforcement investigation. In our review, we identified approximately 15 investigations that warranted further review.

12. To determine whether any of the investigations we had identified in our review of the case tracking database involved the issues identified in Categories 11-13, the Counsel to the Inspector General and I either talked to an OIG staff member who had conducted the investigation or reviewed the investigative file. We determined that none of the investigations we identified contained responsive documents other than the investigation referred to in paragraph 14 of my Second Supplemental Declaration.

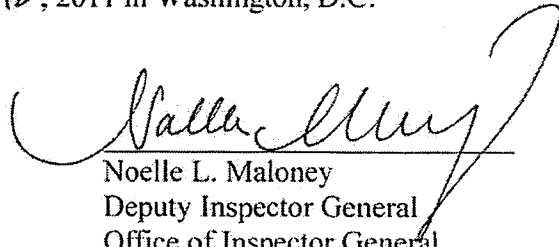
13. To supplement our initial investigation, I have recently conducted a search of both the case status list and the case tracking database using the terms "Wells," "witness," "witness tampering," and "tamp down". This search revealed one investigation initiated in December 1991, which was characterized in the case tracking database as concerning "witness tampering." This investigation was one that was previously identified in our search for responsive documents,

and it is not responsive to the FOIA Request.

14. In the course of my review, all files likely to contain responsive materials were searched. As I stated in paragraph 15 of my Second Supplemental Declaration, I am not aware of any additional records systems or methods that we could use to find responsive documents, and I believe the procedures I used have revealed any and all responsive documents that existed within the OIG at the time of the search.

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

Executed on October 12th, 2011 in Washington, D.C.

A handwritten signature in cursive script, appearing to read "Noelle L. Maloney", written over a horizontal line.

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