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CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY: <i>[Signature]</i>	DEPUTY

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**UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA
 NORTHERN DIVISION (RENO)**

18 UNITED STATES OF AMERICA, ex rel.)
 19 DENNIS MONTGOMERY,)
 20)
 21)
 22)
 23)
 24)
 25)
 26)
 27)
 28)

Plaintiffs,

v.

21 WARREN TREPP; U.S. CONGRESSMAN)
 22 JAMES GIBBONS; eTREPPID)
 23 TECHNOLOGIES, LLC; GENERAL RONALD)
 24 BATH; ASCENTIA CAPITAL PARTNERS,)
 25 LLC; SLOAN VENABLES; PATTY GRAY;)
 26 PAUL HARALDSEN; MICHAEL WEST; and)
 27 DOES 1through 20,)
 28)

Defendants.

Case No. 3-06-CV-691

**IN CAMERA
AND UNDER SEAL**

1 **THE GOVERNMENT'S NOTICE OF ELECTION TO**
2 **DECLINE INTERVENTION**

3 Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States notifies
4 the Court of its decision not to intervene in this action.

5 Although the United States declines to intervene, we respectfully refer the Court to 31
6 U.S.C. § 3730(b)(1), which allows the relator to maintain the action in the name of the United
7 States; providing, however, that the "action may be dismissed only if the court and the Attorney
8 General give written consent to the dismissal and their reasons for consenting." Id. The United
9 States Court of Appeals for the Ninth Circuit has held that, notwithstanding this language, the
10 United States only has the right to a hearing when it objects to a settlement or dismissal of the
11 action. U.S. ex rel. Green v. Northrop Corp., 59 F.3d 953, 959 (9th Cir. 1995); U.S. ex rel.
12 Killingsworth v. Northrop Corp., 25 F.3d 715, 723-25 (9th Cir. 1994). Therefore, the United
13 States requests that, should either the relator or the defendants propose that this action be
14 dismissed, settled, or otherwise discontinued, this Court provide the United States with notice
15 and an opportunity to be heard before ruling or granting its approval.
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19 Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all
20 pleadings filed in this action be served upon the United States; the United States also requests
21 that orders issued by the Court be sent to the Government's counsel. The United States reserves
22 its right to order any deposition transcripts and to intervene in this action, for good cause, at a
23 later date.
24

25 Finally, the Government requests that the relator's Complaint, this Notice, and the
26 attached proposed Order be unsealed. The United States requests that all other papers on file in
27

1 this action remain under seal because in discussing the content and extent of the United States'
2 investigation, such papers are provided by law to the Court alone for the sole purpose of
3 evaluating whether the seal and time for making an election to intervene should be extended.
4

5 A proposed order accompanies this notice.

6 Dated this 13th day of July, 2009.

7
8 Respectfully submitted,

9 TONY WEST
10 Assistant Attorney General

11 GREGORY A. BROWER
12 United States Attorney


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15 GREG ADDINGTON
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CERTIFICATE OF SERVICE

1
2 I hereby certify that on July 13, 2009, copies of the foregoing The Government's Notice
3 Of Election To Decline Intervention and Proposed Order were served on counsel for the relator
4 by mailing same, postage prepaid, to:

5 Ellyn S. Garofalo, Esq.
6 LINER YANKELEVITZ SUNSHINE & REGENSTREIF LLP
7 1100 Glendon Avenue
8 14th Floor
9 Los Angeles, CA 90024-3503

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13 _____
14 GREG ADDINGTON
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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
NORTHERN DIVISION (RENO)**

1 UNITED STATES OF AMERICA, ex rel.)
2 DENNIS MONTGOMERY,)
3)
4 Plaintiffs,)
5 v.)
6 WARREN TREPP; U.S. CONGRESSMAN)
7 JAMES GIBBONS; eTREPPID)
8 TECHNOLOGIES, LLC; GENERAL RONALD)
9 BATH; ASCENTIA CAPITAL PARTNERS,)
10 LLC; SLOAN VENABLES; PATTY GRAY;)
11 PAUL HARALDSEN; MICHAEL WEST; and)
12 DOES 1 through 20,)
13 Defendants.)

Case No. 3-06-CV-691

**IN CAMERA
AND UNDER SEAL**

Proposed
ORDER

13 The United States having declined to intervene in this action pursuant to the False Claims
14 Act, 31 U.S.C. § 3730(b)(4)(B), the Court rules as follows:

15 IT IS ORDERED that,

- 16 1. the complaint be unsealed and served upon the defendants by the relator;
- 17 2. all other contents of the Court's file in this action remain under seal and not be made
18 public or served upon the defendants, except for this Order and The Government's Notice of Election
19 to Decline Intervention, which the relator will serve upon the defendants only after service of the
20 complaint;
- 21 3. the seal be lifted as to all other matters occurring in this action after the date of this Order;
- 22 4. the parties shall serve all pleadings and motions filed in this action, including supporting
23 memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3). The United States
24 may order any deposition transcripts and is entitled to intervene in this action, for good cause, at any
25 time;
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1 5. all orders of this Court shall be sent to the United States; and that

2 6. should the relator or the defendants propose that this action be dismissed, settled, or
3 otherwise discontinued, the Court will provide the United States with notice and an opportunity to
4 be heard before ruling or granting its approval.
5

6 IT IS SO ORDERED, this ____ day of _____, 2009.

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9 United States District Judge

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