

surrender costs). However, all of the victims that I have interviewed or whose statements I have reviewed, and who chose Option #3, stopped receiving their regular monthly payments sometime in 2004 or early 2005 and have been unable to recover any of their principal investment, despite repeated requests.

Financial Analysis

5. Marcia Taplin, formerly a senior forensic accountant and CPA employed by the State of Arizona, testified on May 23, 2006 about money tracing she did relating to the universal leases. A copy of the transcript of her testimony is attached as Government Exhibit 1.

6. The United States Securities and Exchange Commission (SEC) has also been doing money tracing in connection with the universal leases. R. Kevin Barrett, who is a CPA and has a Masters Degree in Accounting, has worked at the SEC for approximately nine years. His preliminary, ongoing analysis shows over \$419 million has been raised from the sale of universal leases. It also shows that approximately \$104 million in payments were made back to investors. This amount includes the monthly payments as well as lease repurchase payments. Additionally, over \$72 million has been paid out in salesmen commissions. Finally, the preliminary, ongoing analysis shows that about \$5,500,000 of funds raised from universal lease investors was used to pay interest, principal and sales commissions on the defendant's previous nine-month notes and that substantially all of the payments of principal and interest to universal lease investors during the period from 2000 to August 2003 came from other universal lease investor funds.

7. Government Exhibit 2 is a copy of page 7 from a letter dated September 30, 2004 addressed to an Assistant United States Attorney in the United States Attorney's Office in South Bend, Indiana. The letter is from three of the defendant's lawyers at the time and contains another set of calculations from the universal lease sales.

8. Numerous witnesses have reported to the FBI or testified about the lavish lifestyle maintained by Kelly. They speak of him purchasing four or five private homes in Cancun (each worth over \$1 million) for himself and members of his family, as well as at least one home in Panama. Kelly also purchased at least one private plane and had many personal cars, including a Porsche, Ferrari, Lincoln, Mercedes, Prowler and numerous Avantis. The witnesses also stated

that Kelly had two luxury yachts, each over 100 feet long (one that looked like “something out of James Bond”), as well as several other smaller boats. Kelly’s new yacht is over 100-feet long and named ‘Time’. It is registered out of Panama and flies a Canadian flag.

Ties to the United States

9. There are at least nine members of Kelly’s family currently residing in Cancun, Mexico. These include his wife, two sons and a daughter, his nephew, two cousins, a daughter-in-law and one grandson. Kelly’s last known United States located asset, the Avanti Motor Corporation in Villa Rica, Georgia, was dismantled and moved piece by piece down to Cancun in early 2006.

10. Kelly currently has a valid U.S. Passport, #026340395, which was issued June 29, 1998 and will expire June 28, 2008. On September 3, 2003, Kelly also received a Mexican Passport, #03400024773, which lists his nationality as “Mexicana”. There are also at least two witnesses who have seen Kelly in possession of a passport from Belize or other documents that indicated Kelly had Belizean citizenship. Until recently, Belize immigration officials kept their passport records manually and do not have the manpower to go through the thousands of records by hand.

11. Before coming to the United States on December 20, 2006, Immigration and Customs records show that Kelly’s last visit to the United States was in May of 2004. He did not enter the United States at all in 2005 and for the vast majority of 2006. In 2001, Kelly visited the US approximately 20 times. In 2002 and 2003, this number dropped to eight and five trips, respectively. At the same time, Kelly was making frequent trips to Panama, Cancun and Belize, as noted from a review of the stamps in his US Passport.

Affidavits in Defendant’s Motion

12. The Defendant’s Motion for Release On Bail Pending Trial contains, inter alia, two affidavits that are presumably submitted to bolster Kelly’s reputation for truthfulness and integrity. One of these affidavits is from Roderick Curtis Fischbach. From a review of a spreadsheet prepared by Kevin Barrett from the SEC, it appears that, from October 2001 through October 2004, Fischbach received approximately \$346,400 from three US bank accounts held in the names of Yucatan Resorts and Resort Holdings International, both of which are Kelly-

controlled entities.

13. Another affidavit in Defendant's Motion was submitted by Meyer Robinson, one of the owners of a company called Meyer Fredericks. A review of the bank records by Barrett also indicates that, from February 2003 through January 2004, a total of \$48,345 was paid to Meyer Fredericks from the Avanti Motor Corporation account at the West Georgia National Bank.

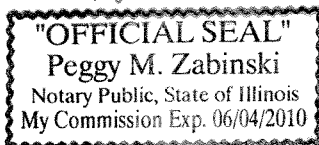
Additional Exhibits

14. Government's Exhibit 3 is a compilation of letters and notes from or on behalf of investors in the universal leases regarding Kelly's detention hearing. To date, the FBI and the United States Attorney's Office has had contact with over 1,000 potential victims. Many of these individuals are senior citizens.

15. Government Exhibit 4 is a preliminary Guideline sentencing calculation for the offense charged in the criminal complaint.

AFFIANT FURTHER SAYETH NOT.

Peggy M. Zabinski



SA Jennifer Lea French
SA Jennifer Lea French, FBI

Date: February 16, 2007