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M-06- 817

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TO BE FILED UNDER SEAL

UNITED STATES OF AMERICA

- against -

JACOB ALEXANDER,
also known as "Kobi Alexander,"
DAVID KREINBERG and
WILLIAM F. SORIN,

Defendants.

- X

AFFIDAVIT IN SUPPORT
OF ARREST WARRANTS

(18 U.S.C. § 371)

TABLE OF CONTENTS

INTRODUCTION 3

BACKGROUND 3

A. The Business of Comverse 3

B. The Defendants 4

BACKDATING TO EVADE THE ACCOUNTING, DISCLOSURE AND TAX CONSEQUENCES OF GRANTING IN-THE-MONEY OPTIONS 6

A. The Process of Granting Options, Generally 6

B. The Backdating of Options 7

i. Accounting Consequences 8

ii. Shareholder Impact and Disclosure Issues 9

iii. Tax Consequences 12

Grants to Employees 12

Grants to Highly-Paid Executives 13

THE BACKDATING SCHEME 13

A. The Process of Backdating 15

B. Backdating of Company-Wide Grants 18

i. The 1998 Company-Wide Grant 18

ii. The 1999 Company-Wide Grant 19

iii. The 2000 Company-Wide Grant 20

iv. The 2001 Company-Wide Grant 22

C. Backdating for New Hires 22

THE PHANTOM/FARGO OPTIONS SLUSH FUND 24

FALSE AND MISLEADING STATEMENTS IN CTI'S PUBLIC FILINGS 28

A. Proxy Statements and Stock Option Plans 29

i. The 1999 Proxy Statement and 1999 Stock Option Plan 29

ii. The 2000 Proxy Statement and 2000 Stock Option Plan 30

iii. The 2001 Proxy Statement and 2001 Stock Option Plan 31

iv. Special 2001 Proxy Statement and Repricing of Options 32

B. Annual and Quarterly Reports 33

FALSE AND MISLEADING STATEMENTS TO INSTITUTIONAL INVESTORS 34

FALSE AND MISLEADING STATEMENTS AND, FINALLY, ADMISSIONS, ONCE THE SCHEME COMES TO LIGHT IN MARCH 2006 36

A. Lies Occasioned by the Wall Street Journal Inquiry 37

B. Admissions and False Statements to the CTI Lawyer 40

C. Lies to CTI's Auditor in March 2006 42

D. Tampering with the Equity Edge Options Database 44

E. False and Misleading Statements and Admissions to the Special Committee 46

i. Admissions by ALEXANDER 46

ii. Omissions and Admissions by KREINBERG 47

iii. Half-Truths and Evasions by SORIN 48

CONCLUSION 50

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AFFIDAVIT IN SUPPORT OF ARREST WARRANTS

(18 U.S.C. § 371)

EASTERN DISTRICT OF NEW YORK, SS:

KEVIN RIORDAN, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation, duly appointed according to law and acting as such.

Upon information and belief, in or about and between 1998 and 2002, within the Eastern District of New York and elsewhere, the defendants JACOB ALEXANDER, also known as "Kobi Alexander," DAVID KREINBERG and WILLIAM F. SORIN, together with others, did knowingly and willfully conspire to (1) use and employ manipulative and deceptive devices and contrivances directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails, in contravention of Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission (Title 17, Code of Federal Regulations, Section 240.10b-5), and directly and indirectly to (a) employ devices, schemes and artifices to defraud; (b) make

untrue statements of material fact and omit to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engage in acts, practices and a course of business which would and did operate as a fraud and deceit upon members of the investing public, in connection with purchases and sales of the securities of Comverse Technology, Inc., in violation of Title 15, United States Code, Sections 78j(b) and 78ff; and (2) devise a scheme and artifice to defraud shareholders and the investing public, and to obtain money and property from shareholders and the investing public by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, and attempting to do so, (a) to cause mail matter to be delivered by the United States Postal Service according to the directions thereon, in violation of Section 1341 of Title 18 of the United States Code, and (b) to transmit and cause to be transmitted, by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds, in violation of Section 1343 of Title 18 of the United States Code.

(Title 18, United States Code, Section 371).

The source of your deponent's information and the grounds for his belief are as follows:[1/]

[1/]Because the purpose of this Affidavit is to set forth only those facts necessary to establish probable cause to arrest, I have not described all of the relevant facts of which I am aware. Where actions, conversations and statements of others are related in this Affidavit, they are related in substance and in part. In addition, all dates set forth in this Affidavit are approximate and inclusive.

INTRODUCTION

1. I have been a Special Agent with the Federal Bureau of Investigation for four years. I am primarily responsible for investigating white-collar crime, including violations of the federal securities laws.

2. I have personally participated in the investigation of certain former officers and employees of Comverse Technology Inc. ("CTI"), including the defendants JACOB ALEXANDER, also known as "Kobi Alexander," DAVID KREINBERG and WILLIAM F. SORIN. I have also spoken to other agents concerning this investigation and am familiar with information that has been developed during the course of this investigation. The facts set forth in this Affidavit are derived from, among other investigative techniques, interviews of witnesses, review of documents obtained pursuant to subpoenas, and review of documents produced by CTI and other sources.

BACKGROUND

A. The Business of Comverse

3. At all times relevant to this Affidavit, CTI was a New York corporation with its headquarters in Woodbury, New York.[2] Beginning in 1986, CTI was a publicly traded corporation, the common stock of which was traded on the NASDAQ National Market System ("NASDAQ") (symbol: CMVT). Through Comverse Inc., a wholly-owned subsidiary, CTI was a provider of software and software systems for communication and billing services. Other CTI business units included: Verint Systems (NASDAQ: VRNT), based in Woodbury, New York, a

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[2]In 2005, CTI moved its headquarters to Manhattan, but continued to maintain offices on Long Island.

provider of analytic software-based solutions for communications interception, networked video security and business intelligence; and Ulticom (NASDAQ: ULCM), a provider of service-enabling signaling software for wireline, wireless and internet communications. CTI was a component stock in the S&P 500 and NASDAQ-100 indices. CTI's shareholders were located throughout the United States, including in the Eastern District of New York.

4. As a public company, CTI was required to comply with the rules and regulations of the United States Securities and Exchange Commission (the "SEC"). The SEC's rules and regulations were designed to protect members of the investing public by, among other things, ensuring that a company's financial information was accurately recorded and disclosed to the investing public. Under the SEC's rules and regulations, CTI and its officers were required to file with the SEC quarterly reports (on Form 10-Q) and annual reports (on Form 10-K) which included financial statements that accurately presented CTI's financial condition and the results of its business operations in accordance with Generally Accepted Accounting Principles ("GAAP"). CTI was also required to disseminate and file annual proxy statements to shareholders (on Form 14-A) setting forth accurate information about matters to be brought to a vote at annual shareholder meetings.

B. The Defendants

5. On May 1, 2006, CTI announced in a press release that ALEXANDER, KREINBERG and SORIN had resigned their positions from CTI in the midst of an internal investigation by a Special Committee of CTI's Board of Directors (the "Special Committee"). Until that time, the defendants held various executive positions during specified periods at CTI

as set forth below.[3]

6. ALEXANDER, a founder of CTI, was the Chief Executive Officer ("CEO") of CTI and Chairman of the Board of Directors.[4] ALEXANDER reviewed and approved CTI's public filings. As CEO and Chairman, ALEXANDER signed CTI's annual and quarterly public filings. ALEXANDER received a bachelor's degree in economics from Hebrew University of Jerusalem, and a master's degree in finance from New York University.

7. KREINBERG was the Chief Financial Officer ("CFO") of CTI, reporting to ALEXANDER.[5] KREINBERG is a certified public accountant ("CPA") and was previously a senior manager at Deloitte & Touche LLP, CTI's outside auditor.[6] KREINBERG reviewed and approved CTI's public filings. During his tenure as CFO, KREINBERG signed CTI's annual and quarterly public filings. KREINBERG received a bachelor's degree in accounting from Yeshiva University, and a master's degree in finance and international business from Columbia University.

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[3]The information in this section and in paragraph 3 is based on interviews of CTI's employees, and is corroborated by CTI's public filings and press releases.

[4]ALEXANDER was a director of CTI from its formation, and became Chairman in September 1986. ALEXANDER served as President of CTI from its formation until January 2001. In April 1987, ALEXANDER was named CEO.

[5]Beginning in April 1996, KREINBERG was Vice President of Finance and Treasurer. He was named Vice President of Finance and CFO in May 1999, and Executive Vice President and CFO in September 2002.

[6]KREINBERG still holds a CPA license but allowed his registration to lapse when he left Deloitte & Touche LLP.

8. SORIN was CTI's General Counsel from the company's inception, reporting to ALEXANDER.[7] SORIN was also Corporate Secretary and a Director of CTI. SORIN drafted and participated in drafting CTI's stock option plans and public filings, and he signed CTI's annual filings and submitted the proxy statements. SORIN is an attorney, a member of the New York bar, and a graduate of Harvard Law School.

BACKDATING TO EVADE THE ACCOUNTING, DISCLOSURE AND TAX CONSEQUENCES OF GRANTING IN-THE-MONEY OPTIONS

A. The Process of Granting Options, Generally

9. This investigation concerns the backdating of CTI's option grants. An option is the right to buy a share of stock on a future date (typically at the end of a vesting period) at a set price, known as the "exercise" or "strike" price. The exercise price is ordinarily the trading price of the stock (i.e., the fair market value) on the day that the option was granted by a corporation's board of directors or, typically, the board's compensation committee. The holder of an option makes a profit by exercising the option to buy the stock at the end of the vesting period at the locked-in exercise price, and selling the stock when it is trading at a higher price than the exercise price. Options with an exercise price equal to the current trading price of the underlying stock are commonly referred to as being "at the money"; options with an exercise price below the current trading price of the stock are "in the money"; and options with an exercise price above the current trading price of the stock are "under water." Options that are in the money have a so-called "paper profit" associated with them, meaning that the options have

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[7]From CTI's inception until 2003, SORIN was General Counsel of CTI, then the highest legal position within CTI. In 2003, a new General Counsel was named and SORIN was named Senior General Counsel.

value based on the difference between the exercise price and the current trading price, although the holder has not yet reaped the actual profit by exercising the option and selling the stock, and may need to wait until the end of a vesting period to do so.

10. To illustrate these principles by way of example, a compensation committee may decide to grant 100,000 options to the company's CEO on June 1 with an exercise price at the fair market value of the underlying stock. If the stock's trading price on June 1 is $40 per share, the CEO is granted 100,000 options at $40 per share. One month later, if the stock price has risen to $50 per share, the CEO's options are "in the money," and the CEO has a paper profit of one million dollars ($10 x 100,000). If, on the other hand, the stock price has dropped to $30 per share, the CEO's options are "under water," because the CEO would lose money ($10 per share) upon the exercise of the options at the exercise price of $40 per share and the sale of that stock at the trading price of $30 per share.

11. When a company grants in-the-money options, i.e., options with an exercise price below the current trading price, this event has significant accounting, disclosure and tax consequences as set forth below. One way for executives to reap the benefit of in-the-money-options while evading these accounting, disclosure and tax consequences is to backdate the options so as to conceal the fact that the company has granted in-the-money options.

B. The Backdating of Options

12. Backdated options are options that are intended to appear to have been granted on a certain date at the fair market value (i.e., the trading price) of the underlying stock on the date of the grant, but were actually granted on a later date. One motive for backdating is to fix a lower exercise price for the options, thereby awarding in-the-money options and inflating

the gain to the holder of the options. Backdated options, therefore, are typically backdated to a date on which the stock was trading at a lower price than the price on the day of the actual grant. By fixing an earlier date as a grant date, the company makes it appear that the options were granted at fair market value – the trading price of the stock on that earlier date. In this way, the holder of the option has received in-the-money options and therefore has a head start on the spread between the exercise price and the current trading price. One motive for backdating is to evade the accounting, disclosure, and tax consequences of granting in-the-money options.[8]

i. Accounting Consequences

13. The granting of in-the-money options has significant accounting consequences. Essentially, the granting of in-the-money options conveys compensation and therefore should be "expensed" (i.e., deducted from revenue as a compensation expense). Specifically, during the relevant period, CTI followed Accounting Principles Board Opinion No. 25, Accounting for Stock Issued to Employees ("APB 25"), which provides that a company need not expense options granted at the money. This means that CTI was not required to deduct from revenue any compensation expense for granting options priced at the money on the date of the grant. However, under APB 25, CTI was required to expense any options granted with an exercise price *less* than the fair market value of the underlying shares on the date of the grant (i.e., in-the-money options).[9] Backdating options would lead to a violation of this accounting

[8]With respect to the following subsections, I have conferred with Assistant U.S. Attorneys familiar with the legal, tax and accounting issues described.

[9]Under APB 25, a company is required to recognize compensation expense from stock options unless the employee will pay an exercise price at least equal to the quoted market price of the stock on the measurement date. The measurement date is the date when both the number of shares that individuals are entitled to receive and the exercise price are known. Effective for

rule if CTI did not expense the in-the-money option grants over the vesting period. Notably, misstatements (such as the failure to expense the grant of in-the-money options) that have the effect of increasing management's compensation, or which involve concealment of an unlawful transaction, "may well render material a quantitatively small misstatement of a financial statement item."[10]

ii. Shareholder Impact and Disclosure Issues

14. The granting of in-the-money options has significant consequences for shareholders and therefore must be disclosed in the company's filings. CTI acknowledged in its proxy statements that it was required to obtain shareholder approval of its stock option plans in order to meet certain tax requirements set forth below and for stock available to be used for incentive stock options to be approved for trading on NASDAQ. During the years at issue, CTI's stock option plans, as described in and attached to CTI's proxy statements and approved by shareholders, required that "incentive stock options," which qualify for certain beneficial tax treatment explained below, be priced at the money or higher. Backdating options to an earlier

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fiscal years beginning after June 15, 2005, FAS No. 123R, Share-Based Payments, requires companies to expense the fair value of stock options over the employee's vesting period, even where the options were granted at the money.

[10]SEC Staff Accounting Bulletin: No. 99 ("SAB 99") – Materiality (Nov. 2, 1999), 1999 WL 1123073, 17 C.F.R., pt. 211, subpt B. The SEC's Office of Chief Accountant issues Staff Accounting Bulletins to provide "interpretations and practices followed by the [SEC's] Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws." Id. SAB 99 "provides guidance in applying materiality thresholds to the preparation of financial statements filed with the Commission and the performance of audits of those financial statements." Id. Although SAB 99 does not have the force of law, the Second Circuit has described it as "thoroughly reasoned and consistent with existing law," and found that it provides "persuasive guidance for evaluating the materiality of an alleged misrepresentation." United States v. Ganino, 228 F.3d 154, 162 (2d Cir. 2000).

date when the stock was trading at a lower price would violate the terms of the plan in that respect. The plans did allow CTI to grant in-the-money "nonqualified options" (i.e., options that were not eligible to receive the beneficial tax treatment set forth below). However, as set forth in detail below, in the proxy statements and other public filings, and in communications with certain large institutional investors, CTI repeatedly represented that all stock options (incentive and nonqualified) were granted with an exercise price equal to the fair market value of the underlying shares on the purported date of the grant.

15. CTI's stock option plans during the relevant years typically provided for a vesting period of four years.[11] Under this provision of the plans, 25 percent of the options would vest at the end of the first year, and 6 1/4 percent of the options would vest every quarter after that (for an aggregate rate of 25 percent per year). Thus, the award of in-the-money options would allow employees to cash in their profits on 25 percent of their options at the end of a year, and the rest in increments according to the schedule just described. The backdating of options would cause an improper truncation (of weeks or months, depending on the extent of the backdating) of the requisite vesting period in violation of the plan.

16. As set forth in detail below, CTI presented its proposed stock option plans to shareholders for their approval. CTI promoted its stock option plans to shareholders on the premise that these plans would serve shareholder interests because executives and employees would work harder to contribute to a rise in the stock price if they had a stake in the future success of the company. Options granted in the money would undermine that premise by serving at least in part as a bonus, rather than as an incentive. Granting secretly backdated, in-the-money

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[11]Some plans had a three-year vesting period.

options also disguises the fact that the company is paying higher compensation to executives and employees. Furthermore, secretly backdated, in-the-money options provide a fraudulent discount to the exercise price of the underlying shares in violation of the terms of the shareholder-approved plan with respect to incentive stock options and the company's public disclosures with respect to all options. By granting in-the-money options, the company forgoes using cash to compensate its employees and instead conveys to the employees a right to pay less than the investing public for shares of company stock. The undisclosed paper gain in the options rewards an employee for prior service rather than providing an incentive for future service, without disclosure or shareholder approval of this kind of compensation.

17. Secretly backdating options to achieve an exercise price below the fair market value of the stock disadvantages and misleads shareholders because – due to the need to expense the options – stated profits are, or should be, reduced, and if they are not reduced, then the financial statements are false. In addition, the exercise of in-the-money options boosts the number of outstanding shares without requiring a commensurate capital contribution, thereby diluting the value of other shareholders' holdings.

18. The granting of in-the-money options costs a company money because it contractually obligates the company to sell stock to its own employees at a discounted price. It disadvantages shareholders because employees get an immediate discount on the exercise price of the options. For these reasons, among others, the company must disclose the granting of in-the-money options.[12]

[12] "Full disclosure of [management] remuneration is necessary to informed voting and investment decisions, regardless of whether the company's board of directors or its security holders have approved the remuneration package received by management because of the

iii. Tax Consequences

19. Grants to Employees. Secretly backdating options to a date with a lower trading price of the stock could lead to improper tax treatment as well. For incentive stock options, employees need not pay ordinary income taxes on the difference between the exercise price and the market price at the time of the exercise as long as they hold the stock for the requisite holding period.[13] Rather, the employee pays tax at the lower capital gains rate on the disposition, based on the exercise price. At the same time, the company may not deduct on its corporate income tax returns any compensation expense for the difference between the exercise price and the market price of the stock upon exercise of the option. However, to qualify as an incentive stock option, the grant must be at the money. Otherwise, the purportedly incentive stock option reverts to nonqualified status. For nonqualified (i.e., non-incentive) options, the employee pays ordinary income tax on the difference between the exercise price and the market price at the time of the exercise, and the company is entitled to deduct that same amount as compensation expense. Thus, the granting of backdated, in-the-money incentive stock options could lead to the filing of false individual income tax returns, to the detriment of the United States Treasury.

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substantial influence of management in determining its remuneration. In addition, a determination of the value of any new securities being offered and of any securities already owned, an analysis of the use of corporate funds and assets and an assessment of the value of management to a corporation necessitate the presentation of complete remuneration information." SEC Release No. 5856 - Disclosure of Management Remuneration (1977), 1977 WL 186972.

[13]To enjoy these tax benefits, the employee must hold the options for one year from the date of grant and for an additional year from the date of exercise.

20. Grants to Highly-Paid Executives. Also pertinent is the impact of backdating on the deductibility of executive compensation. The Internal Revenue Code ("I.R.C."), Section 162(m), generally limits the deductibility of certain executive compensation to one million dollars per executive per year. An exception is made for certain performance-based compensation, including stock options granted at the money. In its proxy statements and other public filings, as set forth in detail below, CTI falsely represented that all stock options intended to qualify as performance-based compensation under I.R.C. Section 162(m) were granted at the money. The award of in-the-money options, due to backdating, could lead a company to violate Section 162(m) and file false tax returns by deducting improperly valued options as executive compensation expense.

THE BACKDATING SCHEME

21. As set forth in detail below, the investigation has disclosed that ALEXANDER, KREINBERG and SORIN engaged in a scheme to backdate millions of stock options to themselves and their employees to days when the stock of CTI was trading at periodic low points.[14] The defendants backdated every company-wide grant from 1998 through 2001, and they backdated grants of options to new employees. ALEXANDER was awarded by far the most options every year, and KREINBERG and SORIN typically ranked in the top ten in terms of the most options awarded. ALEXANDER made millions of dollars in profits on paper as a result of these in-the-money grants, while KREINBERG and SORIN each made in excess of a million

[14]Documents and witness interviews show that KREINBERG, with SORIN's knowledge, engaged in a similar scheme at Ulticom, a former wholly-owned subsidiary of CTI, once Ulticom went public.

dollars in profits on paper.

22. The defendants reaped substantial personal gain from their fraudulent conduct. From 1991 through 2005, ALEXANDER exercised options (granted from 1991 through 2003) and sold stock worth approximately $150 million, of which approximately $138 million was profit. Preliminary analysis shows that almost $6.4 million of that profit was due to backdating.[15] In 2000 alone, due to the exercise of options granted in 1994,[16] ALEXANDER made total profits of approximately $86 million, of which approximately $1.3 million was due to backdating. Also, in 2005 and early 2006, ALEXANDER exercised over $11 million worth of backdated options that were previously underwater until they were fraudulently repriced in 2002, as set forth in detail below, and approximately $5.3 million of this amount was profit.

23. From 1996 through 2006, KREINBERG exercised options (granted from 1994 through 2003) and sold stock worth approximately $18 million. He gained approximately $12.6 million in profits. Preliminary analysis shows that nearly $1 million of these profits was due to backdating.[17]

24. From 1998 to 2001, SORIN exercised options (granted from 1991 through 1999) and sold stock worth approximately $17 million. He gained approximately $14 million in

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[15]From 1998 through 2002, ALEXANDER received approximately $2 million in total salary and approximately $15.5 million in total bonuses from CTI.

[16]As set forth in the last section of this Affidavit, KREINBERG has told the Special Committee that the backdating scheme was already in effect when he joined CTI, which was in 1994.

[17]From 2000 (the first year after KREINBERG was made CFO in mid-1999) through 2002, KREINBERG received approximately $560,000 in total salary and approximately $270,000 in total bonuses from CTI.

profits. Preliminary analysis shows that more than $1 million of these profits was due to backdating.[18]

A. The Process of Backdating

25. Until approximately 1997 or 1998, SORIN handled the paperwork necessary for the issuance of grants, with assistance from another employee (the "Assistant").[19] Beginning in approximately 1997 or 1998, ALEXANDER asked the Assistant to assume the burden of most of the paperwork for the options process, in coordination with SORIN.

26. During this latter period, typically, ALEXANDER contacted the Assistant to advise that the company would be making a grant, and that the managers of CTI's various business units would be sending proposed lists of employees and the recommended number of options to be issued to each of them. Upon receipt of this data, the Assistant compiled a comprehensive list of proposed employees and the recommended number of options for each person (the "grantee list"). The grantee list was in constant flux as managers added, deleted, and changed employee names and option amounts.

27. Once this list was completed for purposes of submission to the Stock Option and Remuneration Committee ("the "Compensation Committee") of the Board of Directors, either ALEXANDER or KREINBERG, at various times, instructed the Assistant to prepare packets for the Compensation Committee.[20] At this stage, ALEXANDER or

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[18]From 1998 through 2002, SORIN received almost $1 million in fees from CTI.

[19]The information in this section is generally derived from debriefings of the Assistant and other witnesses, and a detailed review of documents.

[20]The Compensation Committee was usually asked to act by having each member sign a form of unanimous written consent. Under New York law and CTI's by-laws, for the form to be

KREINBERG gave the Assistant a prior date when the stock was trading at a lower price (the backdated date) and the strike price (the price of the stock on that backdated day) to insert into the unanimous written consent form as the effective date of the grant (an "as of" date). The Assistant then sent, typically via overnight courier, the grantee list and the unanimous written consent forms to the members of the Compensation Committee. The Assistant typically included a cover letter with instructions. The cover letters typically bore the true date of the submission to the Compensation Committee, and attached unanimous written consents with backdated "as of" dates and prices. The unanimous written consent forms, for which SORIN had created the template, did not, however, reflect the true date of submission to the Compensation Committee; nor did they contain a place for the Committee members to indicate the actual date that they signed the forms. The only date reflected on the forms was the backdated "as of" date of the grant. This was done to conceal the true date of the grant. SORIN received contemporaneous copies of these documents.

28. The following day, the Assistant typically received signed unanimous written consents by fax from each member of the Compensation Committee, although the receipt of these was sometimes delayed. The Assistant later received the original unanimous written consents by overnight courier.

29. Until approximately 2002, the defendants treated the grantee list as a work in progress even after the Compensation Committee had approved it. Both the names of employees receiving grants and the number of options granted to individuals changed at the

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effective as corporate action, all members of the Committee must agree. The unanimous written consent was in lieu of a meeting, in person or by telephone, in which a quorum of the Committee could act.

request of management, although the total number of options granted was not increased. Prior to 1996, SORIN managed and maintained stock option data in an Excel spreadsheet, and from 1996 to the present, the Assistant managed the option data through a software program called "Equity Edge." The Assistant used templates provided by SORIN to create the unanimous written consent forms and related option agreements.

30. My co-case agent and I have interviewed several members of the Compensation Committee. Two long-serving members indicated that they typically received telephone calls from SORIN prior to receiving the unanimous written consent forms. In those calls, SORIN generally indicated the total number of options to be issued, and the number to be issued to ALEXANDER. Based on that information, these two members gave what they believed to be oral consent for the grants, although one of them reserved the right to change his/her mind upon reviewing the proposed grantee list.[21] These members then subsequently received unanimous written consent forms memorializing grants that were "as of" a prior date. Upon receiving these unanimous written consent forms, these two members assumed, in reliance on SORIN, that the date of the grants was "as of" the date of the telephone calls (when in fact, the investigation has shown that those calls came after the "as of" dates, and no corporate action whatsoever occurred on the "as of" dates). Both members stated that they did not know that the "as of" date carried a lower trading price and did not intend to grant in-the-money options. A

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[21] I am informed by an Assistant U.S. Attorney that, under New York corporate law and CTI's by-laws, oral consent of Compensation Committee members communicated individually to the company was not sufficient to serve as corporate action approving the grant. Moreover, the unanimous written consent was not effective until the company received the written consent of all members. This is to be distinguished from a telephonic board meeting, for example, in which a quorum of members discuss and then vote on an issue.

third member, who joined the Compensation Committee in time to participate in one of the grants in late 2001, indicated that he/she was not asked to give and did not give oral consent for that grant, and did not intend to grant in-the-money options.

31. Another long-serving member of the Compensation Committee was ALEXANDER's sister, whose former husband had formed the company with ALEXANDER. In an interview with the Special Committee, ALEXANDER's sister provided a version of the process generally consistent with that of the two long-serving members, as described in the prior paragraph. To my knowledge, no member of the Compensation Committee has stated that he or she received a call about the options on any of the "as of" dates listed on the unanimous written consent forms. Moreover, as set forth in the last section of this Affidavit, the defendants have admitted that no corporate action occurred on the "as of" dates, because ALEXANDER "looked back" to pick a date with a lower stock price, and SORIN placed calls to the Compensation Committee after the "as of" dates listed on the unanimous written consent forms.

B. Backdating of Company-Wide Grants

32. The defendants repeatedly backdated CTI's annual company-wide option grants to themselves, other executives and employees, as set forth in part below.

i. The 1998 Company-Wide Grant

33. For the year 1998, CTI issued a company-wide option grant dated "as of" October 9, 1998. However, the grant did not occur on that date. Rather, in an e-mail dated October 15, 1998, the Assistant stated that the grantee list would be going to the Compensation Committee the next day. By cover letter also dated October 15, 1998, the Assistant sent to the Compensation Committee unanimous written consent forms dated as of October 9, 1998. On

October 9, 1998, CTI's stock price was $30, the second lowest price on any day in 1998;[22] on October 15, it was $36.50, and generally continued to climb thereafter. Thus, the options were in the money by at least $6.50 per share. The total number of options granted was approximately 744,000, with 250,000 awarded to ALEXANDER (paper profit of $1.625 million), 10,000 to KREINBERG (who was not yet CFO) (paper profit of $65,000), and 7,500 to SORIN (paper profit of $48,750). ALEXANDER received the most options – five times as many as any other employee.[23] Only eight employees received more options than KREINBERG.

ii. The 1999 Company-Wide Grant

34. For the year 1999, CTI issued a company-wide grant dated "as of" October 18, 1999. However, as the defendants knew, the grant did not occur on that date. Records show that the grant did not occur until late November at the earliest. Specifically, on November 24, 1999, the Assistant sent an e-mail to KREINBERG and others, with a copy to ALEXANDER, stating: "I understand from Kobi that he had approved the listing of grants as submitted. I then sent the appropriate documentation to the Stock Option Committee of the Board of Directors and should get their approvals today." On October 18, 1999, the backdated day selected for the grant, CTI's stock was trading at $93, the lowest price since the last shareholder meeting of October 9, 1999, when the shareholders approved the 1999 stock option plan.[24] The earliest possible date

[22]The previous day, on October 8, 1998, the stock closed six cents lower, at $29.94.

[23]Two executives received 50,000 options each.

[24]As set forth below, CTI disclosed in its 1999 proxy statement, filed on September 7, 1999, that it did not have enough stock reserved under its pre-1999 stock option plans to make another company-wide grant. Therefore, CTI had to wait until the shareholder meeting on October 9, 1999, before issuing a company-wide grant. This means that the defendants could not backdate to a day before October 9, 1999 without attracting suspicion.

that the October 18, 1999, grant, with an exercise price of $93, was approved was on November 24, 1999 (the date of the Assistant's e-mail), when the stock was trading at $128.813. The stock was trending upward. This means that the options were in the money by at least $35.813 per share. The total number of options granted was over 3.83 million, with 315,000 awarded to ALEXANDER (paper profit of over $11 million), 37,500 to KREINBERG (paper profit of over $1.3 million), and 30,000 to SORIN (paper profit of over $1 million). ALEXANDER received the most options – almost four times more than any other employee.[25] Only seven employees received more options than KREINBERG did, and only nine received more than SORIN did.

35. With respect to this same 1999 grant, SORIN ensured that other documents, notifying employees of the grant, were backdated as well. Specifically, by e-mail dated April 13, 2000, the Assistant relayed an instruction from SORIN to backdate the notice of grant from CTI to its employees. In particular, the Assistant wrote: "Per Bill Sorin, date them the date of the grant – October 18, 1999." By omitting true date information, SORIN's conduct helped hide the fact that the grants were backdated.

iii. The 2000 Company-Wide Grant

36. For the year 2000, CTI issued a company-wide option grant dated "as of" November 30, 2000. However, as the defendants knew, the grant did not occur on that date. In an e-mail dated December 13, 2000, the Assistant stated that he/she understood from KREINBERG that "the option information has been finalized – it is November 30th at $85 per share." (In fact, the stock closed at $86.19 on November 30, 2000). CTI's stock price on

[25]One executive received 80,000 options.

November 30, 2000 was at its lowest point since the company's annual meeting on September 14, 2000, when the shareholders approved CTI's 2000 stock option plan.[26] The stock price on December 13, 2000, when the Assistant learned the chosen, backdated exercise date, was $112.125, or more than $27 above the (incorrect) price of $85 (rather than $86.19) used for November 30, 2000. The total number of options awarded was over 8.7 million, with 600,000 to ALEXANDER, 100,000 to KREINBERG, and 40,000 to SORIN.[27] Over 3,000 employees received options in this grant. ALEXANDER received the most options – more than twice as many as any other employee.[28] Only three employees received more options than KREINBERG, and only ten received more than SORIN did.

37. KREINBERG told the Assistant that SORIN had obtained oral approval from the members of the Compensation Committee, and therefore, he/she did not need to compile or send a grantee list. Instead, the Assistant was instructed to input the relevant information into the Equity Edge database and, once that was done, to forward unanimous

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[26]Given the size of the prior year's grant (3.8 million options), and the maximum amount of shares authorized for options under that year's plan (3.5 million options, plus whatever unvested options became available when employees left the company), it appears likely that CTI had to await approval of its 2000 stock option plan, as set forth below, at its annual shareholder meeting on September 14, 2000, before issuing a company-wide grant.

[27]This would have yielded paper profits of $16.2 million to ALEXANDER, $2.7 million to KREINBERG, and $1.08 million to SORIN. However, the defendants' scheme that year failed to enrich them. By the time the Compensation Committee executed the unanimous written consents several months later, on March 2, 2001, the options were under water. Specifically, the stock fell below $85 on February 26, 2001, for the first time since November 30, 2000 (the backdated day of the grant), and continued to fall, trading at $76 per share several days later when the Compensation Committee received the unanimous written consent forms. As set forth below, these underwater options were repriced a little over a year later.

[28]One executive received 250,000 options.

written consent forms, along with an Equity Edge report, to the Compensation Committee. The Assistant did so by cover letter dated March 2, 2001.

iv. The 2001 Company-Wide Grant

38. For the year 2001, CTI issued a company-wide grant dated "as of" October 22, 2001. However, as the defendants knew, the grant did not occur on that date. By cover letter dated November 28, 2001, the Assistant sent members of the Compensation Committee unanimous written consent forms dated as of October 22, 2001, and the grantee list.[29] CTI's stock price on October 22, 2001 was $16.05, the second lowest price of the year in 2001;[30] the price on November 28, 2001, was $21.01, and generally continued to rise. Thus, the options were in the money by nearly $5 or more per share. The total number of options granted was more than 9.4 million, with 600,000 to ALEXANDER (paper profit of $3 million), 125,000 to KREINBERG (paper profit of $625,000) and 27,000 to SORIN (paper profit of $135,000).

C. Backdating for New Hires

39. In addition to the backdating of company-wide option grants to executives and employees, the investigation has shown that the defendants arranged to reward new employees with in-the-money options backdated to days before the new employees had actually begun work. This was improper for two reasons. First, the defendants did not disclose these in-the-money grants to shareholders or account for them correctly. Second, CTI's option plans in effect at the time did not allow the granting of options to non-employees (other than directors).

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[29] CTI made changes to the list as late as January 2002.

[30] The stock was trading fifteen cents lower, at $15.90 per share, the next day, on October 23, 2001.

Because the grants were made effective before the new employees joined the company, the grants were being awarded to persons who were, as of the backdated date, non-employees of the company.

40. For example, by e-mail dated March 9, 2000, the Assistant requested information about the hire date of a particular employee ("New Hire #1") in connection with the October 18, 1999 grant so that the Assistant could create an account in the Equity Edge database. In response, the Assistant was informed that New Hire #1 was hired on "November 1, 1999," two weeks *after* the purported date ("as of" October 18, 1999) of the grant. Apart from the backdating problem with this grant, described above, this was improper because CTI's 1999 stock option plan did not permit the award of options to non-employees (other than directors). Moreover, CTI's stock price on October 18, 1999, the stated date of the grant, was $93 per share; the price on New Hire #1's start date of November 1 was $109.625 per share, giving New Hire #1 a paper profit of $16.625 per option.

41. In a separate incident, e-mail correspondence dated late August and early September of 2000 discloses that ALEXANDER had promised 40,000 options at a price of $76.125 to an employee joining the company ("New Hire #2") on Sunday, September 17, 2000. To fulfill ALEXANDER's promise, by e-mail dated August 31, 2000, KREINBERG asked SORIN to arrange for "a remuneration committee minute granting the 40,000" to New Hire #2, and directed the Assistant to give SORIN the latest date when the stock was trading at the promised price of $76.125. The Assistant could not find a date with that exact price; the closest price was $76.025, on August 11, 2000. When informed of these facts, on September 5, 2000, New Hire #2's manager stated that he/she was "positive" that New Hire #2 would accept this

lower exercise price, which would benefit New Hire #2. On Monday, September 18, 2000, the first trading date after New Hire #2 joined the payroll, CTI's stock price was $86.75, over $10 more than New Hire #2's exercise price. Apart from the backdating problem with this grant, CTI's 2000 stock option plan did not permit the granting of options to non-employees (other than directors). Nonetheless, New Hire #2 received in-the-money options, bearing an "as of" date when he/she did not work at the company, and made a profit, on paper, of over $400,000.[31]

THE PHANTOM/FARGO OPTIONS SLUSH FUND

42. In addition to the backdating scheme described above, the investigation has disclosed that ALEXANDER and KREINBERG used fictitious names to generate hundreds of thousands of backdated options, which they then parked in a secret slush fund designed to evade the requirements of CTI's stock option plans. ALEXANDER unilaterally awarded options from this slush fund to favored employees, with KREINBERG's knowledge, and KREINBERG falsified documents in order to hide the slush fund from the Compensation Committee and CTI's outside auditor.

43. The details of this aspect of the fraud include the following. In or about October 1999, ALEXANDER and KREINBERG instructed the Assistant to create a secret account in which to park options, to be available for ALEXANDER and KREINBERG to dole out to employees, as ALEXANDER saw fit, for recruitment and retention purposes. The Assistant created the secret account, as instructed, and initially named it "I.M. Fanton" [sic], a

[31]On Friday, September 15, the last trading date before New Hire #2 joined the company, CTI's trading price was $90.6875, at least $14 more than the exercise price on New Hire #2's options, leading to an immediate profit on paper of over $560,000.

derivation of "Phantom," later changing the name to "Fargo" (the "Phantom/Fargo account").[32]

44. At various times, ALEXANDER or KREINBERG instructed the Assistant to manufacture options to be parked in the Phantom/Fargo account. Specifically, they directed the Assistant to insert dozens of fictitious names into the proposed grantee list to be given to the Compensation Committee for the 1999 company-wide options grant (which, as described above, was backdated), and to propose approximately 5,000 options for each of these fictitious individuals. The purpose of this maneuver was to deceive the Compensation Committee into awarding grants to nonexistent persons, in small amounts that would not attract the Committee's attention.[33] The Assistant created the fictitious names, mixing and matching first and last names of his/her personal acquaintances, and interspersed them in the grantee list sent to the Compensation Committee, as instructed. After the Compensation Committee approved the grantee list, ALEXANDER and KREINBERG directed the Assistant to record the aggregate[34] of at least 200,000 options in the Phantom/Fargo account within the Equity Edge database. A subsequent 2-for-1 stock split resulted in a doubling of the number of Phantom/Fargo options.

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[32]The Assistant named the account "Fanton" after seeing "Phantom of the Opera," and explained that the name fit what he/she was being asked to do (i.e., create phantom employees). The Assistant changed the account name to "Fargo" (based on the movie of the same name) after thinking better of the wisdom of calling it "Phantom."

[33]As the defendants knew, members of the Compensation Committee sometimes asked questions of management if an employee whose name the members did not recognize was to receive more than 10,000 options.

[34]Some of these options were first transferred to other employees in small amounts before the Assistant entered the remaining options into the Phantom/Fargo account in Equity Edge.

45. In 2000, at ALEXANDER and KREINBERG's direction, the Assistant assigned an additional lump sum of over 200,000 options to the Phantom/Fargo account in Equity Edge. For this year, it was not necessary for the Assistant to create fictitious names, because, as set forth above, no separate grantee list was submitted to the Compensation Committee for the 2000 company-wide grant. Instead, the Committee was given a printout from the Equity Edge database along with the unanimous written consent forms. As a consequence, ALEXANDER and KREINBERG were able to instruct the Assistant to assign options directly to the Phantom/Fargo account. In addition, KREINBERG directed the Assistant to remove the line item for the Phantom/Fargo account from the Equity Edge report going to the Compensation Committee for that year's grant. This act of concealment was designed to deceive the Committee into approving a total number of options (which, as set forth above, were backdated) that would include the amount assigned to the Phantom/Fargo account, without the Committee being able to see the Phantom/Fargo line item.

46. In connection with the 2001 company-wide grant ("as of" the backdated date of October 22, 2001), ALEXANDER and KREINBERG directed the Assistant to insert within the grantee list going to the Compensation Committee an additional twenty-five fictitious employees to receive approximately 10,000 options each. Upon approval by the Compensation Committee, the Assistant entered the aggregate of approximately 250,000 options into the Phantom/Fargo account in Equity Edge.

47. On several occasions, ALEXANDER and KREINBERG arranged for options to be transferred from the Phantom/Fargo account to executives and employees of CTI. On one occasion in August 2000, ALEXANDER and KREINBERG instructed the Assistant to

transfer within the Equity Edge system approximately 48,000 options from Phantom/Fargo into the account of a top executive in Israel (the "Israeli executive") because the Israeli executive was unhappy with his/her compensation. Although the options had a four-year vesting period, ALEXANDER directed the Assistant to make the options for the Israeli executive immediately exercisable. This immediate vesting completely defeated the purpose of stock options as stated in CTI's public filings, to retain and incentivize CTI's employees.

48. The Israeli executive exercised the options the next day, when the stock was trading at nearly double the exercise price, and thereupon immediately sold his/her stock, realizing an instant $2 million profit, the equivalent of a cash bonus in that amount. In an e-mail notifying the Israeli executive about this grant of options, KREINBERG evinced his awareness of the effect on shareholders by stating: "Please try and have [the broker] sell the shares in slowly and not in one shot, so that the market can absorb the shares slowly and not hit the stock price."

49. In or about December 2000, another set of over 40,000 options from the Phantom/Fargo account was transferred to the same Israeli executive. These options were similarly made immediately exercisable, yielding another profit of approximately $2 million to the Israeli executive.[35]

50. KREINBERG took steps to secrete the Phantom/Fargo account from CTI's outside auditor, Deloitte & Touche LLP ("Deloitte & Touche"). In approximately 2000 or 2001, KREINBERG instructed the Assistant to remove from an Equity Edge report requested by

[35] Based on the investigation, I am aware of other instances in which options were transferred from the Phantom/Fargo account to various employees of and consultants to CTI and its affiliates. These options were similarly made immediately vesting.

Deloitte & Touche a particular page that reflected the existence of Phantom/Fargo.[36] The Assistant followed this instruction and physically removed the page with Phantom/Fargo account information from the report given to Deloitte & Touche. I have reviewed workpapers of Deloitte & Touche which show the same page missing from Equity Edge printouts in multiple years once the Phantom/Fargo account was opened.

51. At the instruction of ALEXANDER and KREINBERG, the Assistant closed the Phantom/Fargo account in Equity Edge on April 29, 2002.

FALSE AND MISLEADING STATEMENTS IN CTI'S PUBLIC FILINGS

52. From the inception of CTI, SORIN drafted and approved the company's proxy statements, annual and quarterly filings, and stock option plans. The proxy statements and annual filings were sent to CTI's shareholders by United States mail. KREINBERG participated in drafting financial portions of the filings. ALEXANDER and KREINBERG reviewed and approved these documents. Several employees have informed me that ALEXANDER carefully reviewed the draft filings, flagging typographical and other errors. According to one employee, ALEXANDER bragged about his meticulous review, saying, "How many CEOs do you know who read every word of the footnotes?" Set forth below is a description of some of the false statements and misrepresentations the defendants knowingly made about option grants in these publicly filed documents.

[36]Because Phantom was misspelled as "Fanton" in Equity Edge, entries for Fanton and Fargo would appear on the same page alphabetically.

A. Proxy Statements and Stock Option Plans

i. The 1999 Proxy Statement and 1999 Stock Option Plan

53. On September 7, 1999, CTI filed a proxy statement for an annual shareholder meeting to be held on October 8, 1999 in Melville, New York. The matters to be brought to a vote, as SORIN explained as Secretary of the Board, included: (1) amending the certificate of incorporation to increase from 100 million to 300 million the aggregate number of authorized shares of CTI's common stock, and (2) adopting CTI's 1999 Stock Incentive Compensation Plan (the "1999 Plan"), which the Board of Directors had approved and recommended to shareholders.

54. The proxy statement explained that one of the reasons for increasing the total number of authorized shares was that additional shares would be necessary to implement the 1999 Plan. On April 30, 1999, only 38,513 shares remained available for option grants under the Company's existing stock option plans. Under the 1999 Plan, 3.5 million additional shares would be made available for new options. The proxy statement acknowledged that the issuance of additional stock could adversely affect existing shareholders by diluting earning per share and voting power.

55. The proxy statement noted that the 1999 Plan would be administered by independent directors serving on the Compensation Committee, which would have the authority to determine "recipients, the timing of [a]wards and the type, size and terms of each [a]ward." The 1999 Plan would authorize both incentive and nonqualified stock options. However, the incentive stock options and any options designated as an I.R.C. Section 162(m) award under the 1999 Plan would have to be issued at fair market value of the stock "on the grant date."

56. Underneath a table disclosing option grants to CTI executives during the prior fiscal year, as the defendants knew, the proxy statement falsely stated: "The exercise price of the options is equal to the fair market value of the underlying shares at the date of grant." This statement was false and misleading because the defendants had backdated the options to earlier dates when the stock was trading at a lower price. The proxy statement also represented that stock options were designed to align the "interests of employees with the objectives of shareholders, generally," to build employees' long term commitment to CTI, and to meet the requirements of I.R.C. Section 162(m). These statements were false and misleading because the granting of in-the-money options effectively gave employees in part a bonus rather than a pure incentive to work hard to increase the stock price. Backdating the options did not fully align the interests of employees and shareholders, or put them on the same footing; employees had an advantage. Moreover, backdating eroded the requisite period of vesting, since the vesting period began from the backdated date.

57. At the annual meeting on October 8, 1999, the shareholders approved the 1999 Plan. As set forth above, with this new Plan in hand, in November 1999, the defendants issued a company-wide grant backdated to October 18, 1999, and ALEXANDER and KREINBERG launched the fraudulent Phantom/Fargo scheme.

ii. The 2000 Proxy Statement and 2000 Stock Option Plan

58. On July 20, 2000, CTI filed a preliminary proxy statement regarding matters to be brought to a vote at the annual shareholder meeting to be held in Melville, New

York, on September 15, 2000.[37] The matters to be brought to a vote, as explained by SORIN, Secretary of the Board, included: (1) amending the certificate of incorporation to increase the number of authorized shares from 300 million to 600 million; and (2) adopting the 2000 Stock Incentive Compensation Plan (the "2000 Plan"), under which up to nine million shares would be newly available for the issuance of options.

59. The 2000 proxy statement contained substantially the same false and misleading statements as the 1999 proxy statement.[38] At the annual meeting, the shareholders approved the 2000 Plan. As set forth above, the defendants then backdated a company-wide grant with a false date of November 30, 2000.

iii. The 2001 Proxy Statement and 2001 Stock Option Plan

60. On May 11, 2001, CTI filed a proxy statement regarding matters to be brought to a vote at the annual shareholder meeting to be held in Melville, New York, on June 15, 2001. The matters to be brought to a vote, as explained by SORIN, Secretary of the Board, included adopting the 2001 Stock Incentive Compensation Plan (the "2001 Plan"), under which 9.7 million shares would be newly available for the issuance of options.

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[37]The definitive proxy statement was filed May 11, 2001, and contained the same representations as the preliminary statement.

[38]Specifically, the 2000 proxy statement falsely stated that incentive stock options and any options designated as an I.R.C. Section 162(m) award under the 2000 Plan would be issued at fair market value of the stock "on the grant date." Underneath a table disclosing option grants to CTI executives during the prior fiscal year, as the defendants knew, the 2000 proxy statement falsely represented: "The exercise price of the options is equal to the fair market value of the underlying shares at the date of grant." The 2000 proxy statement repeated the misleading claim that stock options were designed to align the "interests of employees with the objectives of shareholders, generally," build employees' long term commitment to CTI, and meet the requirements of I.R.C. Section 162(m).

61. The 2001 proxy statement contained substantially the same false and misleading statements as the 1999 and 2000 proxy statements.[39]

62. At the annual meeting, the shareholders approved the 2001 Plan. As set forth above, the defendants subsequently backdated a company-wide grant with a false date of October 22, 2001.

iv. Special 2001 Proxy Statement and Repricing of Options

63. On December 13, 2001, CTI filed a proxy statement for a special shareholder meeting to be held in Melville, New York on January 29, 2002. The purpose of the meeting, as explained by SORIN as Secretary of the Board, was to approve the repricing of underwater options (i.e. options whose exercise price was greater than the current trading price of the stock). If approved, the options would be reissued and repriced at the fair market value of the stock no earlier than six months and one day following cancellation of the existing options.

64. In this proxy statement, CTI falsely stated: "Options granted by the Company under the Company's stock incentive compensation plans have exercise prices not less than market price of the Company's Common Stock as reported on the NASDAQ National Market System as of the respective dates of grant." Under a table disclosing options granted in the prior fiscal year (ending January 31, 2001), as the defendants knew, the proxy

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[39]Specifically, the 2001 proxy statement stated that incentive stock options and any options designated as an I.R.C. Section 162(m) award under the 2001 Plan would be issued at fair market value of the stock "on the grant date." In addition, underneath a table disclosing option grants to CTI executives during the prior fiscal year, as the defendants knew, the proxy statement falsely stated: "The exercise price of the options is equal to the fair market value of the underlying shares at the date of grant." The proxy repeated the misleading claim that stock options were designed to align the "interests of employees with the objectives of shareholders, generally," build employees' long term commitment to CTI, and meet the requirements of I.R.C. Section 162(m).

statement, referring to the options in the table, falsely represented: "The exercise price of the options is equal to the fair market value of the underlying shares at the date of grant." These statements were false and misleading because the options had been backdated to dates when the stock was trading at a lower price. The proxy statement represented: "The Exchange Offer is intended to realign the exercise price of previously granted options with the current trading price of the Company's Common Stock and thereby better enable the Company to motivate and retain its employees and achieve the Company's business goals." This statement was false and misleading because the defendants failed to disclose that the starting point (i.e., the exercise price) of the underwater options was below the fair market value of the underlying stock at the time of the grant.

65. At the special shareholder meeting, the shareholders approved the repricing plan.

B. Annual and Quarterly Reports

66. On April 30, 2002, CTI filed its annual report on Form 10-K, covering the fiscal year ended January 31, 2002. The financial statements in this report were false and misleading because the defendants had caused CTI to fail to expense the backdated, in-the-money options. The financial statements contained the following footnote in relevant part with respect to options:

> The Company applies Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees," and related interpretations in accounting for its option plans. Accordingly, *as all options have been granted at exercise prices equal to fair market value on the date of grant, no compensation expense has been recognized by the Company in connection with its stock-based compensation plans.*

(Emphasis added). Because the defendants had caused CTI to issue backdated options during calendar year 2001, the defendants knew these statements were false. CTI's annual reports for fiscal years ending January 31, 1999, January 31, 2000, and January 31, 2001, filed on April 26, 1999, May 1, 2000, and April 30, 2001, respectively, contained similar statements which the defendants knew to be false. ALEXANDER, KREINBERG and SORIN signed these false annual reports.

67. In addition, during the years at issue, the defendants caused CTI to issue quarterly filings containing financial statements which the defendants knew to be false because the defendants knew that CTI had failed to expense backdated options granted at less than the fair market value of the stock on the date of the grant. These false quarterly filings included CTI's quarterly report for the period ending October 31, 2001, filed on December 14, 2001. ALEXANDER and KREINBERG signed these false quarterly reports.

FALSE AND MISLEADING STATEMENTS TO INSTITUTIONAL INVESTORS

68. During the relevant period, a significant percentage of CTI's stock was owned by institutional investors. As the defendants knew, certain of these institutional investors were opposed to stock option plans (and some had internal policies to that effect) that allowed the company to grant options with exercise prices below the fair market value of the underlying stock. As set forth above, CTI's plans allowed the company to issue nonqualified stock options (but not incentive stock options) with exercise prices below the fair market value of the underlying stock, although CTI repeatedly represented in its public filings that it had never done so. When the stock option plans were presented to shareholders for approval, the provision allowing grants of in-the-money nonqualified options caused concern among certain institutional

investors, who pressed CTI to commit that it would not in fact issue options priced in that manner. As explained below, the defendants were aware of these concerns and falsely represented to these institutional investors that CTI would not issue any options with an exercise price below the fair market value of the underlying stock.

69. In or about early June 2001, two institutional investors voted or indicated their intention to vote against CTI's proposed 2001 Stock Option Plan (the "2001 Plan"). CTI sought to reverse those votes before the shareholder meeting scheduled for June 15, 2001. On or about June 8, 2001, CTI's investor relations representative (the "IR Representative") sent an e-mail about this issue to SORIN with copies to ALEXANDER and KREINBERG. The subject line of the e-mail stated that two investors were "willing to change vote in favor if we give them a few assurances in writing." In the e-mail, the IR Representative quoted a "list of demands" from one of the institutional investors (Investor #1), which controlled nearly 8 million shares. The "list of demands" is excerpted in relevant part below:

> In order to vote in favor of your firm's option plan, we would need to receive a letter, signed by the CEO or CFO of Comverse, certifying that notwithstanding the terms of the option plan, Comverse has never used, and will not in the future use, any of the following features of the plan:
>
> ...
>
> 3. [A]ny other option, with an exercise price less than the FMV [fair market value] at time of grant of the option.
>
> ...
>
> If you can fax me a letter to this effect, I will be able to change [Investor #1's] vote.

70. In the same June 8, 2001, e-mail to the defendants, the IR Representative wrote that another institutional investor (Investor #2) wanted an e-mail "stating that we will not

issue below market options (he said write that we never have, and will not; I'm guessing we can skip the part about the past)." Investor #2 owned over 17.3 million shares, or more than ten percent, of CTI's stock, making it CTI's second largest shareholder at the time.

71. In response to the concerns expressed by the institutional investors through the IR Representative, on June 11, 2001, SORIN drafted letters, which ALEXANDER and KREINBERG approved, addressed to both institutional investors. With respect to Investor #1, the letter falsely stated that CTI would not, without Investor #1's prior approval, "[g]rant any options . . . having an exercise or purchase price below the fair market value of the underlying shares at the date of grant or award." With respect to Investor #2, the letter falsely stated that CTI would not, without Investor #2's prior approval, "grant any options under the plan having an exercise price below the fair market value of the underlying shares at the date of grant." The IR Representative forwarded this representation by e-mail to Investor #2. As the defendants knew, these representations were false and misleading because the defendants had repeatedly engaged in the practice of issuing backdated, in-the money options, and intended to continue to do so. In fact, after the 2001 Plan was approved at the shareholder meeting on June 15, 2001, as set forth in detail above, the defendants arranged for CTI to issue a company-wide grant of in-the-money options with a backdated effective date of October 22, 2001.

FALSE AND MISLEADING STATEMENTS AND, FINALLY, ADMISSIONS, ONCE THE SCHEME COMES TO LIGHT IN MARCH 2006

72. As set forth in detail below, the defendants' unlawful scheme began to come to light in early March 2006, when a reporter from the Wall Street Journal (the "WSJ reporter") called CTI to inquire about an unusual pattern in the timing of CTI's stock option

grants. From that moment, ALEXANDER, KREINBERG and SORIN attempted to manufacture a coherent explanation of their unlawful conduct. In so doing, they: (a) approved false statements to be made to the WSJ, the financial paper of record for the investing public; (b) lied directly to a high-ranking in-house lawyer for CTI (the "CTI Lawyer"); and (c) lied to CTI's outside auditor. When the story they delivered began to fall apart, they began to make admissions about their conduct, yet tried to justify their unlawful behavior. KREINBERG tampered with evidence important to the Special Committee, and then hid this conduct from the Special Committee, while SORIN asserted a series of half-truths and evasions to the Special Committee.

A. Lies Occasioned by the Wall Street Journal Inquiry

73. On Friday, March 3, 2006, the WSJ reporter telephoned the Chairman of CTI's Compensation Committee (the "CC Chairman") in connection with a forthcoming article about an unusual pattern in the timing of CTI's stock option grants.[40] Later that evening, the WSJ reporter provided the CC Chairman charts showing that CTI had typically granted options to its executives on days when CTI's stock was trading at low points for relevant periods from 1991 through 2001. The CC Chairman faxed these charts to the CTI Lawyer, who in turn faxed them to ALEXANDER.[41] After reviewing the charts, ALEXANDER attempted to explain the

[40] I have reviewed contemporaneous e-mails, faxes and other documents produced by CTI concerning communications with the WSJ.

[41] I have participated in debriefings of the CTI Lawyer. The CTI Lawyer did not participate in the process of granting CTI's stock options during the years in question and is not implicated in this investigation. The information obtained in this section is generally derived from debriefings of the CTI Lawyer and other employees of CTI, and from documents.

unusual pattern by falsely telling the CTI Lawyer, in substance, "we picked good days" to issue stock options, meaning that the grant dates were fortuitous rather than backdated.[42] During the weekend, KREINBERG repeated this false statement to the CTI Lawyer.

74. On Sunday, March 5, 2006, ALEXANDER, KREINBERG, SORIN and the CTI Lawyer met at the offices of CTI in Manhattan to discuss the inquiry from the WSJ reporter. During this meeting, the defendants all falsely stated that ALEXANDER had noticed a dip in the stock price and picked that date, the same day, for an options grant. ALEXANDER expressed his view that there was "nothing wrong with that."

75. On Monday, March 6, 2006, after persons at CTI spoke again with the WSJ reporter, the CTI Lawyer met again with ALEXANDER, KREINBERG and SORIN, for the purpose of determining how to respond to the WSJ reporter's inquiry. During this meeting, ALEXANDER, KREINBERG and SORIN all falsely stated in substance that CTI had acted quickly when the stock price dropped, meaning that each grant date was selected and the grant approved on the day of a dip in the stock price, all within the same day. On March 5 or 6, 2006, SORIN falsely told the CTI Lawyer that the grants were done appropriately.

76. On Tuesday, March 7, 2006, based on false information provided by ALEXANDER, KREINBERG and SORIN to the CTI Lawyer, CTI issued a statement by e-mail to the WSJ reporter, approved by the defendants, stating: "Regarding your questions from yesterday, our response is: 'all grants of stock options to our management and employees were made in accordance with the applicable laws and regulations.' " The same day, the WSJ reporter

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[42] Where actions, conversations and statements of others are related in this Affidavit, including by quotation, they are related in substance and in part.

replied:

> Thanks for the response. I guess I was hoping for an answer to at least the basic question, which was: Did the board actually approve and grant the options on the dates listed in my table? Obviously it would be good to have answers to the other questions, but I think that one is of paramount importance.

This e-mail from the WSJ reporter provoked additional internal discussion at CTI, in which ALEXANDER, KREINBERG and SORIN repeated their same false statements to the CTI Lawyer that the grants were approved on the date of a dip in the stock price.

77. On Wednesday, March 8, 2006, again based on false information provided by ALEXANDER, KREINBERG and SORIN to the CTI Lawyer, CTI released a second statement to the WSJ reporter stating: "Regarding your question below, [the CC Chairman] has the following response: 'the options were approved on the dates in your table.' " Later that day, the defendants met with the CTI Lawyer and outside counsel for CTI. Before the meeting, the CTI Lawyer made it clear to the defendants that outside counsel for CTI represented CTI and not the defendants. During the meeting, SORIN claimed for the first time – falsely – that he had telephoned members of the Compensation Committee "*seriatim*" on the day of the dip in the stock price and obtained their oral approval to grant the options that day. SORIN further claimed that he had followed up on a subsequent date with unanimous written consent forms to members of the Compensation Committee to confirm their prior oral approval of the grants. As the discussion progressed, SORIN changed his story to say that perhaps only some calls were made to Committee members that day, and then to say that perhaps the calls were actually made a few days later.

B. Admissions and False Statements to the CTI Lawyer

78. On Thursday, March 9, 2006, ALEXANDER, SORIN and KREINBERG met with lawyers at a law firm in Manhattan. Upon their return to the offices of CTI, the defendants asked to meet with the CTI Lawyer. During this meeting, they announced that they had retained a law firm to represent them individually. The CTI Lawyer cautioned the defendants that the CTI Lawyer represented CTI and not the defendants. The defendants explained that there might be "issues," because, "hypothetically speaking," in substance, the calls to the Compensation Committee were not made on the date of the grant, and they had "looked back" during the option grant process. The CTI Lawyer abruptly terminated the conversation and stated his/her intent to call an emergency meeting of the Board of Directors to report this turn of events. The CTI Lawyer immediately began that process. Subsequently, ALEXANDER and KREINBERG repeatedly told the CTI Lawyer that he/she was overreacting and importuned the CTI Lawyer to handle the internal investigation personally instead of hiring independent counsel. The CTI Lawyer declined the defendants' request.

79. On Friday, March 10, 2006, the Board of Directors of CTI met and decided to form a Special Committee to investigate the timing of the company's grant of stock options.

80. On Sunday, March 12, 2006, CTI issued a statement to the WSJ as follows: "We are withdrawing our previous comments, and we are replacing them with the following: 'We are currently reviewing our option grants. Accordingly, the earlier statements should not be used.' " In a subsequent e-mail (responding to an e-mail inquiry by the WSJ reporter), the CC Chairman confirmed that his/her prior statement to the WSJ, that "the options

were approved on the dates in your table," was withdrawn as well.

81. On Monday, March 13, 2006, ALEXANDER and KREINBERG asked to speak again with the CTI Lawyer. The CTI Lawyer again repeated his/her admonition that he/she did not represent them. ALEXANDER and KREINBERG stated that their own lawyers were in the process of making a presentation to CTI's outside counsel in order to "come clean." ALEXANDER and KREINBERG then made a series of admissions to the CTI Lawyer, including, in substance, the following: (a) the grant dates were backdated because they had been picked after the fact; (b) there were grants to fictitious individuals, known as "Phantom;" (c) an account known as "Fargo" was created to store the "Phantom" options to be issued as needed (without Compensation Committee approval) for certain employees to receive grants; (d) Phantom/Fargo was in operation from 1998 until 2002; (e) the purpose of Phantom/Fargo was to compensate employees and not high-level executives; (f) Phantom/Fargo was justifiable because it helped employee retention; and (g) Phantom/Fargo was shut down in April 2002, with the advent of Sarbanes-Oxley[43/] and a more stringent enforcement "environment."

82. Subsequently, in another conversation with the CTI Lawyer, ALEXANDER tried to justify his conduct by saying he had to do this to retain people, the stock was "going crazy," it was a different environment in the 1990s, and everyone in Silicon Valley was "doing it" (i.e. backdating). He also stated he had used Fargo options for employees and not

[43]Before certain provisions of the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley") became effective on August 29, 2002, option grants were required to be reported in annual proxy statements and on Form 5, due within 45 days of the end of the fiscal year. One of the effects of Sarbanes-Oxley was to amend Section 16(a) of the Securities Exchange Act of 1934 to require officers to report option grants on Form 4 within 48 hours of the grant. This 48-hour reporting requirement made it much more difficult for a company to backdate options.

himself. In a separate conversation with the CTI Lawyer, KREINBERG deflected blame to ALEXANDER by saying that the practice of backdating was in place when KREINBERG joined CTI, and that Phantom/Fargo was ALEXANDER's idea.

83. On Tuesday, March 14, 2006, after CTI announced its internal investigation, CTI's stock dropped from the previous day's close of $29.15 to end at $24.85, for a one-day decline of nearly 15 percent. Subsequently, on April 17, 2006, CTI announced that it expected to restate its financial statements for several fiscal years due to the failure to record compensation expense associated with the issuance of stock options.

84. On Saturday, March 18, 2006, the WSJ published an article on the timing of option grants and the possibility of backdating, including at CTI. With respect to the pattern of CTI's granting options repeatedly during dips in the stock price, the article stated: "The odds of such a pattern occurring by chance are around 1 in six billion, according to the Journal's analysis."[44]

C. Lies to CTI's Auditor in March 2006

85. On or about March 9 and 10, 2006, KREINBERG called a Deloitte & Touche partner who was supervising an unrelated audit of CTI's financial statements (the "Audit Partner").[45] During these calls, KREINBERG notified the Audit Partner about the WSJ inquiry and the formation of the Special Committee, and falsely claimed that CTI's employee option

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[44]C. Forelle & J. Bandler, "The Perfect Payday: Some CEOs Reap Millions by Landing Stock Options When They Are Most Valuable. Luck – or Something Else?" WSJ (A1), Mar. 18, 2006. The WSJ had alerted CTI to these odds by e-mail prior to publishing the article.

[45]This audit partner was not on the audit team for CTI during the relevant years.

grants were made in accordance with applicable law. KREINBERG falsely suggested that he had no personal knowledge of the option grant process, and he blamed any discrepancies on the "sloppy" work habits of CTI's former CFO.[46] KREINBERG falsely told the Audit Partner that the former CFO had picked a good day to grant options, which, KREINBERG explained, meant a day when the former CFO saw a dip in the stock and believed the price would rise. KREINBERG falsely told the Audit Partner that, on the same day as the dip in the stock price, the former CFO called each member of CTI's Compensation Committee to obtain their approval to grant options, followed by the requisite paperwork a short time later. KREINBERG made no mention of the Phantom/Fargo account. In short, KREINBERG falsely led the Audit Partner to believe that this was a small, manageable problem that KREINBERG had inherited rather than the product of concerted action by himself and other top-level executives.

86. On or about March 12, 2006, KREINBERG and SORIN together made a call to the Audit Partner, during which SORIN made a series of false and misleading statements. Specifically, SORIN falsely stated that, during the option grant process, he had received calls from ALEXANDER, KREINBERG or the former CFO informing him that CTI was going to make a grant of options on that very same day. SORIN falsely claimed that he then called and reached each member of the Compensation Committee to get their oral consent to the options grant on the same day that ALEXANDER or KREINBERG had called SORIN about initiating a grant of options. When the Audit Partner asked SORIN whether he was certain that he had reached every member of the Compensation Committee on the very same day ALEXANDER or

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[46]KREINBERG became CTI's CFO in May 1999, but performed many of the functions of the CFO prior to that date, according to knowledgeable employees of CTI.

KREINBERG contacted him, SORIN falsely responded that he believed he reached each member that same day and later added that he could not recall any instance when he did not reach all of the members on that same day. SORIN further falsely claimed that when he spoke with the members of the Compensation Committee, he informed them of the total number of options to be granted to all CTI employees and the number of options to be granted to each member of senior management. Finally, SORIN falsely stated that he had dated the unanimous written consent forms using the date he had placed the telephone call to the members of the Compensation Committee.

D. Tampering with Equity Edge Options Database

87. The investigation has shown that, in addition to making the series of false statements described above, KREINBERG tampered with evidence important to the Special Committee's inquiry, as that Committee was being formed. Specifically, in March 2006, after the WSJ began inquiring about CTI's option grants, KREINBERG told the Assistant that he had used the Assistant's password to access the Equity Edge options database.[47] In reviewing the database, KREINBERG saw that the Phantom/Fargo account in Equity Edge reflected two close-out dates, April 29, 2002 (the date that the Assistant closed the Phantom/Fargo account) and June 20, 2002 (the date of the company-wide repricing of options, pursuant to which all eligible options were canceled). After noticing this, as KREINBERG told the Assistant, on or about March 10, 2006, KREINBERG changed the Phantom/Fargo close-out date from April 29, 2002 to June 20, 2002. KREINBERG explained to the Assistant that he did this to bury the

[47]In 2006, KREINBERG had "read-only" privileges in Equity Edge; the Assistant had "write" privileges.

Phantom/Fargo account in the hundreds of accounts that reflected a June 20, 2002 close-out date, so that the Phantom/Fargo account would not stand out.

88. During this conversation, KREINBERG referred to himself as an "idiot" and asked the Assistant to help him. KREINBERG insisted that he had reversed the change he had initially made, but was concerned that the "last modified" date in Equity Edge would reveal that someone had accessed the Phantom/Fargo account in March 2006. At KREINBERG's request, the Assistant made an inconsequential global change within Equity Edge, thus accessing all the accounts, so that every account would reflect a single "last modified" date, and not just the Phantom/Fargo account that KREINBERG had tampered with.[48]

89. On Monday, March 20, 2006, after participating in an interview with the Special Committee, KREINBERG admitted to the CTI Lawyer that he had used someone else's password to access Equity Edge and change the close-out date for the Phantom/Fargo account from April to June 2002. KREINBERG explained that this would help hide the account because millions of other grants had been repriced and closed out in June 2002, and therefore Phantom/Fargo would not stand out if it bore the same close-out date. KREINBERG stated that he had tried to undo the change he made, and realized that both the change and reversal of the change would be detectable in the computer system.

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[48]The reason for making an inconsequential change was to change the "last modified" date of all accounts without actually changing the substance of those accounts.

E. False and Misleading Statements and Admissions to the Special Committee

i. Admissions by ALEXANDER

90. On March 16, 2006, ALEXANDER was interviewed by the attorneys for the Special Committee.[49] ALEXANDER explained that the options process started with SORIN calling the Compensation Committee and telling the members about a forthcoming grant – specifically the size of the grant company-wide, and how many options the top two or three executives were to receive. When asked whether some of the options were dated with dates prior to any meeting of the committee to approve the grant, ALEXANDER admitted that they were, and noted, in substance, that "we" tried to pick good prices for the sake of the employees. When asked if the "as of" date was the date that SORIN spoke to the Compensation Committee, ALEXANDER conceded that the majority of the unanimous written consents contained an "as of" date predating SORIN's calls to the committee. He added that, as far as he knew, "everyone" was doing it this way, apparently referring to other technology companies. When asked about whether a particular employee knew about the backdating of options, ALEXANDER noted that it was no secret.

91. With regard to Phantom/Fargo, ALEXANDER stated that either he or KREINBERG came up with the idea, and then admitted, "It might as well be me." ALEXANDER explained that the Phantom/Fargo account was used in certain situations to retain or recruit employees. ALEXANDER admitted that both he and KREINBERG gave instructions to the Assistant to generate options for the Phantom/Fargo account using fictitious names hidden

[49] CTI has provided the government with information about the defendants' statements to the Special Committee.

in grantee lists submitted to the Compensation Committee. ALEXANDER admitted knowing about certain grants of options from the Phantom/Fargo account, and stated that approximately 270,000 options flowed out of that account. ALEXANDER specifically admitted that he had authorized the transfer of Phantom/Fargo options to the Israeli executive who exercised and sold them, making $2 million in one day.

ii. Omissions and Admissions by KREINBERG

92. On March 16, 2006, in his first interview with the attorneys for the Special Committee, KREINBERG admitted that, in the grants prior to 2002, he and ALEXANDER looked for the low price of the stock when setting an option grant date. He recalled that it was starting in approximately 1998 that he and ALEXANDER discussed which dates would be good to have as "as of" option dates. KREINBERG stated that ALEXANDER communicated the chosen dates to SORIN.

93. During this same interview, KREINBERG admitted that he and ALEXANDER created Phantom/Fargo because ALEXANDER felt it was important to be able to have options available for special circumstances, such as dealing with a disgruntled employee. KREINBERG acquiesced. KREINBERG provided details about how the account was funded, both through the use of fictitious grant information sent to the Compensation Committee, and by shifting unvested options from the accounts of departing employees to the Phantom/Fargo account. KREINBERG identified two instances in which Phantom/Fargo options were granted to employees, including the Israeli executive who had received vested, in-the-money options, and who realized an instant $2 million profit. KREINBERG claimed that the backdating of CTI options and the use of Phantom/Fargo ended in April 2002.

94. On March 20, 2006, in the second of his three interviews with the attorneys for the Special Committee, after having been told that the Special Committee was aware of facts that KREINBERG had failed to disclose in his first interview, KREINBERG admitted for the first time that he had accessed Equity Edge with the Assistant's password on March 10, 2006, and had changed the April 29, 2002 close-out date on the Phantom/Fargo account to June 20, 2002, to hide the Phantom/Fargo account among other accounts in which options were canceled under the repricing plan on June 20, 2002. KREINBERG stated that he immediately re-thought his decision and attempted to change the close-out date back to April 29, 2002. KREINBERG further admitted that he had asked the Assistant for help in masking when he had last accessed the Phantom/Fargo account.

iii. Half-Truths and Evasions by SORIN

95. SORIN's statements to the Special Committee have been marked by a series of half-truths and evasions. On March 23, 2006, SORIN was interviewed by the attorneys for the Special Committee. During the interview, SORIN admitted that options were backdated, but later in the interview tried to retract this admission. SORIN said that the "as of" option grant date had, at least sometimes, been picked days or weeks subsequent to the "as of" date. He claimed minimal recall of the specifics – when this occurred, how many times, when it started. SORIN claimed that the practice was common in his experience, and said that it did not distinguish the company. When asked whether he thought this was legal, SORIN stated, in substance, that he did not remember having analyzed at the time whether it was legal or not, but the fact that it went through him means that he thought it was legal. SORIN subsequently admitted that the process was "screwed up."

96. When asked who told him he could backdate the unanimous written consents, SORIN stated that he could do it because, as he explained it in substance, the Compensation Committee in effect ratified management's selection of the option grant date. SORIN did not remember articulating to ALEXANDER or KREINBERG that this practice was acceptable, but SORIN claimed that he thought that it was at the time. When asked what he meant when he said that now, in hindsight, "maybe" disclosure was not proper, SORIN replied, in substance, that he was not sure and did not know, and that he would have to think about it, as he had not practiced law in many years.[50]

97. SORIN said that he did not know what he thought "back then," but that he now realized that CTI options were granted below fair market value. When asked what steps he had taken at the time to ensure the accuracy of the CTI proxy statements that the options were granted with a strike price at the fair market value of the stock, SORIN said that he did not take any steps.

98. SORIN advised that, after the WSJ inquiry, ALEXANDER told him that he and KREINBERG were going to acknowledge backdating the options. SORIN said that he told ALEXANDER that this was not as "clear cut" a case as he was presenting it. SORIN and ALEXANDER then reviewed the option grant process together and discussed the fact that pricing had been an issue in selecting the grant date. SORIN admitted to the attorneys for the Special Committee that, in fact, "it happened on at least some occasions." When asked what he was referring to, SORIN admitted that the date in the "papers" preceded his discussions with the

[50] CTI's publicly-filed proxy statements during the years in question, and as recently as the last such filing in 2005, described SORIN as "an attorney engaged in private practice." SORIN submitted these proxy statements as Secretary of the Board.

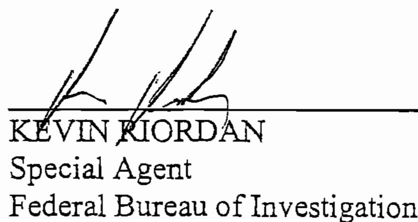
Compensation Committee.

99. SORIN was asked whether he understood that ALEXANDER did not have the power to give option grants, and SORIN agreed that was correct. When asked whether he understood that only the Compensation Committee had that power, SORIN retorted that he did not want to get into "technical stuff."

CONCLUSION

WHEREFORE, based on the foregoing, your deponent respectfully requests that warrants issue for the arrest of the defendants JACOB ALEXANDER, also known as "Kobi Alexander," DAVID KREINBERG and WILLIAM F. SORIN so that they may be dealt with according to law.

WHEREFORE, your deponent respectfully requests that this Affidavit and the resulting warrants be sealed until such time as the defendants have been arrested, when they shall be automatically unsealed as necessary to facilitate the defendants' arraignments.



KEVIN RIORDAN
Special Agent
Federal Bureau of Investigation

Sworn to before me this
31st day of July, 2006

UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK