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7 UNITED STATES DISTRICT COURT

8 DISTRICT OF NEVADA

9 IN RE: SEIZURE & IMPOUND )  
OF PROPERTY FOR CADILLAC ) Case No. 2:06-cv-1089-RCJ-GWF  
10 ESCALADE ON 8/28/06, )

11 **DECLARATION OF SPECIAL AGENT MARTIN R. SCHWARZ**

12 I, Martin R. Schwarz, make the following declaration  
13 pursuant to the authority of 28 U.S.C. § 1746. I understand that  
14 this declaration will be filed in the District Court for the  
15 District of Nevada, and that the declaration is the legal  
16 equivalent of a statement under oath.

17 1. I am a Special Agent for the Federal Bureau of  
18 Investigation ("FBI") assigned as a member of the taint team for  
19 this case.

20 2. I have served as a Special Agent with the FBI since  
21 1983. During my tenure with the FBI, I have served as a Special  
22 Agent in New Mexico, California, and Utah, and I have worked in  
23 the drug unit, gang unit, Indian crime unit, and violent crime  
24 unit. I also served as a supervisory Special Agent for four  
25 years over the legal unit, forfeiture unit, and Freedom of  
26 Information unit.

3. Prior to joining the FBI, I worked as a Deputy Sheriff

1 before obtaining my juris doctorate from the University of Idaho.  
2 After graduating law school, I served as an Assistant Attorney  
3 General in Idaho.

4 4. I have extensively reviewed the FBI's file regarding  
5 the above-captioned action, and I am prepared to testify about  
6 this matter before this Court if called upon to do so.

7 5. On or about the evening of August 28, 2006, the Nevada  
8 Highway Patrol stopped a 2007 red Cadillac Escalade, VIN #  
9 1GYFK66837R200245, because the temporary license tag was not  
10 fully visible.

11 6. Three occupants were in the Escalade, among them was a  
12 man who identified himself to the Nevada Highway Patrol trooper  
13 as "John Findley."

14 7. The individual who identified himself as "John Findley"  
15 failed to produce any documentation substantiating this  
16 assertion.

17 8. The driver of the Escalade was removed from the vehicle  
18 for questioning, whereupon he told the trooper that he and his  
19 two companions in the Escalade were on a one-week vacation. The  
20 driver stated that they had been to San Francisco, California to  
21 see the ocean and that they were traveling to Hilldale, Utah.

22 9. The trooper then questioned the individual who  
23 identified himself as "John Findley." This individual stated  
24 that he and his two companions were on their way back to Denver,  
25 Colorado.

26 10. The trooper obtained consent from the driver of the

1 Escalade to search the vehicle.

2 11. The search of the Escalade revealed, among other  
3 things, numerous envelopes addressed to "President Jeffs," two  
4 yellow envelopes containing U.S. currency, debit cards, and  
5 tools.

6 12. The Nevada Highway Patrol contacted the FBI, Las Vegas  
7 Division to assist in determining the identity of the individual  
8 using the name "John Findley."

9 13. An FBI agent arrived at the scene and identified  
10 himself as a Special Agent with the FBI.

11 14. The individual who had earlier identified himself as  
12 "John Findley," identified himself to the FBI Special Agent as  
13 "Warren Steed Jeffs."

14 15. Mr. Jeffs was then arrested and taken to the FBI office  
15 in Las Vegas for questioning. The Escalade was impounded because  
16 there was probable cause to believe that the Escalade and its  
17 contents were evidence in support of the charge that Mr. Jeffs  
18 had fled Utah to avoid prosecution in violation of 18 U.S.C. §§  
19 1071, 1073. Probable cause existed based on the following facts:  
20 (1) the Escalade was registered to an L.L.C. in West Des Moines,  
21 Iowa, but had a temporary license tag issued in Colorado; (2)  
22 Colorado is the jurisdiction in which Mr. Jeffs's brother, Seth  
23 Jeffs was arrested, and in whose vehicle were found materials  
24 intended for Mr. Jeffs; (3) the Escalade was stopped in Nevada;  
25 (4) the occupants of the vehicle provided conflicting stories as  
26 to where they had been and to where they were going; (5) a

consent search revealed cash, several debit cards, and envelopes addressed to a person who was on the FBI's Ten Most Wanted list for fleeing a state to avoid arrest and prosecution; (6) the type and significant number of items in the Escalade was not normal for three people taking a one-week vacation to look at the ocean, as the driver had indicated; (7) the person who identified himself as "John Findley" could not provide any identification to verify his identity; (8) after meeting the FBI agent, the person who had previously identified himself to the trooper as "John Findley" identified himself as "Warren Steed Jeffs" who was wanted by the FBI for fleeing to avoid arrest and prosecution.

16. The Escalade was secured in the parking garage of the Las Vegas FBI office.

17. On the morning of August 29, 2006, the Escalade was inventoried at the Las Vegas FBI office. The FBI inventory found numerous items including hundreds of documents, computers, cash, debit cards, several electronic devices, wigs, and masks.

18. On September 5, 2006, Mr. Jeffs filed a document with this Court entitled "Emergency Rule 41(g) Motion and Motion to Seal Privileged and Constitutionally Protected Records," in which Mr. Jeffs asserted that the documents and computer files that were in the Escalade were privileged under the First Amendment of the United States Constitution and under the clergy-communicant privilege. See In re Seizure and Impound of Property from Cadillac Escalade on August 28, 2006, No. 2:06CV1089-RCJ-GWF (D. Nev. filed September 5, 2006), Docket No. 2-1.

1        19. On September 6, 2006, the United States applied for and  
2 obtained a seizure warrant. See In re 2007 Red Cadillac Escalade  
3 VIN 1GYFK66837R200245 and Contents, Mag. No. 2:06-mj-599-PAL (D.  
4 Nev. filed Sept. 6, 2006).

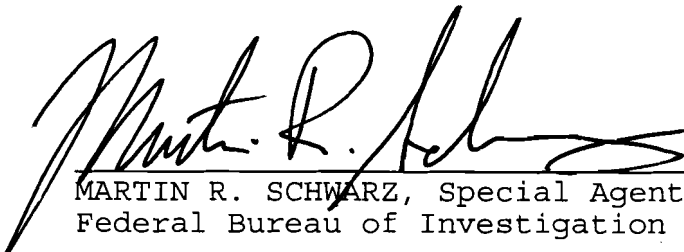
5        20. On or about September 8, 2006, the United States and  
6 Mr. Jeffs entered into an agreement in which the United States  
7 agreed to provide Mr. Jeffs's counsel with copies of all  
8 documents and computer files seized from the Escalade so that Mr.  
9 Jeffs and his counsel could designate which items they believed  
10 to be privileged. The United States agreed to organize a "taint  
11 team" that would review the documents and computer files that Mr.  
12 Jeffs had designated as privileged. The designated taint team  
13 members would then attempt to settle any disputed issues of  
14 privilege with Mr. Jeffs, and if no settlement were possible, the  
15 taint team would litigate any privilege issues before disclosing  
16 any of the items designated as privileged to the federal  
17 prosecuting attorneys or other interested third parties. See A  
18 Cadillac Escalade and Various Electronic Storage Devices and  
19 Documents, No. 2:06-mj-618-PAL (D. Nev. filed Sept. 14, 2006),  
20 Attachment "A" at 28-29.

21        21. As part of this agreement, Mr. Jeffs agreed that he  
22 would not have access to the seized documents and computer files,  
23 but could only review them jointly with his counsel to determine  
24 whether the document was privileged. Id. On September 14, 2006,  
25 the United States applied for a search warrant that would allow  
26 the Government to search the seized items only for evidence

1 pertaining to violations of 18 U.S.C. §§ 1071 and 1073 in  
2 compliance with the agreement between the United States and Mr.  
3 Jeffs in order to protect any privileged information that may be  
4 in the seized items.

5 22. On September 27, 2006, Mr. Jeffs's counsel received  
6 copies of the seized documents and computer files from the  
7 Government. Currently, Mr. Jeffs's counsel is preparing the  
8 privilege log for the voluminous computer files.

9 I certify under penalty of perjury that, to the best of my  
10 knowledge, the foregoing is true and correct. Executed on this  
11 17th day of January 2007.

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14 MARTIN R. SCHWARZ, Special Agent  
15 Federal Bureau of Investigation  
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