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8 Attorneys for Plaintiff
9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,) CR No. 08-59(B)-GW
13)
Plaintiff,) GOVERNMENT'S RESPONSE AND
14) OBJECTIONS TO PRE-SENTENCE REPORT
v.) AS TO DEFENDANT GERALD GREEN
15)
GERALD GREEN and) Sent. Date: January 21, 2010
16 PATRICIA GREEN,) Sent. Time: 8:30 a.m.
17)
Defendants.)
18)

19 Plaintiff United States of America, through its counsel of
20 record, the United States Attorney's Office for the Central
21 District of California, hereby submits its attached response and
22 objections as to the Pre-Sentence Report ("PSR") for defendant
23 GERALD GREEN, disclosed on November 30, 2009.

24 The government understands the Court is being asked to
25 depart or otherwise adopt a variance from the Federal Sentencing
26 Guidelines. The government submits the following objections in
27 order to ensure an appropriate guidelines analysis as an initial
28 matter. At the time for filing of its main sentencing position

1 **GOVERNMENT'S RESPONSE AND OBJECTIONS TO PRE-SENTENCE REPORT**

2 **FOR DEFENDANT GERALD GREEN**

3 Paragraph 11 (Bond)

4 The PSR indicates that defendant GERALD GREEN's bond did not
5 require posting of collateral. (PSR ¶ 11.) In fact, one of the
6 conditions of his bond was the security of a \$500,000 deed of
7 trust to real property (defendants' home), which was posted on
8 January 2, 2008.¹ See Docket No. 27.

9 Paragraph 22 (Victim Impact)

10 The PSR's characterization of the government's position
11 regarding the monetary loss to the Kingdom of Thailand (PSR ¶ 22)
12 requires correction, as follows: The \$1,822,494 in bribes
13 defendants paid were not only for "film festival contracts" with
14 the Tourism Authority of Thailand ("TAT") but also for unrelated
15 contracts for the development of the Thai Privilege Card project,
16 and for a website, book, video, calendars, and public relations
17 services for the TAT. As set forth in Government's Exhibit 1238,
18 admitted into evidence at trial, these non-BKKIFF contracts
19 resulted in nearly \$800,000 of the bribes paid.

20 Grounds for Additional Enhancement for Obstruction of Justice

21 The government submits that applying a two-level enhancement
22 for obstruction of justice to defendant GERALD GREEN under
23 U.S.S.G. § 3C1.1 is appropriate for a reason not discussed in the
24

25
26 ¹ When defendant GERALD GREEN's bond was raised in April
27 2008 by an additional \$200,000, that additional amount was
28 covered solely by an affidavit of surety with no justification.

1 PSR,² namely, that defendant GERALD GREEN repeatedly and
2 blatantly perjured himself under oath during his testimony over
3 three days of trial in this matter. The government will supply
4 the United States Probation Officer with the transcripts of
5 defendant GERALD GREEN's trial testimony on September 8-10, 2009.

6 In his direct examination, not only did defendant GERALD
7 GREEN deny the allegations of bribery against him,³ but also he
8 fabricated elaborate explanations for the payments he directed
9 defendant PATRICIA GREEN and Susan Shore to make to accounts held
10 in the name of the Governor's Daughter, Jittisopa Siriwan, and
11 the Governor's Friend, Kittti Chambundabongse.

12 These explanations contradicted the evidence (including both
13 witness testimony and documentary evidence) in the case, and were
14 further discredited upon defendant GERALD GREEN's cross-
15 examination.

16 As demonstrated by the guilty verdicts against him, the jury
17 disbelieved and rejected defendant GERALD GREEN's explanations.

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23 ² The PSR noted the government's dismissal of the count
24 of obstruction of justice under 18 U.S.C. § 1519 (on which the
25 jury deadlocked after a day of deliberation), and cited to the
26 complaint affidavit regarding one of the events that formed the
evidentiary basis of that count. (PSR ¶¶ 25-26.)

27 ³ A defendant's simple denial of the charges, without
28 more, may be insufficient to apply the obstruction enhancement.

1 Paragraph 39 (Role Adjustment)

2 The government objects to the PSR's finding that defendant
3 GERALD GREEN was no more culpable than any other participant, and
4 therefore does not merit an aggravating role adjustment. The
5 government contends that a four-level aggravating role adjustment
6 is appropriate for being "an organizer or leader of criminal
7 activity that involved five or more participants or was otherwise
8 extensive." U.S.S.G. § 3B1.1(a) (emphasis added).

9 This "otherwise extensive" ground for leader/organizer role
10 adjustment is applicable to defendant GERALD GREEN because of the
11 large amount of loss, the extensive duration of the bribery
12 scheme, its international scope, the number of witting and
13 unwitting participants, and defendant GERALD GREEN's role in
14 directing defendant PATRICIA GREEN and others employed at
15 defendants' several companies (including Susan Shore) and at the
16 various prime contractors and subcontractors in executing the
17 details of the scheme.

18 The PSR's discussion of role exclusively analyzes the
19 applicability of § 3B1.1(c), which only counts criminally
20 culpable participants managed or supervised by the defendant.
21 The government does not argue that this particular role
22 adjustment applies.

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1 Paragraph 117 (Guideline Provisions for Custody)

2 The PSR calculates defendant GERALD GREEN's Total Offense
3 Level as 38, his Criminal History Category as I, and his
4 sentencing range as 235-293 months. With the inclusion of the
5 additional role and obstruction enhancements recommended above,
6 his Total Offense Level would be 44 and his sentencing range
7 would be life in prison.

8 DATED: December 14, 2009

Respectfully submitted,

9 GEORGE S. CARDONA
10 Acting United States Attorney

11 CHRISTINE C. EWELL
12 Assistant United States Attorney
13 Chief, Criminal Division

14 _____/s/_____
15 BRUCE H. SEARBY
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17 Attorneys for Plaintiff
18 UNITED STATES OF AMERICA
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