

EOC:KMB
F. #2001R02074
ELGINDY.IND1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

I N D I C T M E N T

- against -

AMR I. ELGINDY,
also known as "Tony Elgindy"
and "Anthony Pacific,"
JEFFREY A. ROYER,
DERRICK W. CLEVELAND,
TROY M. PETERS and
LYNN WINGATE,

Cr. No. _____
(T. 15, U.S.C., §§
78j(b) and 78ff;
T. 18, U.S.C., §§
371, 1503, 1951(a),
1962(d), 1963, 2 and
3551 et seq.)

Defendants.

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THE GRAND JURY CHARGES:

At all times relevant to this Indictment, unless
otherwise indicated:

INTRODUCTION

The Short Selling Scheme

1. The defendant AMR I. ELGINDY, also known as Tony Elgindy and Anthony Pacific, was a trader and financial analyst who "short sold" shares of stock of various companies whose respective stock prices appeared to be vulnerable to the release of negative news and selling pressure. Short sales involve "borrowing" stock from another party and selling it, with an agreement to return the stock to the other party at a later date, thereby betting that the stock's price will fall, allowing the

borrower to buy the stock back later at a lower price and return the stock to the lender. Thus, short sellers profit from decreases in the price of a stock that they have sold short. Conversely, short sellers lose money when the price of a stock that they have sold short rises.

2. After the defendant AMR I. ELGINDY short sold the stock of certain companies, ELGINDY and others engaged in various manipulative activities designed to lower the price of such stock, including spreading negative information about the companies and encouraging others to short sell the stock in a manner that would yield large profits to ELGINDY and others.

3. In order to maximize the adverse impact on the prices of certain stocks that he short sold, and, therefore, maximize his gain, the defendant AMR I. ELGINDY communicated with other short sellers nationwide, including short sellers within the Eastern District of New York, via the Internet. For this purpose, ELGINDY founded a business named Pacific Equity Investigations, based in San Diego, California, which operated a public investment website, named InsideTruth.com, a subscription e-mail newsletter and a subscription-based investment website, named AnthonyPacific.com. ELGINDY has used these means of communications to spread negative information and to advise others to join him in short selling the stock of certain

companies (hereinafter referred to collectively as "Targeted Companies").

4. The defendant AMR I. ELGINDY released information and his short selling recommendations first to his paying subscribers, and only later, and not in all cases, to the investing public. ELGINDY initially communicated negative news about the Targeted Companies and his short selling recommendations to the subscribers of AnthonyPacific.com, who paid him up to \$600.00 per month, so that these subscribers would have the opportunity to short sell stocks before the public release of ELGINDY's recommendations. ELGINDY next advised subscribers of his e-mail newsletter, who paid up to \$100.00 per month. In some instances ELGINDY also published the negative information and his recommendations on his public website InsideTruth.com. Once the information was publicly available, ELGINDY and his subscribers also posted it on various Internet bulletin boards, chat rooms and on related websites, often assuming fictitious identities to do so. The widespread dissemination of this negative information had the intended goal of exaggerating the downward pressure on the stock prices of Targeted Companies.

5. The defendants DERRICK W. CLEVELAND and TROY PETERS were short sellers who assisted the defendant AMR I.

ELGINDY in the operation of Pacific Equity Investigations and its newsletter and websites.

Market Manipulation

6. Often, after short selling the stock of a Targeted Company, the defendants AMR I. ELGINDY, TROY PETERS and DERRICK W. CLEVELAND, together with others, coordinated the release of negative, and sometimes false, information with short selling in a manner designed to exaggerate the negative market sentiment for the stock. ELGINDY's paid subscribers received the information and recommendations first, so that they could position themselves to profit if the broader market reacted to the exaggerated negative market sentiment for the stocks. The subscribers, including subscribers in the Eastern District of New York, passed a portion of their profits back to ELGINDY in the form of subscription fees.

7. The defendants AMR I. ELGINDY and TROY PETERS, together with others, sometimes reported negative information about the Targeted Companies to the U.S. Securities and Exchange Commission ("SEC") and the Federal Bureau of Investigation ("FBI") in order to initiate or hasten regulatory and law enforcement action, which they knew would cause the stock prices to fall sharply once such action became public.

The FBI Tipper

8. The defendants AMR I. ELGINDY and DERRICK W. CLEVELAND, together with others, traded on material, non-public information that they obtained from the defendant JEFFREY A. ROYER.

9. The defendant JEFFREY A. ROYER was an FBI Special Agent from November 12, 1996 through December 21, 2001. From March 7, 1997 through November 6, 2000, ROYER was assigned to the FBI's Field Office in Oklahoma City, Oklahoma. On November 6, 2000, ROYER was transferred to the FBI's Resident Office in Gallup, New Mexico.

10. While the defendant JEFFREY A. ROYER was assigned in Oklahoma, in or about 1999, the defendant DERRICK W. CLEVELAND began providing ROYER with information concerning individuals and companies that CLEVELAND claimed were engaged in securities fraud.

11. In late 1999, the defendant JEFFREY A. ROYER was introduced by the defendant DERRICK W. CLEVELAND to the defendant AMR I. ELGINDY. ELGINDY then began providing ROYER with negative information concerning the companies that ELGINDY had short sold or was considering short selling. Because ROYER was not assigned to investigate securities fraud, ROYER referred some of ELGINDY's information to other FBI offices so that criminal investigations would be initiated.

12. Beginning in and around 2000, the defendants AMR I. ELGINDY and DERRICK W. CLEVELAND corruptly induced the defendant JEFFREY A. ROYER to provide them with confidential law enforcement information concerning companies that ELGINDY, CLEVELAND and ELGINDY's subscribers had short sold or were considering short selling. ROYER obtained the information that he provided to ELGINDY, CLEVELAND and others from the FBI's National Crime Information Center database ("NCIC"), which contained confidential criminal history information, and the FBI's Automated Case Support database ("ACS"), which contained confidential criminal investigation information. Access to these confidential databases is strictly limited to law enforcement personnel for law enforcement purposes.

13. As part of the corrupt inducement to the defendant JEFFREY A. ROYER, the defendant DERRICK W. CLEVELAND wired funds to ROYER, while ROYER was an FBI Special Agent, in the following amounts on the following dates: (1) \$8,500 on November 28, 2000; (2) \$5,000 on January 30, 2001; (3) \$9,925 on May 22, 2001; and (4) \$7,000 on May 31, 2001. These payments were not reported to the FBI.

14. The defendants AMR I. ELGINDY and DERRICK W. CLEVELAND, together with others, used the confidential law enforcement information that they obtained from the defendant JEFFREY A. ROYER in order to make decisions whether to buy, hold

or sell the stocks of the companies to which the information was relevant.

15. After short selling the stocks of such Targeted Companies, the defendants AMR I. ELGINDY and DERRICK W. CLEVELAND, and others, also disseminated confidential law enforcement information to other short sellers, in the Eastern District of New York and elsewhere, via the Internet, as described above, in order to encourage them to short sell the stock as well. As described above, ELGINDY's paid subscribers received the information and recommendations first so that they could position themselves to profit if the market reacted to the public release of the information.

Extortion

16. As a result of the above, the defendant AMR I. ELGINDY, cultivated the perception that he had the ability to devastate a Targeted Company's stock price. ELGINDY, together with the defendants TROY PETERS and DERRICK W. CLEVELAND, and others, used that perception to extort cheap or free shares of stock from the insiders of Targeted Companies in exchange for agreeing no longer to short sell the companies' stock or spread negative information about the companies.

17. The defendants AMR I. ELGINDY and TROY PETERS, together with others, used the confidential law enforcement information obtained from the defendant JEFFREY A. ROYER to

assess whether the Targeted Companies were susceptible to extortion, based upon the premise that companies that are in peril of regulatory or criminal investigation would be disinclined to complain to law enforcement about such extortionate demands. Sometimes extortionate demands were coupled with threats to report a company's activities to the SEC or FBI.

18. Once the extortionate demands of the defendants AMR I. ELGINDY and TROY PETERS were satisfied, ELGINDY then communicated to his subscribers, in the Eastern District of New York and elsewhere, via the Internet, as described above, that they should stop short selling, cover their short positions by buying stock and refrain from further dissemination of negative information regarding the targeted company.

Obstruction of Justice

19. On or about September 18, 2001, the U.S. Department of Justice, Criminal Division set up a Capital Markets Unit within a Task Force to investigate certain financial and other criminal offenses.

20. On or about October 25, 2001, the United States Attorney's Office for the Eastern District of New York initiated a grand jury investigation ("the EDNY Grand Jury Investigation") to investigate whether the defendant AMR I. ELGINDY and others, had engaged in certain financial and other criminal offenses.

21. Beginning in or about October 2001, the defendant JEFFREY A. ROYER regularly accessed ACS to glean detailed information concerning the EDNY Grand Jury Investigation. ROYER then advised ELGINDY and the defendant DERRICK W. CLEVELAND of the direction of the EDNY Grand Jury Investigation and that ELGINDY was a target. All the while, the defendant JEFFREY A. ROYER continued to provide confidential law enforcement information to the defendants AMR I. ELGINDY and DERRICK W. CLEVELAND, and others, in order to guide their buying and selling of the stocks of Targeted Companies or companies being considering for targeting, and to assist in their assessment of the susceptibility of these companies to extortion.

22. In connection with the above described trading, the defendant AMR I. ELGINDY gave the defendant JEFFREY A. ROYER authority to execute trades in at least one account held in the name of ELGINDY.

The FBI Tipper Becomes a Tippee

23. On or about December 21, 2001, the defendant JEFFREY A. ROYER resigned from the FBI and immediately took a job with the defendant AMR I. ELGINDY at Pacific Equity Investigations, where ROYER and ELGINDY worked together with the defendant DERRICK W. CLEVELAND.

24. While employed at Pacific Equity Investigations, the defendant JEFFREY A. ROYER obtained additional confidential

law enforcement information and provided it to the defendants AMR I. ELGINDY and DERRICK W. CLEVELAND to guide them in buying and selling the stocks of Targeted Companies or companies being considered for targeting.

25. The defendant JEFFREY A. ROYER also actively sought new confidential law enforcement information from law enforcement personnel with access to NCIC and ACS, which he then provided to the defendants AMR I. ELGINDY and DERRICK W. CLEVELAND, and others, and which they all collectively used to make decisions whether to buy or sell the stocks of the companies to which the information was relevant.

26. In or about and between March 2002 and April 2002, the defendant LYNN WINGATE, an FBI Special Agent assigned to the Albuquerque, New Mexico Field Office, gathered confidential law enforcement information from ACS regarding criminal investigations of public companies and associated individuals. WINGATE then communicated this information to ROYER so that ROYER, together with the defendants AMR I. ELGINDY and DERRICK W. CLEVELAND, and others, could collectively make decisions whether to buy, hold or sell the stocks of companies to which the information was relevant.

27. Moreover, in or about and between March 2002 and April 2002, the defendant LYNN WINGATE accessed ACS and collected confidential law enforcement and grand jury information,

including a description of subpoenaed documents, concerning the EDNY Grand Jury Investigation of ROYER and AMR I. ELGINDY. Shortly thereafter, WINGATE communicated that information to ROYER, who then a short time later informed ELGINDY and the defendant DERRICK W. CLEVELAND. The defendant LYNN WINGATE also searched ACS for references to her own name to determine whether she herself was a subject or target of the EDNY Grand Jury Investigation.

28. Earlier this year, the defendant JEFFREY A. ROYER attempted, unsuccessfully, to persuade another FBI Special Agent to access ACS for confidential law enforcement information regarding a company whose stock ROYER and ELGINDY had sold short.

THE ENTERPRISE

29. Between approximately November 2000 and May 2002, both dates being approximate and inclusive, the defendants AMR I. ELGINDY, JEFFREY A. ROYER, DERRICK W. CLEVELAND, TROY M. PETERS and LYNN WINGATE, together with Pacific Equity Investigations and certain subscribers to AnthonyPacific.com and others, were members and associates of an enterprise as defined in Title 18, United States Code, Section 1961(4), that is, a group of individuals associated in fact (hereafter, the "Enterprise"). The Enterprise operated in the Eastern District of New York and elsewhere in the United States as well as abroad. The Enterprise

engaged in, and its activities affected, interstate and foreign commerce.

30. The chief purpose of the Enterprise was to obtain money for its members and associates by trading on material, non-public information that had been misappropriated from law enforcement databases, by manipulating the market to deflate artificially the price of stocks that they had been short sold, and by extorting free shares of stock from company insiders.

31. Among the means and methods by which the defendants AMR I. ELGINDY, JEFFREY A. ROYER, DERRICK W. CLEVELAND, TROY M. PETERS and LYNN WINGATE, and other members and associates, conducted and participated in the conduct of the affairs of the Enterprise were various criminal activities, including conspiracy to commit securities fraud, extortion and obstruction of justice.

32. The Enterprise was led by the defendant AMR I. ELGINDY who owned and, together with the defendant DERRICK W. CLEVELAND, operated Pacific Equity Investigations, and its public investment website, named InsideTruth.com, its subscription e-mail newsletter and its subscription-based investment website, named AnthonyPacific.com. The defendants JEFFREY A. ROYER and LYNN WINGATE were Federal Bureau of Investigation ("FBI") Special Agents who, at various times, accessed FBI databases to gain information for use in making trading decisions, and obstructed

the investigation of the Enterprise. ROYER was a member of the Enterprise, while WINGATE was an associate. The defendant TROY M. PETERS was a colleague of ELGINDY's who assisted ELGINDY in manipulating stock prices and extorting stock from Targeted Companies. The Enterprise constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the enterprise.

COUNT ONE
(Racketeering Conspiracy)

33. The allegations contained in paragraphs 1 through 32 are realleged and incorporated as if fully set forth herein.

34. In or about and between November 2000 and May 2002, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants AMR I. ELGINDY, also known as "Tony Elgindy" and "Anthony Pacific," JEFFREY A. ROYER, DERRICK W. CLEVELAND, TROY M. PETERS and LYNN WINGATE, together with others, being persons employed by and associated with an enterprise as defined in Title 18, United States Code, Section 1961(4), that is, a group of individuals associated in fact (hereafter, the "Enterprise"), knowingly and intentionally conspired to violate Title 18, United States Code, Section 1962(c), that is, to conduct and participate, directly and indirectly, in the conduct of the affairs of the Enterprise, which engaged in, and the activities of which affected, interstate and foreign commerce, through a pattern of

racketeering activity as defined in Title 18, United States Code, Sections 1961(1) and 1961(5). Each defendant agreed that at least two acts of racketeering would be committed in the conduct of the affairs of the Enterprise as set forth in the pattern of racketeering described below.

PATTERN OF RACKETEERING ACTIVITY

Racketeering Act One
(Securities Fraud Conspiracy)

35. The defendants AMR I. ELGINDY, JEFFREY A. ROYER, DERRICK W. CLEVELAND, TROY M. PETERS and LYNN WINGATE committed the following acts involving securities fraud, any one of which alone constitutes the commission of Racketeering Act One.

A. Securities Fraud Conspiracy - Insider Trading

36. The allegations contained in paragraphs 1 through 32 are realleged and incorporated as if fully set forth herein.

37. In or about and between November 2000 and May 2002, both dates being approximate and inclusive, the defendants AMR I. ELGINDY, also known as "Tony Elgindy" and "Anthony Pacific," JEFFREY A. ROYER, DERRICK W. CLEVELAND, TROY M. PETERS and LYNN WINGATE, together with others, did knowingly and willfully conspire to 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 facts 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 securities, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, all in violation of Title 18, United States Code, Section 371.

38. It was a part of the conspiracy that between November 2000 to May 2002, both dates being approximate and inclusive, the defendants AMR I. ELGINDY and DERRICK W. CLEVELAND, solicited, obtained and received from the defendant JEFFREY A. ROYER, and, later, ELGINDY, CLEVELAND and ROYER, solicited, obtained and received from the defendant LYNN WINGATE, material, non-public information concerning Targeted Companies, to wit: confidential law enforcement information from the FBI's National Crime Information Center database ("NCIC"), which contained confidential criminal history information, and the FBI's Automated Case Support database ("ACS"), which contained confidential criminal investigation information, which information had been unlawfully misappropriated from the Federal

Bureau of Investigation by ROYER and WINGATE in violation of their fiduciary and other duties of trust and confidence, and which information was obtained and received before the information was publicly disclosed to the investing public.

39. It was a further part of the conspiracy that, in or about and between November 2000 and May 2002, both dates being approximate and inclusive, after obtaining and receiving this material, non-public information about the Targeted Companies, but prior to the information being publicly disclosed to the investing public, the defendants AMR I. ELGINDY, DERRICK W. CLEVELAND and JEFFREY A. ROYER, together with others, short sold stock of the Targeted Companies through brokerage accounts at Global Securities in Vancouver, British Columbia, Canada ("Global") and elsewhere.

40. It was further part of the conspiracy that, after short selling the stocks of such Targeted Companies, the defendants AMR I. ELGINDY and DERRICK W. CLEVELAND, and others, then began to spread the confidential law enforcement information to other short sellers, via the Internet, as described above, in order to encourage them to short sell the stock as well. ELGINDY's paid subscribers received the information and recommendations first, so that they could position themselves to profit if the market reacted to the public release of the

information. The subscribers passed a portion of their profits back to ELGINDY in the form of subscription fees.

41. In furtherance of the conspiracy and to effect the objectives thereof, the defendants AMR I. ELGINDY, JEFFREY A. ROYER, DERRICK W. CLEVELAND, TROY M. PETERS and LYNN WINGATE, and their coconspirators committed and caused to be committed the following:

OVERT ACTS

Payments to ROYER

a. On or about November 28, 2000, the defendant DERRICK W. CLEVELAND wired \$8,500.00 to the account of the defendant JEFFREY A. ROYER.

b. On or about January 30, 2001, the defendant DERRICK W. CLEVELAND wired \$5,000.00 to the account of the defendant JEFFREY A. ROYER.

c. On or about May 22, 2001, the defendant DERRICK W. CLEVELAND wired \$9,925.00 to the account of the defendant JEFFREY A. ROYER.

d. On or about May 31, 2001, the defendant DERRICK W. CLEVELAND wired \$7,000.00 to the account of the defendant JEFFREY A. ROYER.

Company No. 1

e. On or about December 15, 2000, the defendant AMR I. ELGINDY short sold the stock of a company listed on the Over the Counter Bulletin Board ("Company No. 1").

f. On January 2, 2001, the defendant JEFFREY A. ROYER searched the NCIC database and found criminal history information regarding the president of Company No. 1.

g. On January 3, 2001, the defendant AMR I. ELGINDY issued a research report regarding Company No. 1, which disclosed its president's criminal history.

h. On or about January 8, 2001, the defendant AMR I. ELGINDY short sold the stock of Company No. 1.

Company No. 2

i. On or about August 9, 2001, the defendant JEFFREY A. ROYER searched the ACS database and accessed nonpublic information concerning another company listed on the Over the Counter Bulletin Board ("Company No. 2").

j. On or about August 17, 2001, the defendant DERRICK W. CLEVELAND short sold the stock of Company No. 2.

k. On or about August 21, 2001, the defendant AMR I. ELGINDY short sold the stock of Company No. 2.

Company No. 3

l. On or about August 11, 2001, the defendant JEFFREY A. ROYER searched the ACS database and accessed nonpublic

information concerning another company listed on the Over the Counter Bulletin Board ("Company No. 3").

m. On or about August 14, 2001, the defendant DERRICK W. CLEVELAND short sold the stock of Company No. 3.

Company No. 4

n. On or about September 19, 2001, the defendant JEFFREY A. ROYER searched the ACS database and accessed nonpublic information concerning another company listed on the Over the Counter Bulletin Board ("Company No. 4") in this regard.

o. On or about September 20, 2001, the defendant AMR I. ELGINDY short sold the stock of Company No. 4.

Nuclear Solutions

p. On December 19, 2001, at approximately 11:19 a.m. (Eastern Standard Time), the defendant JEFFREY A. ROYER searched the NCIC database and found criminal history information regarding Paul Brown, the founder of Nuclear Solutions, a company listed on the Over the Counter Bulletin Board.

q. On December 19, 2001, at approximately 1:31 p.m. (Eastern Standard Time), the defendant AMR I. ELGINDY sent an e-mail to his subscribers that stated: "NSOL - CEO, Dr. Paul Maurice Brown, is a convicted felon ..."

r. On or about December 20, 2001 the defendant AMR I. ELGINDY and others, began posting information regarding

Paul Brown's alleged criminal record on Internet bulletin boards and chat rooms.

Company No. 5

s. On or about March 4, 2002, the defendant LYNN WINGATE searched the ACS database and accessed nonpublic information concerning the Chief Executive Officer of a company listed on the NASDAQ National Market System ("Company No. 5").

t. On or about March 4, 2002, after the defendant LYNN WINGATE's ACS search described in overt act (s), WINGATE telephoned the defendant JEFFREY A. ROYER.

B. Securities Fraud Conspiracy - Market Manipulation

42. The allegations contained in paragraphs 1 through 32 and 37 through 41 are realleged and incorporated as if fully set forth herein.

43. In or about and between November 2000 and May 2002, both dates being approximate and inclusive, the defendants AMR I. ELGINDY, also known as "Tony Elgindy" and "Anthony Pacific," JEFFREY A. ROYER, DERRICK W. CLEVELAND, TROY M. PETERS and LYNN WINGATE, together with others, did knowingly and willfully conspire to 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 facts 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 various securities, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, all in violation of Title 18, United States Code, Section 371.

44. It was a part of the conspiracy that between November 2000 to May 2002, both dates being approximate and inclusive, the defendants AMR I. ELGINDY, DERRICK W. CLEVELAND and JEFFREY A. ROYER, together with others, devised, implemented and oversaw a fraudulent scheme to deflate artificially the price of various companies' stock that they had short sold and then to profit by buying it back later at a lower price. ELGINDY, CLEVELAND, ROYER and others sought to accomplish their manipulation by coordinating the release of negative information with short selling in a manner designed to exaggerate the negative market sentiment for the stock.

45. It was further part of the conspiracy that the AnthonyPacific.com subscribers received the information and

recommendations first, so that they could position themselves to profit if the market reacted to the exaggerated negative market sentiment for the stocks, and so that a portion of their profits would be paid back to the defendants AMR I. ELGINDY in the form of subscription fees.

46. In furtherance of the conspiracy and to effect the objectives thereof, the defendants AMR I. ELGINDY, DERRICK W. CLEVELAND and JEFFREY A. ROYER, and their coconspirators committed and caused to be committed the following:

OVERT ACTS

a. On December 19, 2001, at approximately 11:19 a.m. (Eastern Standard Time), the defendant JEFFREY A. ROYER searched the NCIC database and found criminal history information regarding Paul Brown, the founder of Nuclear Solutions, one of the Targeted Companies.

b. On December 19, 2001, at approximately 1:31 p.m. (Eastern Standard Time), the defendant AMR I. ELGINDY sent an e-mail to his subscribers that stated: "NSOL - CEO, Dr. Paul Maurice Brown, is a convicted felon ..."

c. On or about December 20, 2002, the defendant AMR I. ELGINDY and others, began posting information regarding Paul Brown's alleged criminal record on Internet bulletin boards and chat rooms.

d. On December 22, 2001, the defendant AMR I. ELGINDY sent an e-mail to his subscribers that stated: "Convicted Felon Brown ... has history of lying & fraud..."

e. On or about December 24, 2001, the defendant AMR I. ELGINDY short sold the stock of Nuclear Solutions.

f. On December 26, 2001, the defendant AMR I. ELGINDY sent an e-mail to his subscribers that stated: "NSOL - info on [a Nuclear Solutions executive] the scumbag [attorney] ... has been disbarred..."

g. On or about December 27, 2001, the defendant AMR I. ELGINDY sent an e-mail to his subscribers that stated: "NSOL -- if u are short you need to [private message] me how many."

h. On or about January 2, 2001, the defendant AMR I. ELGINDY short sold the stock of Nuclear Solutions.

i. On or about January 3, 2002, the defendant AMR I. ELGINDY sent an e-mail to his subscribers that stated: "NSOL -- short 20% @ 2.05 (add).

j. On or about January 3, 2001, the defendant AMR I. ELGINDY short sold the stock of Nuclear Solutions.

k. On or about January 9, 2001, the defendant DERRICK W. CLEVELAND short sold the stock of Nuclear Solutions.

l. On or about January 16, 2001, the defendant AMR I. ELGINDY short sold the stock of Nuclear Solutions.

m. On or about January 24, 2001, the defendant AMR I. ELGINDY short sold the stock of Nuclear Solutions.

n. On or about January 25, 2001, the defendant AMR I. ELGINDY short sold the stock of Nuclear Solutions.

o. On or about January 30, 2002, the defendant AMR I. ELGINDY in a chat room discussion with his subscribers, stated "We are pulling out of NSOL" and "NSOL <--- coverage [terminated] for good."

Racketeering Act Two
(Extortion)

47. The defendants AMR I. ELGINDY, JEFFREY A. ROYER, DERRICK W. CLEVELAND and TROY M. PETERS, and other members and associates, committed the following acts involving extortion, any one of which alone constitutes the commission of Racketeering Act Two.

A. Extortion Conspiracy

48. The allegations contained in paragraphs 1 through 32, 37 through 41 and 44 through 46 are realleged and incorporated as if fully set forth herein.

49. In or about and between December 2001 and February 2002, both dates being approximate and inclusive, the defendants AMR I. ELGINDY, also known as "Tony Elgindy" and "Anthony Pacific," JEFFREY A. ROYER, DERRICK W. CLEVELAND and TROY M. PETERS, and others, did knowingly and intentionally conspire to obstruct, delay and affect commerce, and the movement of articles

and commodities in commerce, by extortion, as that term is defined in Title 18, United States Code, Section 1951(b)(2), in that the defendants and others conspired to obtain, through extortionate demands, property, to wit, stock, with the consent of the owner of such stock, which consent was to be induced by the wrongful use of actual and threatened force, violence and fear.

B. Extortion

50. The allegations contained in paragraphs 1 through 32, 37 through 41 and 44 through 46 are realleged and incorporated as if fully set forth herein.

51. In or about and between December 2001 and February 2002, both dates being approximate and inclusive, the defendants AMR I. ELGINDY, also known as "Tony Elgindy" and "Anthony Pacific," JEFFREY A. ROYER, DERRICK W. CLEVELAND and TROY M. PETERS, and others, did knowingly and intentionally obstruct, delay and affect commerce, and the movement of articles and commodities in commerce, by extortion, as that term is defined in Title 18, United States Code, Section 1951(b)(2), in that the defendants and others obtained, through extortionate demands, property, to wit, stock, with the consent of the owner of such stock, which consent was to be induced by the wrongful use of actual and threatened force, violence and fear.

Racketeering Act Three
(Obstruction of Justice)

52. The allegations contained in paragraphs 1 through 32, 37 through 41 and 44 through 46 are realleged and incorporated as if fully set forth herein.

53. In or about and between October 2001 and May 2002, both dates being approximate and inclusive, the defendants AMR I. ELGINDY, also known as "Tony Elgindy" and "Anthony Pacific," JEFFREY A. ROYER and LYNN WINGATE, together with others, did knowingly, intentionally and corruptly endeavor to influence, obstruct and impede the due administration of justice with respect to matters before a grand jury in the Eastern District of New York and elsewhere, by ROYER and WINGATE accessing a confidential FBI database to gain information concerning the EDNY Grand Jury Investigation to provide it to ELGINDY and others, in violation of Title 18, United States Code, Section 1503.

(Title 18, United States Code, Sections 1962(d), 1963 and 3551 et seq.)

COUNT TWO
(Securities Fraud Conspiracy - Insider Trading)

54. The allegations contained in paragraphs 1 through 32, 37 through 41 and 44 through 46 are realleged and incorporated as if fully set forth herein.

55. In or about and between November 2000 and May 2002, both dates being approximate and inclusive, within the

Eastern District of New York and elsewhere, the defendants AMR I. ELGINDY, also known as "Tony Elgindy" and "Anthony Pacific," JEFFREY A. ROYER, DERRICK W. CLEVELAND, TROY M. PETERS and LYNN WINGATE, together with others, did knowingly and willfully conspire to 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 facts 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 securities, in violation of Title 15, United States Code, Sections 78j(b) and 78ff.

56. It was a part of the conspiracy that between November 2000 to May 2002, both dates being approximate and inclusive, the defendants AMR I. ELGINDY and DERRICK W. CLEVELAND, solicited, obtained and received from the defendant JEFFREY A. ROYER, and, later, ELGINDY, CLEVELAND and ROYER,

solicited, obtained and received from the defendant LYNN WINGATE material, non-public information concerning Targeted Companies which they then used to make decisions whether to purchase and sell the stocks of the Targeted Companies.

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

COUNT THREE

(Securities Fraud Conspiracy - Market Manipulation)

57. The allegations contained in paragraphs 1 through 32, 37 through 41, 44 through 46 and 56 are realleged and incorporated as if fully set forth herein.

58. In or about and between November 2000 and May 2002, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants AMR I. ELGINDY, also known as "Tony Elgindy" and "Anthony Pacific," JEFFREY A. ROYER, DERRICK W. CLEVELAND, TROY M. PETERS and LYNN WINGATE, together with others, did knowingly and willfully conspire to 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 facts 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 securities, in violation of Title 15, United States Code, Sections 78j(b) and 78ff.

59. It was a part of the conspiracy that between November 2000 to May 2002, both dates being approximate and inclusive, the defendants AMR I. ELGINDY, DERRICK W. CLEVELAND and JEFFREY A. ROYER, together with others, devised, implemented and oversaw a fraudulent scheme to deflate artificially the price of various companies' stock that they had short sold and then to profit by buying it back later at a lower price for return to the lender.

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

COUNT FOUR
(Extortion Conspiracy)

60. The allegations contained in paragraphs 1 through 32, 37 through 41, 44 through 46, 56 and 59 are realleged and incorporated as if fully set forth herein.

61. In or about and between December 2001 and February 2002, both dates being approximate and inclusive, the defendants AMR I. ELGINDY, also known as "Tony Elgindy" and "Anthony Pacific," JEFFREY A. ROYER, DERRICK W. CLEVELAND and TROY M. PETERS, and others, did knowingly and intentionally conspire to

obstruct, delay and affect, commerce, and the movement of articles and commodities in commerce, by extortion, as that term is defined in Title 18, United States Code, Section 1951(b)(2), in that the defendants and others conspired to obtain, through extortionate demands, property, to wit, stock, with the consent of the owner of such stock, which consent was to be induced by the wrongful use of actual and threatened force, violence and fear.

(Title 18, United States Code, Sections 1951(a)).

COUNT FIVE

(Obstruction of Justice Conspiracy)

62. The allegations contained in paragraphs 1 through 32, 37 through 41, 44 through 46, 56, 59 and 64 are realleged and incorporated as if fully set forth herein.

63. In or about and between October 2001 and May 2002, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants AMR I. ELGINDY, also known as "Tony Elgindy" and "Anthony Pacific," JEFFREY A. ROYER and LYNN WINGATE, together with others, did conspire to knowingly, intentionally and corruptly endeavor to influence, obstruct and impede the due administration of justice with respect to matters before a grand jury in the Eastern District of New York and elsewhere, by ROYER and WINGATE accessing a confidential FBI database to gain information

concerning the investigation to provide it to ELGINDY, in violation of Title 18, United States Code, Section 1503.

64. In furtherance of the conspiracy, and for the purpose of effecting the objectives thereof, within the Eastern District of New York and elsewhere, the defendants AMR I. ELGINDY, JEFFREY A. ROYER and LYNN WINGATE, and their coconspirators committed and caused to be committed, among others, the following:

OVERT ACTS

a. On or about October 4, 2001, the defendant JEFFREY A. ROYER searched the ACS database for references to "Elgindy" and an individual associated with the defendant AMR I. ELGINDY.

b. On or about October 12, 2001, the defendant JEFFREY A. ROYER searched the ACS database for references to "Elgindy, Anthony."

c. On or about October 17, 2001, the defendant JEFFREY A. ROYER searched the ACS database for references to "Elgindy" and "Royer, Jeff."

d. On or about October 20, 2001, the defendant JEFFREY A. ROYER searched the ACS database for references to "Elgindy, Anthony" and an individual associated with the defendant AMR I. ELGINDY.

e. On or about October 30, 2001, the defendant JEFFREY A. ROYER searched the ACS database for references to "Elgindy, Anthony."

f. On or about November 6, 2001, the defendant JEFFREY A. ROYER searched the ACS database for references to "Royer" and "Royer, J."

g. On or about November 7, 2001, the defendant JEFFREY A. ROYER searched the ACS database for references to "Elgindy, Anthony."

h. On or about April 18, 2002, the defendant LYNN WINGATE searched the ACS database for references to "Elgindy" and "Royer."

i. On or about April 18, 2002, after searching the ACS database for references to "Elgindy, Anthony" and "Royer, Jeff," the defendant LYNN WINGATE telephoned the defendant JEFFREY A. ROYER.

j. On or about April 18, 2002, the defendant JEFFREY A. ROYER telephoned the defendant AMR I. ELGINDY.

k. On or about April 23, 2002, the defendant LYNN WINGATE searched the ACS database for references to "Wingate."

l. On or about April 23, 2002, the defendant JEFFREY A. ROYER telephoned the defendant AMR I. ELGINDY.

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

COUNT SIX
(Obstruction of Justice)

65. The allegations contained in paragraphs 1 through 32, 37 through 41, 44 through 46, 56, 59 and 64 are realleged and incorporated as if fully set forth herein.

66. In or about and between October 2001 and May 2002, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants AMR I. ELGINDY, also known as "Tony Elgindy" and "Anthony Pacific," JEFFREY A. ROYER and LYNN WINGATE, together with others, did knowingly, intentionally and corruptly influence, obstruct and impede, and endeavor to influence, obstruct and impede, the due administration of justice with respect to matters before a grand jury in the Eastern District of New York and elsewhere.

(Title 18, United States Code, Section 1503).

A TRUE BILL

FOREPERSON

ALAN VINEGRAD
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK