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UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	Criminal Case No. 05-CR-1010-BEN
	)	
Plaintiff,	)	
	)	
v.	)	
	)	<u>PLEA AGREEMENT</u>
MARVIN IRWIN FRIEDMAN (1),	)	
	)	
Defendant.	)	

IT IS HEREBY AGREED between the plaintiff, UNITED STATES OF AMERICA, through its counsel, Carol C. Lam, United States Attorney, and Faith A. Devine, Assistant United States Attorney, and defendant, Marvin Irwin Friedman, with the advice and consent of Charles Goldberg, counsel for defendant, as follows:

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I

THE PLEA

A. Defendant agrees to plead guilty to Counts 1 and 32 of the Superseding Indictment charging defendant with:

- 1. Knowingly conspiring to commit mail and wire fraud in violation of Title 18, United States Code, Section 371 by devising and intending to devise a material scheme to defraud and to obtain money from investors in GMM by means of materially false and fraudulent pretenses, representations, and promises and for the purposes of executing and attempting to execute this fraudulent scheme, knowingly placed, and caused to be placed, in an authorized depository for mail, certain matters or things to be sent and delivered by the United States Postal Service according to the directions thereon, in violation of Title 18, United States Code, Section 1341 and also for the purposes of executing this material scheme knowingly transmitted and caused to be transmitted by means of wire communication in interstate commerce writings, signals, and sounds in violation of Title 18, United States Code, Section 1343.
- 2. Willfully making and subscribing to a false and fraudulent U.S. Individual Income Tax Return, Form 1040 for the year 2002 which contained and was verified by a written declaration that is was made under penalty of perjury and was filed with the Internal Revenue Service, which return defendant did not believe to be true and correct as to every material matter in that the said income tax return reported taxable income of \$0 on line 41 whereas, as the defendant then well knew and believed, his correct taxable income was in excess of the amount reported on the tax return, in violation of Title 26, United States Code, Section 7206(1).

B. The Government agrees to move to dismiss the remaining counts in the Superseding Indictment when defendant is sentenced.

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II

NATURE OF THE OFFENSE

A. ELEMENTS EXPLAINED

Defendant FRIEDMAN understands that the conspiracy offense to which he is pleading guilty has the following elements:

1. There was an agreement between two or more persons to commit an offense against the United States, that is to commit mail and wire fraud by devising and intending to devise a material scheme to defraud investors in GMM by making false representations and promises, and for the purposes of executing this material scheme used the mails and interstate wire communications to carry out an essential part of the scheme;
2. The defendant became a member of the conspiracy knowing of at least one of its objects and intending to help accomplish it; and
3. One of the members of the conspiracy performed at least one overt act for the purpose of carrying out the conspiracy.

Defendant FRIEDMAN further understands that the tax fraud offense to which he is pleading guilty have the following elements:

1. The defendant made and filed a tax return for the year 2002 that he knew contained false information as to a material matter;
2. The return contained a written declaration that it was being signed subject to the penalties of perjury; and

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1 3. In filing the false return, the defendant acted  
2 willfully.

3 B. ELEMENTS UNDERSTOOD AND ADMITTED - FACTUAL BASIS

4 Defendant has fully discussed the facts of this case with  
5 defense counsel. Defendant has committed each of the elements of  
6 the crimes, and admits that there is a factual basis for this guilty  
7 plea. The following facts are true and undisputed:

8 INTRODUCTION

9 1. Prior to 1997, FRIEDMAN formed Global Money  
10 Management, L.P. , a California limited partnership ("GMM") with co-  
11 defendant Paul Henrie Levy ("Levy") for the purpose of soliciting  
12 investments from members of the public. The managing general  
13 partner of GMM was LF Global Investments, LLC ("LF Global").  
14 FRIEDMAN and Levy were managing members of LF Global.

15 2. FRIEDMAN and Levy represented GMM to the public and  
16 potential investors as a successful hedge fund that pooled investor  
17 funds which were invested in securities of public and private  
18 companies. GMM's offering to the public was in the form of limited  
19 partnership interests.

20 3. In March 2004, an investigation by the Securities &  
21 Exchange Commission ("SEC") revealed that FRIEDMAN and Levy misled  
22 investors about the success of the GMM hedge fund and had diverted  
23 millions of dollars of investor funds for their own personal benefit  
24 or entities which they controlled. As more fully described below,  
25 FRIEDMAN admits that between at least the year 2000 and March 2004,  
26 he, acting in concert with co-defendant Levy, (a) made oral and  
27 written misrepresentations to GMM investors about the profitability  
28 of the GMM hedge fund in order to induce the investors to invest in

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1 GMM and/or not to withdraw funds that the investors had already  
2 invested, (b) diverted GMM investor money to his own personal use,  
3 and © diverted GMM investor funds for the benefit of entities  
4 controlled by FRIEDMAN and Levy and not for the benefit of GMM.

5 THE CONSPIRACY AND MEANS OF EXECUTION

6 4. Beginning in at least 1997, FRIEDMAN and Levy  
7 solicited investors through word of mouth and referrals from family  
8 members. In 1998, FRIEDMAN and Levy began soliciting institutional  
9 investors through referrals ~~from investment banking firms~~ <sup>CF MF</sup>. FRIEDMAN  
10 and Levy solicited investors through oral and written  
11 representations and made frequent phone calls to investors.

12 5. FRIEDMAN and Levy's oral pitch to investors included  
13 several visits to investment ~~banking firms~~ <sup>advisers CF MF</sup> in which they would tout  
14 the successful performance of the GMM hedge fund for the purpose of  
15 inducing the investment ~~banking firms~~ <sup>advisers CF MF</sup> to recommend GMM as an  
16 investment to their respective clients.

17 6. FRIEDMAN and Levy also disseminated copies of a  
18 Private Information Statement and a written partnership agreement  
19 for GMM. These two documents served as the offering materials.  
20 Investors were also provided with a Performance History Chart which  
21 showed that the GMM hedge fund was making substantial returns-an  
22 average of 25% per year. These written materials were either mailed  
23 to potential investors and investment banking firms or provided to  
24 investors during oral pitches made by FRIEDMAN and Levy.

25 7. The Private Information Statement and the GMM  
26 partnership agreement represented that investor funds would be  
27 invested in securities of public and private companies. In  
28 addition, these documents represented that LF Global, the managing

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1 partner of GMM, would not charge any fees for managing the fund but  
2 would instead receive an "incentive fee" of between 20% and 30% of  
3 the profits generated by GMM. The GMM partnership agreement also  
4 provided that LF Global would be reimbursed for "expenses of the  
5 partnership incurred or paid in the ordinary course of the business"  
6 of GMM.

7 8. FRIEDMAN admits that he knew that the representations  
8 referred to in paragraph 7 above were false and that between at  
9 least August 2000 and March 2004, he and Levy agreed to divert  
10 investor funds by (1) using GMM funds to make investments that would  
11 benefit LF Global and not GMM, (2) using GMM investor funds to pay  
12 their personal expenses which were not related to the business of  
13 GMM, and (3) transferring GMM investor funds to LF Global accounts  
14 which were, in turn, disbursed to FRIEDMAN and Levy that were not  
15 based upon profits generated by the GMM hedge fund. FRIEDMAN also  
16 admits that he and Levy agreed to use new GMM investor money to pay  
17 fictitious returns to old GMM investors in order to induce those  
18 investors to invest in GMM and/or not withdraw funds the investors  
19 had already invested.

20 9. FRIEDMAN admits that he knew that quarterly investor account  
21 statements, performance history charts, and annual partnership tax  
22 returns that were mailed to GMM investors at the direction of Levy  
23 contained inflated numbers showing that GMM was making substantial  
24 profits.

25 10. FRIEDMAN admits that beginning in 2003, he was on notice  
26 that Levy had embezzled funds from GMM and that the GMM funds  
27 contained in GMM's accounts was substantially less than what was  
28 represented to investors. Instead of correcting the false and

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1 fraudulent account statements prepared at the direction of Levy,  
 2 FRIEDMAN instructed co-defendant Alice Mae Swiderski ("Swiderksi")  
 3 to prepare quarterly investor statements which contained the same  
 4 inflated numbers as the statements prepared at the direction of  
 5 Levy. In addition, FRIEDMAN caused at least \$20 million in new  
 6 investor money that had been raised based upon the false  
 7 representation that GMM was generating substantial profits to be  
 8 paid to old investors as fictitious returns on investments. The  
 9 purpose of these payments was to prevent investors from learning the  
 10 truth about the dire financial state of GMM.

11 11. FRIEDMAN admits that the "reasonably foreseeable pecuniary  
 12 harm" based upon his participation in this offense amounts to  
 13 <sup>up to</sup> approximately \$48 million, *the exact amount to be determined*  
 14 *at time of sentencing. or MF*  
 15 12. FRIEDMAN admits that there were more than 200 but less  
 16 than 250 victims of this offense.

16 DEFENDANT'S FALSE TAX RETURNS

17 13. For the tax years 1999, 2001 and 2002, FRIEDMAN <sup>authorized</sup> provided  
 18 false information to <sup>be provided to</sup> an accountant for LF Global which showed that  
 19 he made capital contributions to LF Global when, in truth, the  
 20 contributions were improperly diverted from GMM. FRIEDMAN provided  
 21 this information knowing that it would be used to prepare a Schedule  
 22 K-1 for LF Global. FRIEDMAN then provided the falsely prepared K-1  
 23 to his tax preparer for the preparation of his personal returns. By  
 24 falsely stating that he made capital contributions to LF Global,  
 25 FRIEDMAN was able to take withdrawals from LF Global accounts  
 26 without having to report these withdrawals as income on his  
 27 individual tax return. In addition to the false capital  
 28 contributions, in his 1999 return, FRIEDMAN understated the amount

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1 of money he withdrew from LF Global. This enabled him to report  
2 less income on his 1999 individual tax return.

3 14. On or about October 13, 2000, FRIEDMAN signed under  
4 penalty of perjury a U.S. Individual Income Tax Return, Form 1040,  
5 for the year 1999. The tax return was false in that it showed  
6 taxable income of \$217,927.12 on Line 39, when the correct amount  
7 should have been at least \$367,493.79.

8 15. On or about October 14, 2002, FRIEDMAN signed under  
9 penalty of perjury a U.S. Individual Income Tax Return, Form 1040,  
10 for the year 2001. The tax return was false in that it showed  
11 taxable income in the amount of \$1,073,937.36 on Line 39, when the  
12 correct amount was at least \$1,356,748.56.

13 16. On or about October 14, 2003, FRIEDMAN signed under  
14 penalty of perjury a U.S. Individual Income Tax Return, Form 1040,  
15 for the year 2002. The tax return was false in that it showed  
16 taxable income in the amount of \$0, when the correct amount was at  
17 least \$999,113.03.

18 17. The tax returns described in paragraphs 14, 15 and 16 were  
19 submitted to the Internal Revenue Service.

20 18. The total tax loss for the years 1999, 2001, and 2002 is  
21 \$481,859.35.

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III

PENALTIES

A. Defendant understands that for the conspiracy count to which defendant is pleading guilty (Count 1), the penalty is:

- 1. a maximum 5 years in prison,
- 2. a maximum \$250,000 fine;
- 3. a mandatory special assessment of \$100;
- 4. a term of supervised release of no more than 3 years;
- and
- 5. an order from the court pursuant to Title 18, United

States Code, Section 3663A that defendant make mandatory restitution to the victims of the offense of conviction, or the estates of the victims. Defendant understands that the court shall also order, if agreed to by the parties in this plea agreement, restitution to persons other than the victims of the offense of conviction.

B. Defendant understands that for the tax fraud count to which defendant is pleading guilty (Count 32), the penalty is:

- 1. a maximum 3 years in prison,
- 2. a maximum \$100,000 fine;
- 3. a mandatory special assessment of \$100; and
- 4. a term of supervised release of no more than 1 year.

C. Defendant understands that failure to comply with any of the conditions of supervised release may result in revocation of supervised release, requiring defendant to serve in prison all or part of the term of supervised release.

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DEFENDANT'S WAIVER OF TRIAL RIGHTS

Defendant understands that this guilty plea waives the right to:

- A. continue to plead not guilty and require the Government to prove the elements of the crime beyond a reasonable doubt;
- B. a speedy and public trial by jury;
- C. the assistance of counsel at all stages of trial;
- D. confront and cross-examine adverse witnesses;
- E. present evidence and to have witnesses testify on behalf of defendant; and
- F. not testify or have any adverse inferences drawn from the failure to testify.

V

DEFENDANT ACKNOWLEDGES NO PRETRIAL RIGHT TO BE PROVIDED WITH IMPEACHMENT AND AFFIRMATIVE DEFENSE INFORMATION

The Government represents that any information establishing the factual innocence of defendant known to the undersigned prosecutor in this case has been turned over to defendant. The Government will continue to provide such information establishing the factual innocence of defendant.

Defendant understands that if this case proceeded to trial, the Government would be required to provide impeachment information relating to any informants or other witnesses. In addition, if defendant raised an affirmative defense, the Government would be required to provide information in its possession that supports such a defense. Defendant acknowledges, however, that by pleading guilty

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1 defendant will not be provided this information, if any, and  
 2 Defendant also waives the right to this information. Finally,  
 3 defendant agrees not to attempt to withdraw the guilty plea or to  
 4 file a collateral attack based on the existence of this information.

VII

6 DEFENDANT'S REPRESENTATION THAT GUILTY  
 7 PLEA IS KNOWING AND VOLUNTARY

8 Defendant represents that:

- 9 A. Defendant has had a full opportunity to discuss all the  
 10 facts and circumstances of this case with defense counsel,  
 11 and has a clear understanding of the charges and the  
 12 consequences of this plea;
- 13 B. No one has made any promises or offered any rewards in  
 14 return for this guilty plea, other than those contained in  
 15 this plea agreement or otherwise disclosed to the court;
- 16 C. No one has threatened defendant or defendant's family to  
 17 induce this guilty plea; and
- 18 D. Defendant is pleading guilty because in truth and in fact  
 19 defendant is guilty and for no other reason.

VIII

20 AGREEMENT LIMITED TO U.S. ATTORNEY'S OFFICE  
 21 SOUTHERN DISTRICT OF CALIFORNIA

22 This plea agreement is limited to the United States Attorney's  
 23 Office for the Southern District of California, and cannot bind any  
 24 other federal, state or local prosecuting, administrative, or  
 25 regulatory authorities, although the Government will bring this plea  
 26 agreement to the attention of other authorities if requested by  
 27 defendant.

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IX

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APPLICABILITY OF SENTENCING GUIDELINES

3 Defendant understands the sentence imposed will be based on the  
4 factors set forth in 18 U.S.C. § 3553(a). Defendant understands  
5 further that in imposing the sentence, the sentencing judge must  
6 consult the United States Sentencing Guidelines (Guidelines) and  
7 take them into account. Defendant has discussed the Guidelines with  
8 defense counsel and understands that the Guidelines are only  
9 advisory, not mandatory, and the court may impose a sentence more  
10 severe or less severe than otherwise applicable under the  
11 Guidelines, up to the maximum in the statute of conviction.  
12 Defendant understands further that the sentence cannot be determined  
13 until a presentence report has been prepared by the U.S. Probation  
14 Office and defense counsel and the Government have had an  
15 opportunity to review and challenge the presentence report. Nothing  
16 in this plea agreement shall be construed as limiting the  
17 Government's duty to provide complete and accurate facts to the  
18 district court and the U.S. Probation Office.

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SENTENCE IS WITHIN SOLE DISCRETION OF JUDGE

21 This plea agreement is made pursuant to Federal Rule of  
22 Criminal Procedure 11(c)(1)(B). Defendant understands that the  
23 sentence is within the sole discretion of the sentencing judge. The  
24 Government has not made and will not make any representation as to  
25 what sentence defendant will receive. Defendant understands that  
26 the sentencing judge may impose the maximum sentence provided by  
27 statute, and is also aware that any estimate of the probable  
28 sentence by defense counsel is a prediction, not a promise, and is

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1 not binding on the Court. Likewise, the recommendation made by the  
 2 Government is not binding on the Court, and it is uncertain at this  
 3 time what defendant's sentence will be. Defendant also has been  
 4 advised and understands that if the sentencing judge does not follow  
 5 any of the parties' sentencing recommendations, defendant  
 6 nevertheless has no right to withdraw the plea.

7 XI

8 PARTIES' SENTENCING RECOMMENDATIONS

9 A. SENTENCING GUIDELINE CALCULATIONS

10 Although the parties understand that the Guidelines are only  
 11 advisory and just one of the factors the court will consider under  
 12 18 U.S.C. § 3553(a) in imposing a sentence, the parties will jointly  
 13 recommend the following Base Offense Level, Specific Offense  
 14 Characteristics, Adjustments and Departures (if applicable) under  
 15 the 2004 Guidelines:

16 Count 1-Conspiracy

17	1. Base Offense Level [USSG § 2B1.1(a)(2)]	6
18	2. SOC-Loss [USSG § 2B1.1(b)(1)(L)] ( >20 million and <50 million)	+22
19	3. SOC-Multiple Victims [USSG § 2B1.1(b)(2)(B)]	+4
20	4. Adjustment-Role [USSG § 3B1.1]	+2
21	5. Acceptance of Responsibility [USSG § 3E1.1]	-3
22	<b>Total Offense Level</b>	<b>31</b>

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Count 32-Tax Fraud

- 1. Base Offense Level [USSG § 2T1.1(a) & 2T4.1] 20  
(>400,000 and <1,000,000)
  - 2. SOC-Criminally Derived Proceeds +2  
[USSG §2T1.1(b)(1)]
  - 3. Acceptance of Responsibility [USSG § 3E1.1] -3
- Total Offense Level 19**

Count 1 and Count 32 group under USSG §3D1.2. Therefore, the total offense level is 31.

B. ACCEPTANCE OF RESPONSIBILITY

Notwithstanding paragraph A.5 above, the Government will not recommend any adjustment for Acceptance of Responsibility if defendant:

- 1. Fails to admit a complete factual basis for the plea at the time it is entered, or
- 2. Denies involvement in the offense, gives conflicting statements about that involvement, or is untruthful with the Court or probation officer, or
- 3. Fails to appear in court, or
- 4. Engages in additional criminal conduct, or
- 5. Attempts to withdraw the plea, or
- 6. Refuses to abide by any lawful court order.

C. ADJUSTMENTS

The parties agree not to recommend any upward or downward adjustments other than those listed above.

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1 D. NO AGREEMENT AS TO CRIMINAL HISTORY CATEGORY

2 The parties have no agreement as to defendant's Criminal  
3 History Category (CHC).

4 E. DEPARTURES

5 The parties agree not to recommend any upward or downward  
6 departures, including any criminal history departures under USSG  
7 § 4A1.3., except as set forth herein.

8 F. "FACTUAL BASIS" AND "RELEVANT CONDUCT" INFORMATION

9 The parties agree that the facts in the "factual basis"  
10 paragraph of this agreement are true, and may be considered as  
11 "relevant conduct" under USSG § 1B1.3 and as the nature and  
12 circumstances of the offense under 18 U.S.C. § 3553(a)(1).

13 G. PARTIES' RECOMMENDATIONS REGARDING CUSTODY

14 The Government will recommend that defendant be sentenced to a  
15 total of 8 years: Count 1 (5 years) and Count 32 (3 years) to run  
16 consecutive.

17 H. SPECIAL ASSESSMENT

18 The parties will jointly recommend that defendant pay a special  
19 assessment in the amount of \$200.00 to be paid forthwith at time of  
20 sentencing. The special assessment shall be paid through the office  
21 of the Clerk of the District Court by bank or cashier's check or  
22 money order made payable to the "Clerk, United States District  
23 Court."

24 I. RESTITUTION

25 Defendant agrees and understands that the amount of restitution  
26 ordered by the court shall include defendant's total offense conduct  
27 as provided for in Section II, and is not limited to the counts of  
28 conviction. Accordingly, the parties will jointly recommend that

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1 defendant pay restitution up to the amount of \$48 million, the exact  
2 amount to be determined at sentencing.

3 The restitution described above shall be paid through the  
4 Office of the Clerk of the District Court by bank or cashier's check  
5 or money order made payable to the "Clerk, United States District  
6 Court."

7 The Parties agree further that no later than 15 days prior to  
8 sentencing, defendant and the Government will stipulate as to the  
9 names and addresses of the victims of the scheme to defraud and the  
10 applicable amount of restitution due to each victim that the Court  
11 may use in ordering restitution.

12 XII

13 DEFENDANT WAIVES APPEAL AND COLLATERAL ATTACK

14 In exchange for the Government's concessions in this plea  
15 agreement, defendant waives, to the full extent of the law, any  
16 right to appeal or to collaterally attack the conviction and  
17 sentence, including any restitution order.

18 XIII

19 CRIMES AFTER ARREST OR BREACH OF THE AGREEMENT WILL PERMIT  
20 THE GOVERNMENT TO RECOMMEND A HIGHER SENTENCE OR SET ASIDE  
21 THE PLEA

22 This plea agreement is based on the understanding that  
23 defendant has not committed or been arrested for any offense not  
24 known to the Government prior to defendant's sentencing. This plea  
25 agreement is further based on the understanding that defendant has  
26 committed no criminal conduct since defendant's arrest on the  
27 present charges, and that defendant will commit no additional  
28 criminal conduct before sentencing. If defendant has engaged in or  
engages in additional criminal conduct during this period, or

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1 breaches any of the terms of any agreement with the Government, the  
 2 Government will not be bound by the recommendations in this plea  
 3 agreement, and may recommend any lawful sentence. In addition, at  
 4 its option, the Government may move to set aside the plea.

XIV

ENTIRE AGREEMENT

7 This plea agreement embodies the entire plea agreement between  
 8 the parties and supersedes any other plea agreement, written or  
 9 oral.

XV

MODIFICATION OF AGREEMENT MUST BE IN WRITING

12 No modification of this plea agreement shall be effective  
 13 unless in writing signed by all parties.

XVI

DEFENDANT AND COUNSEL FULLY UNDERSTAND AGREEMENT

16 By signing this plea agreement, defendant certifies that  
 17 defendant has read it. Defendant has discussed the terms of this  
 18 plea agreement with defense counsel and fully understands its  
 19 meaning and effect.

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XVII

DEFENDANT SATISFIED WITH COUNSEL

Defendant has consulted with counsel and is satisfied with  
counsel's representation.

CAROL C. LAM  
United States Attorney

2/27/06  
DATED

Faith A. Devine  
FAITH A. DEVINE  
Assistant U.S. Attorney

2/27/06  
DATED

Charles Goldberg  
CHARLES GOLDBERG  
Attorney for Defendant

IN ADDITION TO THE FOREGOING PROVISIONS TO WHICH I AGREE, I SWEAR  
UNDER PENALTY OF PERJURY THAT THE FACTS IN THE "FACTUAL BASIS"  
PARAGRAPH ABOVE ARE TRUE.

2/27/06  
DATED

Marvin I. Friedman  
MARVIN IRWIN FRIEDMAN  
Defendant

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