

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

CRIMINAL NO. 07-103

VERSUS

SECTION "L" MAG. (5)

JAMES G. PERDIGAO

VIOLATION: 18 USC 1341,  
1344, 2314, 1957 & 2, 26  
USC 7201 & 7206 (1)

**MOTION FOR DISCLOSURE OF ELECTRONIC  
EAVESDROPPING OR OTHER SIMILAR SURVEILLANCE**

NOW INTO COURT, through undersigned counsel, comes defendant James Perdigao who hereby moves the court pursuant to the First, Fourth, Fifth, Sixth, Ninth, Tenth and Fourteenth Amendments to the United States Constitution, 18 U.S.C. §§ 2510-20 and 3504, and Rules 7(f), 12(d)(2), 16(a)(1) and 41(e) of the Federal Rules of Criminal Procedure for an Order compelling the United States forthwith to make diligent inquiry and search, to disclose to Defendant and permit him to inspect, copy and photograph the following:

1. Any and all returns, inventories, notices, voice records, tapes, mechanical or electrical recordings, logs, notes, summaries, transcripts (including all rough draft, draft, provisional or other preliminary or partial transcripts), memoranda, reports, letters,

airtels and/or other records, of any nature or description, of any electronic or other surveillance,

(a) of any wire, oral or electronic communications to which the defendant in this Indictment and Superseding Indictment was identified as a party;

(b) of any wire, oral or electronic communications at any place, or of any telephone or other communications facility, in which the defendant had an "interest" at the time of the surveillance, "interest" meaning any property, possessory or subscriber right or any other nexus of use and/or reasonable expectation of privacy;

(c) of any wire, oral or electronic communications intercepted for the purpose, in whole or in part, of gathering evidence or leads against the defendant in this Indictment and Superseding Indictment, i.e., of interceptions directed against the defendant herein;

(d) of any wire, oral or electronic communications in which defendant is named or otherwise referred to;

(e) of any wire, oral or electronic communication intercepted pursuant to warrant or application in which the defendant's name appears, or which warrant or application was based upon investigatory memoranda, etc., in which defendant's name appears;

(f) of any wire, oral or electronic communications at any place at which defendant was located at the time of the surveillance;

(g) of any wire, oral or electronic communications described above in 1(b) through 1(f) wherein a party to the same is unidentified.

2. Any and all returns, inventories, notices, actual voice records, tapes, mechanical or electrical recordings, logs, notes, summaries, transcripts (including all rough draft, draft, provisional or other preliminary or partial transcripts), memoranda, reports, letters, airtels and/or other records, of any nature or description, of any electronic or other surveillance of any wire, oral or electronic communications described above in 1(a) through 1(g) as to any co-defendants (if any), co-conspirators indicted in other cases, unindicted co-conspirators, or other arguably relevant persons.

3. Any and all returns, inventories, notices, actual voice records, tapes, mechanical or electrical recordings, logs, notes, summaries, transcripts (including all rough draft, draft, provisional or other preliminary or partial transcripts), memoranda, reports, letters, airtels and/or other records, of any nature or description, of any electronic or other surveillance of any wire, oral or electronic communications to which any attorney for the defendant herein, or his agents or employees, was a party and of any conversation at which said attorney, his agents, or employees were present.

4. Any and all returns, inventories, notices, actual voice records, tapes, mechanical or electrical recordings, logs, notes, summaries, transcripts (including all rough draft, draft, provisional or other preliminary or partial transcripts), memoranda, reports, letters, airtels and/or other records, of any nature or description, of any electronic or other surveillance of any wire, oral or electronic communications to which a party to that conversation allegedly "consented."

5. Any and all returns, inventories, notices, actual voice records, tapes, mechanical or electrical recordings, logs, notes, summaries, transcripts (including all rough draft, draft, provisional or other preliminary or partial transcripts), memoranda, reports, letters, airtels and/or other records, of any nature or description, of any electronic or other surveillance of wire, oral or electronic communications such as are described above in 1 through 4 pertaining to surveillance which revealed the existence of said communications even though no contents were intercepted and/or recorded.

6. For any electronic or other surveillance as described above in 1 through 5 for which there are no returns, inventories, notices, actual voice records, tapes, mechanical or electrical recordings, logs, notes, summaries, transcripts (including all rough draft, draft, provisional or other preliminary or partial transcripts), memoranda, reports, letters, airtels and/or other records, of any nature or description, the names and business addresses of the persons who conducted said surveillance and/or who have knowledge of said surveillance.

7. The demands for disclosure 1 through 6 above embrace electronic or other surveillance undertaken not only by the United States, its agents and employees but by any governmental agency -- foreign, state or local -- and by any private person, group or corporation.

8. For any electronic or other surveillance requested above in 1 through 7 as to which this Court denies any demand for any record, state the existence and detail the circumstances of the surveillance; "circumstances" is meant to include date and place of the surveillance, who was present at said place, who conducted said surveillance, the

duration of the surveillance, the manner in which it was conducted, the persons who had any interest in the premises and/or the communications facility involved, the persons named in any application, authorization or extension order, notice, return or inventory, the parties to any communications surveilled, the identities of any persons discovered and all other relevant facts.

9. Any and all applications, affidavits, memoranda and other papers or things submitted in support of applications for executive, administrative, judicial or other approval of such surveillance as described above and any and all executive, administrative, judicial or other orders, opinions or decisions responsive to, related to or connected with them.

In addition, Defendant respectfully moves this Court pursuant to Rule 16(c) of the Federal Rules of Criminal Procedure for an Order of continuing disclosure of the items sought above.

Defendant further moves this Court for entry of an Order directing the Plaintiff to conduct a search of every federal agency conducting electronic surveillance, and all other agencies cooperating with any federal agency which has ever participated in any investigation or prosecution of the defendant in this case in order to determine whether there has been electronic surveillance as described above.

Defendant further moves for entry of an order requiring Plaintiff to cause a similar search to be made by all foreign, state and local jurisdictions which have in any way participated, cooperated or assisted in the investigation and/or prosecution of the defendant herein.

Defendant further moves for the entry of an Order requiring that the Plaintiff's response to this motion be sworn, by the person or persons who conducted and participated in the search for the surveillance described above, setting forth in detail the nature of the investigation undertaken, specifying the particular foreign, federal, state and local agencies queried and the indices or locators relied upon, and, finally, appending thereto copies of all communications pertaining to the search.

Defendant reserves the right to move for an evidentiary hearing prior to trial to determine:

(a) whether the government has fully complied with the demands made;

(b) the standing of any and all defendants to raise the issue of the legality of any of said electronic or other surveillance;

(c) the legality of any of said electronic or other surveillance;

(d) the extent to which said surveillance tainted the commencement of the investigation of defendants, the evidence upon which the indictment is based, that which the government introduced or proffered at the pre-trial detention hearing and that which it intends to use at trial or any other proceeding herein.

Defendant further moves that in the event said hearing should disclose that the indictment or superseding indictment herein was obtained, or the investigation of the defendant was commenced in reliance upon illegally obtained evidence, the indictment be dismissed.

Defendant similarly moves that in the event said hearing should disclose that the government's evidence is the direct or indirect product of illegal electronic surveillance, such evidence be suppressed.

Defendant finally moves that this Court issue a protective Order directing that the nature and contents of aforesaid requested materials not be disclosed by the government to any person, natural or artificial, public or private, whatsoever, except to counsel of record for defendant.

In support of his motion, Defendant attaches both a memorandum of law in support of this motion as well as his "Verified Claim of Unlawful Acts and Demand for Relief."

**WESSEL & ASSOCIATES  
A LAW CORPORATION**

/s/ William F. Wessel  
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and

/s/ Charles F. Griffin  
**CHARLES GRIFFIN, ESQ.**  
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Facsimile (504) 866-5633

**ATTORNEYS FOR  
DEFENDANT  
JAMES PERDIGAO**

**CERTIFICATE OF SERVICE**

I hereby certify that on **September 26, 2008** I electronically filed the above and foregoing pleading with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to counsel registered with the court for receipt of pleadings by e-mail. I also certify that the foregoing and all attachments thereto have been served on all counsel of record by facsimile, electronic mail and/or by depositing same in the United States Mail, properly addressed and postage prepaid, this 26th day of September, 2008.

/s/ William F. Wessel  
WILLIAM F. WESSEL (8551)



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

CRIMINAL NO. 07-103

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SECTION "L" MAG. (5)

JAMES G. PERDIGAO

VIOLATION: 18 USC 1341,  
1344, 2314, 1957 & 2, 26  
USC 7201 & 7206 (1)

**VERIFIED CLAIM OF UNLAWFUL  
ACTS AND DEMAND FOR RELIEF**

I, James Perdigao, hereby declare and verify as follows:

1. My name is James Perdigao, and I am the defendant in the above-styled matter.
2. I claim, pursuant to United States v. Salvucci, 448 U.S. 83, 89-90 (1980), Simmons v. United States, 390 U.S. 377, 389-94 (1968), and 18 U.S.C. § 3504(a), that I am "aggrieved" by "unlawful acts" and that evidence which has been and/or will be offered in trials, hearings and other proceedings before the Grand Jury, the Court and other authorities of the United States is inadmissible because it is the primary product of an "unlawful act" and/or because it was obtained by the exploitation of or otherwise derived from an "unlawful act," as more particularly described below.
3. The term "unlawful act" means the use of any electronic, mechanical or other device (as defined in 18 U.S.C. § 2510(5)) which can be used to intercept a wire or oral

communication in violation of the Constitution or laws of the United States or any regulation or standard promulgated pursuant thereto. 18 U.S.C. § 3504(b).

4. The term "aggrieved" applies to me as a person who was a party to intercepted wire and/or oral communications, 18 U.S.C. § 2510(11), as a person against whom interceptions were directed, Id., as a person with a property and/or possessory interest in the areas or facilities subjected to unlawful acts and/or interceptions, and/or as a person who had a legitimate expectation of privacy in the areas, facilities or communications subjected to unlawful acts and/or interceptions.

5. More particularly, I claim that I am aggrieved by unlawful acts and/or interceptions including but not limited to all those related to or connected with the following areas, facilities or communications during the time period (unless otherwise indicated) from January 1, 1992, to present date and continuing thereafter:

- a) Residence- 4121 ½ State Street Drive, New Orleans, LA 70125  
tel. (504)861-0681; tel. (504)450-5046.
- b) Offices of Adams and Reese LLP- 4500 One Shell Square,  
New Orleans, LA 70139 tel. (504)581-3234 and tel. (504) 585-  
0\_\_\_ with extensions beginning at 100 and proceeding  
consecutively upward; and 451 Florida Street, 19<sup>th</sup> Floor, North  
Tower, Baton Rouge, LA 70801, tel. (225)336-5200.
- c) (Former) Offices of Robert J. Guidry, Harvey Gulf  
International Marine, 3817 Spencer Street, Harvey, LA 70058,  
tel. (504)348-2466.

6. My claim includes but is not limited to the following grounds for concluding that I am aggrieved:

- a) During telephone calls, I have heard voices of persons who were not parties to the conversation.
- b) During telephone calls, I have heard an abnormal number of echoes and clicks.
- c) There have been abnormal delays in dialed telephone connections being completed.
- d) There have been an unusually high number of both incoming and outgoing wrong numbers and disconnects.
- e) Robert J. Guidry and certain members of Adams and Reese, L.L.P. who were not parties to certain private conversations acted in such a way so as to indicate that they knew the contents of certain of my confidential and private conversations.
- f) I have observed evidence of physical tampering with telephone equipment, lines and connections at my residence.
- g) I am aware that Adams and Reese, L.L.P. frequently "swept" the phone lines at the law offices on suspicion of being tapped or of being under surveillance.
- h) Sensitive and confidential information that I have provided to the government during de-briefing meetings have become

known to Robert J. Guidry and Adams and Reese, L.L.P., either as a result of unlawful leaks or as a result of unlawful electronic surveillance.

i) Cell phone accessories, a bridge “toll tag,” and documents relating to my whistleblower allegations in the matter styled James Perdigao v. Adams and Reese, LLP, et. al., Civ. Action No. 08-3570(L), U.S.D.C.-E.D.La. (incorporated herein by reference) have been unlawfully removed/stolen from my vehicle.

j) I have been followed in my vehicle on numerous occasions.

7. I demand that: a) the United States of America make diligent inquiry and search of each authority or agency of the United States and of each state and local authority in the geographical areas set forth in paragraph five (5) above, which has, at any time since January 1, 1992, intercepted communications or used electronic, mechanical, or other devices (as defined in 18 U.S.C. § 2510(5)) or which has been engaged in or authorized to do so, in an effort to verify and document any claim I may have; (b) that it affirm or deny each claim by requiring each person participating in the foregoing inquiry and search to execute a written statement under oath, or subject to the pains and penalties of perjury, detailing the nature of the investigation made, the indices, sources or other finders consulted, and the results; (c) that it disclose to my counsel the contents of all communications arguably intercepted by unlawful acts and all evidence arguably derived

therefrom; and (d) that it produce to my counsel any and all arguably relevant applications, orders, extensions, recordings, logs, devices, inventories and reports.

**Verification**

I, James Perdigao, hereby declare, certify, verify and state under penalty of perjury under the laws of the United States of America and pursuant to 28 U.S.C. § 1746 that the foregoing facts averred are true and correct except only those facts alleged on information and belief and that I am informed and do believe that such facts are true and correct.

Dated: September 26, 2008.  
New Orleans, Louisiana

/s/ James Perdigao  
JAMES PERDIGAO

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

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**MEMORANDUM IN SUPPORT OF  
MOTION FOR DISCLOSURE OF ELECTRONIC  
EAVESDROPPING OR OTHER SIMILAR SURVEILLANCE**

The Defendant's motion for disclosure of electronic and other surveillance is accompanied by his Verified Claim. It describes a number of grounds supporting his assertion that the case has been tainted by unlawful acts of electronic eavesdropping. The filing of that Verified Claim requires (1) that the government must conduct a search of its records of electronic and other surveillance; (2) that it must affirm or deny under oath whether surveillance occurred; and (3) that the affirmation or denial must be detailed and must describe the nature and extent of the search as well as the persons and governmental agencies involved in that effort.

**Law and Argument**

1. The government must search for records of electronic or other surveillance directed against Defendant.

Title 18, United States Code, section 3504(a)(1) provides that "upon a claim by a

party aggrieved<sup>1</sup> that evidence is inadmissible because it is the primary product of an unlawful act or because it was obtained by the exploitation of an unlawful act, the opponent of the claim shall affirm or deny the occurrence of the alleged unlawful act." In Gelbard v. United States, 408 U.S. 41 (1972), the Supreme Court held that this obligation to affirm or deny electronic surveillance applies to claims made by grand jury witnesses as well as to claims made by criminal defendants, and ruled that a failure either to affirm or to deny constitutes an admission by the government that such surveillance has in fact taken place. The claim must be taken even more seriously if the matter has reached the stage of formal criminal charges being brought, because under our system of law accused persons are entitled to the greatest protection.

In reviewing the legislative history of section 3504(a)(1), the United States Court of Appeals for the Ninth Circuit held that a mere claim of unlawful surveillance is enough to require "an examination by the government of its files to determine whether any wiretaps or eavesdropping had occurred." United States v. Vielguth, 502 F.2d 1257, 1258 (9th Cir. 1974). Accord United States v. Lange, 422 F. Supp. 400, 404 (E.D. Wis. 1978).

Here, the Defendant makes the claim that the government has conducted unlawful electronic surveillance and that it was directed against him. Because of that claim the government must conduct a search for records of electronic surveillance of or directed against him. The search is mandated by 18 U.S.C. § 3504(a) so that the government can properly affirm or deny unlawful acts. The other discovery sought in the motion is

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<sup>1</sup> An "aggrieved party" is "a person who was a party to any intercepted wire, oral, or electronic communication or a person against whom the interception was directed," 18 U.S.C. § 2510(11), or a person who had a private ownership interest in the premises or facilities subjected to the interception or intrusion. Alderman v. United States, 394 U.S. 165 (1969).

authorized by the Court's inherent and supervisory power to order discovery and by a number of provisions of the Federal Rules of Criminal Procedure.

Obviously, before the government can comply with its duty to affirm or deny the occurrence of such surveillance, it must necessarily apprise itself of the facts upon which its response will be based. As a result of 18 U.S.C. § 3504(a), the Department of Justice has created a procedure, known as the "all agency search," conducted in Washington, D.C., by trained researchers who search records maintained by the federal government for the purpose of keeping track of electronic surveillance. The Plaintiff's response in this case must include an "all agency search" as well as inquiry and search by members of the prosecution team.

2. The government must affirm or deny the occurrence of electronic or other surveillance of or directed at the Defendant.

The motion filed herewith more than meets the requirement which triggers the government's obligation to make a full response. No specialized pleading or detailed factual assertion is needed. Since section 3504(a) "is triggered . . . by the mere assertion that unlawful wiretapping has been used against a party, the government must make the next move . . . ." In re Evans, 452 F.2d 1239, 1247 (D.C. Cir. 1971), cert. denied, 408 U.S. 930 (1972).

No specialized pleading or detailed factual assertion is needed. Since section 3504(a) "is triggered . . . by the mere assertion that unlawful wiretapping has been used against a party, the government must make the next move . . . ." In re Evans, 452 F.2d 1239, 1247 (D.C. Cir. 1971), cert. denied, 408 U.S. 930 (1972).



In Evans, the court held that a "bare claim" is enough to shift the burden to the government to make a sufficient response. 452 F.2d at 1243. That court concluded that to require the claimant to do anything more than raise a bare claim

would exacerbate the very invasion of privacy which the procedures are designed to remedy . . . . [I]t would be a harsh rule that predicated his right to suppress the conversations on his disclosure of the name of the other party [or] the subject of their conversation.

Id. at 1249.

The government may not avoid its duty to affirm or deny by relying on an assertion or belief that any surveillance conducted was lawful and therefore outside the scope of section 3504. In In re Lochiatto, 497 F.2d 803 (1st Cir. 1974), for example, the government attempted to evade its obligation by arguing that section 3504 only requires it to admit to electronic surveillance if it believes that surveillance to be illegal. Rejecting the government's position, the court declared:

[I]t is not the function of the adversary to make ultimate legal decisions; it is the function of the court. Nothing in the statute points to any change from this normal allocation of functions . . . . [W]e find no basis in the statute for concluding that prosecutorial say-so is a sufficient guarantee of lawfulness . . . .

497 F.2d at 806. See In re Horn, 458 F.2d 468, 471 (3d Cir. 1972). See also United States v. Withers, 303 F. Supp. 641 (N.D. Ill. 1969) (government's response to a claim under § 3504(a)(1) that no illegal surveillance had occurred held insufficient).

3.The response of the government must be made under oath.

In the early years of litigation over electronic surveillance by the government there was a period when courts would accept a letter or other informal response by the

government to a claim made under section 3504. Such informal responses typically denied that any electronic surveillance had occurred. Unfortunately, this procedure resulted in a number of instances where unsworn government denials of surveillance made in trial courts later proved to be false when the matters reached the appellate level. In Korman v. United States, 486 F.2d 926, 931 (7th Cir. 1973), the United States Court of Appeals for the Seventh Circuit discussed the problem and its resolution:

As indicated in the previous opinions, our Circuit has deemed such letters of denial sufficient as a disclosure of governmental intervention by electronic means. Yet, subsequent to these decisions, certain indiscretions have been revealed concerning illegal electronic surveillance which seems to militate for a more formal and binding denial than those which were found to be adequate in Womack [466 F.2d 555] and Fraser [452 F.2d 616]. We therefore are of the opinion that an official governmental denial of electronic surveillance must at the very least be submitted in the form of an affidavit by a responsible government official. Various Circuits have considered the adequacy of an affidavit of denial in similar cases and deemed the affidavit sufficient as an official denial. We agree this is the proper form of official denial.

Korman requires a sworn denial, and ordinarily affidavits are required as a minimum. Compare Matter of Grand Jury Proceedings of August, 1984, 757 F.2d 108, 114 (7th Cir.), cert. denied, 471 U.S. 1018 (1984), with In re DeMonte, 667 F.2d 590, 595 (7th Cir. 1981). See also United States v. Alter, 482 F.2d 1016 (9th Cir. 1973); United States v. Fitch, 472 F.2d 548 (9th Cir. 1973).

4. The government's response must describe the nature and extent of the search for records of surveillance.

In In re Quinn, 525 F.2d 222 (1st Cir. 1975), the court vacated a civil contempt based upon a refusal to testify before a grand jury because the government's response did

not include an assurance that the government had made inquiries of every federal agency involved in the investigation of the petitioner. "We think, therefore, that for the Section 3504 response to be adequate in this case, there must be included an explicit assurance indicating that all agencies providing information relevant to the inquiry were canvassed." *Id.* at 226.

It is clear that such assurances are essential, especially when the Court considers the lengths to which the government has gone in various cases to avoid revealing that it had engaged in unlawful surveillance. Moreover, the reliability of assurances such as those required in Quinn is enhanced by requiring the government, in its response, to list the agencies actually contacted in the course of its search. *See United States v. Toscanino*, 500 F.2d 267, 281 (2d Cir. 1974) ("The district court was obligated to direct the prosecutor to put his oral denial of the allegation in affidavit form, indicating which federal agencies had been checked. . . ."); *United States v. Alter*, 482 F.2d 1016, 1027 (9th Cir. 1973).

5. The government's responses should be made by the person who actually conducts the search of government records.

An affidavit by the United States Attorney or any other official connected with the prosecution that he knows of no surveillance ordinarily will not suffice as a legally sufficient response to a claim of electronic surveillance. An exception to this rule arises only when that official has actually conducted the search. The United States Court of Appeals for the First Circuit put it bluntly: "A denial of knowledge of illegal wiretapping is obviously worth nothing if the affiant was in a position to know nothing." *In re Quinn*, *supra*, 525 F.2d at 225 n.5. Accord Matter of Grand Jury Proceedings of August, 1984,

757 F.2d 108 (7th Cir.), cert. denied, 471 U.S. 1018 (1984); Matter of Special February, 1975 Grand Jury, 565 F.2d 407, 413-14 (7th Cir. 1977).

6. The government's response must meet in detail each allegation of the claimant and must be unequivocal and unambiguous.

In Beverly v. United States, 468 F.2d 732 (5th Cir. 1972), the claimants alleged electronic surveillance of themselves and their counsel. In their affidavits the claimants included an enumerated list of addresses and phone numbers which they had used and in which they had a reasonable expectation of privacy. The government's response alleged that its search of records in reference to the information provided by the claimants revealed no electronic surveillance. That denial, however, failed to answer specifically as to whether the search of records had included one particular phone number set forth in claimant's list. That phone number had been mentioned in the affidavit of one of the claimants' attorneys as the phone number at the house in which she stayed during the pre-trial proceedings in question.

The Fifth Circuit held that the failure to cover that single allegation in its denial of electronic surveillance made the government's response incomplete and thereby legally insufficient to meet its statutory obligation under section 3504. Consequently, the district court's finding of contempt was vacated. See also United States v. Boe, 491 F.2d 970 (8th Cir. 1974); United States v. Doe (Ralph Stavins), Crim. No. 71-201 (D. Mass. 1972) (order of Julien, C.J.)

Likewise, in United States v. Alter, supra, the court indicated that the government's affidavit will not be considered complete where it fails to "reveal the dates of claimed surveillance to which the inquiries were addressed." 482 F.2d at 1027. There,

the court ruled the government's response to be inadequate and suggested that, on remand, "the Government may file a responsive factual, unambiguous, and unequivocal affidavit." Id.

In the instant case, defendant has filed moving papers alleging electronic surveillance directed against him. He has included therein a list of addresses and phone numbers that he has used, with respect to which he has or had a reasonable expectation of privacy. He has set forth specific and detailed facts which lead to the probable conclusion that he has been the subject of unlawful surveillance during his use of those premises and telephones, and he has included the approximate dates during which use he believes that surveillance took place. In these circumstances, this Court should order the government to search for records of such surveillance, and to disclose to Defendant, by way of a sworn and detailed affidavit by the person conducting that search, the results of that effort.

### **Conclusion**

It is respectfully submitted that in view of the foregoing this Court should order the government to conduct the type of search and to respond in the manner described above.

**WESSEL & ASSOCIATES  
A LAW CORPORATION**

/s/ William F. Wessel  
**WILLIAM F. WESSEL (#8551)**  
127 Camp St.  
New Orleans, LA 70130  
Telephone (504) 568-1112  
Facsimile (504) 568-1208

and

/s/ Charles F. Griffin  
**CHARLES GRIFFIN, ESQ.**  
**(#06318)**  
802 S. Carrollton Avenue  
New Orleans, Louisiana 70118  
Telephone (504) 866-4046  
Facsimile (504) 866-5633

**ATTORNEYS FOR  
DEFENDANT  
JAMES PERDIGAO**

**CERTIFICATE OF SERVICE**

I hereby certify that on **September 26, 2008** I electronically filed the above and foregoing pleading with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to counsel registered with the court for receipt of pleadings by e-mail. I also certify that the foregoing and all attachments thereto have been served on all counsel of record by facsimile, electronic mail and/or by depositing same in the United States Mail, properly addressed and postage prepaid, this 26th day of September, 2008.

/s/ William F. Wessel  
WILLIAM F. WESSEL (8551)

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**NOTICE OF HEARING**

To: James R. Mann, AUSA  
U.S. Attorney's Office  
Hale Boggs Building  
500 Poydras Street, Suite B-210  
New Orleans, LA 70130

PLEASE TAKE NOTICE that the Motion for Disclosure of Electronic Eavesdropping or Other Similar Surveillance filed by defendant James Perdigao, through undersigned counsel, will be brought for hearing before the Honorable Eldon Fallon, United States District Judge, 500 Poydras Street, New Orleans, Louisiana 70130 at 2:00 p.m. on November 5, 2008, or at such other date and time as may be set by the court.

**WESSEL & ASSOCIATES  
A LAW CORPORATION**

/s/ William F. Wessel  
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**ATTORNEYS FOR  
DEFENDANT  
JAMES PERDIGAO**

**CERTIFICATE OF SERVICE**

I hereby certify that on **September 26, 2008** I electronically filed the Notice of Hearing with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to counsel registered with the court for receipt of pleadings by e-mail. I also certify that the foregoing and all attachments thereto have been served on all counsel of record by facsimile, electronic mail and/or by depositing same in the United States Mail, properly addressed and postage prepaid, this 26<sup>th</sup> day of September, 2008.

/s/ William F. Wessel  
WILLIAM F. WESSEL (8551)