

DECLARATION OF DANIEL LAKIN

I, DANIEL LAKIN, declare and say:

1. I am employed by the United States Department of Justice, Drug Enforcement Administration (DEA), as a GS-1811 Criminal Investigator (also referred to as ASpecial Agent@ or AS/A”).

2. I make the factual statements which follow out of personal knowledge, as well as information provided to me as part of my official duties with DEA. If called as a witness, I could and would competently testify thereto.

3. I investigated and served as the case Agent in an investigation which began as the result of the interception by Customs personnel of a package containing approximately 80 kilograms of a tea containing the Schedule I hallucinogen dimethyltryptamine (DMT). I arranged for the May 20, 1999, controlled delivery of the package to Plaintiff Jonathan Goldman. I also applied for, obtained, and participated in executing a federal warrant authorizing the search of Plaintiff’s place of business and office.

4. On December 1, 2008, I signed a sworn statement in connection with this litigation. In it, I described the controlled delivery of the DMT tea to Plaintiff Goldman and the execution of the federal search warrant at his residence. I also authenticated copies of readily available DEA investigative records memorializing these events, including a Form DEA-6, Report of Investigation, titled “Case Initiation,” which I had prepared on January 5, 2000. In that DEA-6, I had stated: “The subsequent search of the residence resulted in the seizure of approximately 18 large plastic jugs of the liquid DMT Tea and miscellaneous small containers of DMT Tea. Total gallons of DMT Tea seized exceeded 400 gallons.”

5. I have been advised that Plaintiffs recently filed a Rebuttal Witness Statement signed

by Plaintiff Jonathan Goldman. In it, Goldman attempted to “answer and refute” what he described as “an erroneous statement” contained in my December 1, 2008, declaration.

Goldman argued that DEA could not possibly have seized the amount of DMT tea reflected in my January 2000 report. The purpose of this supplemental declaration is to respond to Plaintiff Goldman’s assertions.

6. I have reviewed Plaintiff Goldman’s December 1, 2008, affidavit. Plaintiff asserted, on the basis of estimates of the weight of sea water, that 400 gallons of liquid would have weighed over 3,000 pounds. This, Plaintiff reasoned, could not have fit in the vehicles in which DEA personnel arrived at his residence to execute the search, which he described as a “motor home on a pick-up truck chassis, plus two cars, one of which was used to take me to jail.” Plaintiff also asserted that this much liquid could not have fit into the “wooden chapel” in which the Daime was allegedly stored, which he described as only 10’11” by 13’5.”

7. Plaintiff Goldman’s reasoning about the vehicles was based on incorrect assumptions on his part. As I previously explained and as Goldman does not deny, DEA conducted a controlled delivery of 80 kilos of the DMT tea to his place of business. I personally observed DEA Special Agent Ron Wright help Plaintiff Goldman load the 80 kilos into his vehicle. The shipment was therefore heavy enough that Goldman could not lift it without assistance.

8. Plaintiff Goldman also erred in assuming that the vehicles in which the Agents and Task Force Officers (TFOs) arrived to execute the warrant were the only vehicles available to transport the seized controlled substances. The vehicle which Goldman described as a “motor home on a pick-up truck chassis” was presumably a special-purpose vehicle which DEA uses at the scene of suspected clandestine laboratories; it is largely filled with specialized equipment and is not used to transport seized controlled substances. While I no longer remember which vehicles

were used to remove the seized evidence back in 1999, I can assure the Court that the Medford Resident Office possessed sufficient vehicles to move much larger weights and volumes when necessary.

9. When the other Agents and TFOs and I executed the warrant, the octagonal building which Plaintiffs describes as the "chapel" held containers of DMT tea, as Plaintiff impliedly concedes. In fact, that building was filled to the roof. We also found numerous large and small containers of DMT tea throughout the Plaintiff's residence. The amount of DMT tea which we seized was therefore not limited to the capacity of the "chapel."

10. When DEA Agents seize drug evidence, we routinely prepare investigative records which describe the seizures and are used to forward seize substances to the DEA forensic laboratory for testing. These records are Forms DEA-7, Record of Drug Property Collected, Purchased, or Seized, and Forms 7a, Disposition of Drug Evidence. I did so in this case. However, when I prepared by December 1, 2008, sworn statement, those DEA-7s and 7as were not available to me. I have now reviewed them.

11. As I explained in my original declaration, DEA's criminal investigation had been closed in 2004. The original investigative files maintained by DEA's Medford, Oregon, Resident Office had therefore been routinely archived out of state. My December 1, 2008, statement was therefore based on my personal recollection, together with the limited investigative records accessible through DEA's on-line investigative file room.

12. When DEA Agents prepare DEA-6s, we are required to fill out an indexing section. The information in the indexing section is used in DEA Headquarters to enter information into NADDIS, a computerized index to investigative files. However, DEA field offices do not forward the complete contents of their working files to Headquarters. In approximately 2000,

DEA began to scan DEA-6s and some other records used for NADDIS data entry and post them on an on-line investigative file room. My Case Initiation Report, which was prepared in 2000, made it into the electronic file room. My previous Report and DEA-7s and 7as, which were prepared in 1999, however, did not.

13. As I have already noted, my January 2000 DEA-6 bore the title "Case Initiation," but it was not the first DEA-6 written concerning this investigation. When the Customs Service first informed DEA in May 1999 that it had intercepted the shipment of DMT tea, we wrote our first reports to the investigative file for an existing DEA investigation which targeted a hallucinogen distribution organization. When we realized that Plaintiff Goldman had no connection to that organization, we opened a new case file, which explains why the "Case Initiation Report" contained a cross-reference to a related file.

14. DEA's Medford Resident Office has retrieved the original 1999 and 2000 files from archives in Seattle and forwarded to me copies of the DEA-7s, DEA-7as, and other records memorializing the controlled substances seized on May 20, 1999. As I have previously stated, DEA executed the federal search warrant at two locations: Plaintiff Goldman's place of business and his residence. Special Agent Wright, who had made the controlled delivery, participated in the search of the first location and prepared a DEA-6, dated May 27, 1999, describing the execution of the warrant. I began a DEA-6 on May 18 and completed it on May 27, 1999. Redacted copies of each DEA-6 are attached.

15. The DEA-6 which I prepared at the time of the events I described in 1999 is consistent with the January 2000 "Case Initiation" report. However, it contains some additional details. Paragraph 14, for example, memorialized a statement by a Customs Agent to the effect that the intercepted shipment consisted of eight boxes totaling 80 kilos. The Customs Agent also

told me in 1999 that Plaintiff Goldman's wife, Jane Seligson, had ordered 80 kilos on three prior occasions. Paragraph 8 memorializes intelligence from the then Customs Service that Seligson had ordered shipments of the DMT tea on a monthly basis.

16. I also stated at paragraph 21 of the 1999 DEA-6:

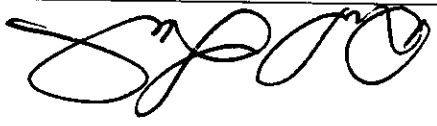
Officers and Agents searched the residence and outbuildings of the property 1690 Old Highway 99 South, and found the Tea used for the controlled delivery in the family room of the residence. An additional ten containers, some in the original shipping boxes, were located in a locked outbuilding of the residence. The outbuilding was an octagon wooden structure containing religious icon inside. Three more shipping containers were found inside the main residence in the kitchen and laundry room areas. Smaller bottles with a different appearance were located in the master bedroom of the residence. Additionally, marijuana was located in the closet of the master bedroom, as well as several unidentified powders and liquids found in various areas of the master bedroom. See drug evidence section of this report.

17. The contemporaneous DEA-6 also confirmed the statement in my previous declaration that marijuana was seized from Plaintiff's residence. In the DEA-6, I described Exhibit 10 as "three brown bottles containing an unknown liquid and green pouch containing a rolled "joint," all weighing 180 gross grams, seized from a nightstand located in the master bedroom..." See similarly Exhibit 5, "a wooden box with green leafy substance and paraphernalia inside weighing 549 gross grams, seized from master bedroom..."

18. I have also reviewed the Forms DEA-7. I prepared them on May 20, 1999, on the same day that the warrant was executed and the seizures were made. The DEA-7s memorialize the chain of custody of the seized substances, as well as the results of the analysis of each substance conducted by a DEA forensic chemist.

19. Forensic analysis confirmed that Exhibit 9, which I had described as a small brown bottle with powdery substance inside, contained bufotenine. Bufotenine is a Schedule I hallucinogen. Forensic analysis also confirmed the presence of marijuana.

DANIEL LAKIN



Sworn this 14th day of January, 2009,
at Colorado Springs, Colorado

and correct.

24. I declare under penalty of perjury that the foregoing statements made by me are true

This would equal nearly 1,000 kilos, or over 2,000 pounds, each year.

that Plaintiff's wife, in whose name the imports were made, was importing 80 kilos per month.

intercepted the 80-kilo shipment which led to the execution of the search warrant advised DEA

Holy Light of the Queen." This statement is extremely implausible. The Customs officials who

that he doubted that he had imported 400 gallons in the fifteen-year history of the "Church of the

23. Finally, I note that, in his Supplemental Witness Statement, Plaintiff Goldman stated

too, apologize for the discrepancy.

apologize to the Court for the discrepancy. There was no intention at deception on my part." I,

22. Plaintiff Goldman ended his Supplemental Witness Statement by saying: "I

pounds of DMT tea were seized.

review of the Forms DEA-7, I should have concluded that approximately 265 liters, or 550

and the total volumes of various exhibits in liters rather than ounces or gallons. Based on my

Forms DEA-7 described the gross weight of each drug exhibit in kilograms rather than in pounds

400 pounds, I had confused different units of measure and that my calculations were wrong. The

prepared on the day the seizures leads me to conclude that, when I stated that the seizures totaled

21. My review of my contemporaneous DEA-6 and of the Forms DEA-7 which I had

are attached.

routinely destroyed in 2004. Redacted copies of the May 1999 DEA-6s and all DEA-7s and -7as

20. The Forms DEA-7a also confirmed that the drug evidence seized from Plaintiff was