

AFFIDAVIT OF SPECIAL AGENT MATTHEW GAUDER

I, Matthew T. Gauder, declare on oath as follows:

1. I am a Special Agent with the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and have been so employed since 2008. Before that, I was an employee of the United States Department of Homeland Security, Bureau of Customs and Border Protection (CBP) beginning in 2003. I am assigned to ICE-HSI's Commercial Fraud Unit and am responsible for investigating violations of federal laws relating to, among other things, the importation of merchandise into the United States contrary to law, including the entry of goods falsely declared, in violation of Title 18, United States Code, Section 541; the entry of goods into the commerce of the United States by false statements, in violation of Title 18, United States Code, Section 542; and the smuggling of goods into the United States, in violation of Title 18, United States Code, Section 545.

2. I am an investigative or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510(7), and am empowered to conduct investigations of and to make arrests for federal felony offenses.

3. I am one of the primary agents that have been conducting the investigation of the Alfred L. Wolff criminal enterprise, a group of individuals and entities that have been charged in *United States v. Wolff, et al.*, 08 CR 417. That enterprise includes the following interrelated defendants: (i) Alfred L. Wolff GmbH; (ii) Alfred L. Wolff Honey GmbH; (iii) Alfred L. Wolff, Inc.; (iv) Alfred L. Wolff (Beijing) Trade Co. Ltd., China; and (v) Alfred L. Wolff Company Ltd., Hong Kong, China, which are collectively referred to in the Indictment as the ALW Food Group.¹ As

¹ Unless otherwise stated, this Affidavit uses the same nomenclature used in the Indictment.

charged in the Indictment, the members of this criminal conspiracy fraudulently imported and entered Chinese-origin honey into the United States to avoid the payment of antidumping duties by falsely declaring that the honey originated from countries other than China, submitted false documents to the Department of Commerce, and sold fraudulently-imported honey to United States customers, including honey of different origins adulterated with antibiotics not allowed in food.

4. I understand that four of the five corporate defendants that comprise ALW Food Group have filed a Motion to Quash Service of Summons on the Indictment: (i) Alfred L. Wolff GmbH (ALW Germany); (ii) Alfred L. Wolff Honey GmbH (ALW Honey); (iii) Alfred L. Wolff (Beijing) Trade Co. Ltd., China (ALW Beijing); and (iv) Alfred L. Wolff Company Ltd., Hong Kong, China (ALW Hong Kong).² This Affidavit is submitted in support of the Government's Opposition to that Motion. I have read the defendants' Motion to Quash Service and Memorandum in Support of the Motion. The Memorandum acknowledges that Mr. Donald DeLucca personally was served with summonses for each of the defendants but argues that the defendants are separate entities from each other and from ALW USA; that none of them do business or have any last known addresses or principal places of business in the United States; and therefore that the service of the summonses on the defendants is ineffective under Federal Rule of Criminal Procedure 4(c)(3)(C). This Affidavit and the Government's Opposition to Motion to Quash address the argument that the defendants are separate entities and demonstrate that they are in fact and law a single criminal enterprise. With respect to defendants' position that the summonses were improperly mailed to them, I personally sent by Certified Mail summonses properly issued by the Clerk of this Court to the following persons:

²Alfred L. Wolff, Inc. (ALW USA) has filed an appearance in the case.

- a. Mr. Donald DeLucca, the appointed corporate representative of ALW USA, at 66 W. Flagler St., # 401, Miami, Florida 33130-1807, the business address of Mr. DeLucca's firm, Andrews International. Mr. DeLucca was also personally served at that address by ICE agents from Miami, Florida. I received a return receipt for these summonses.
- b. Mr. Thomas Stein, ALW USA's "temporary general manager" registered with the Illinois Secretary of State as of February 4, 2010, at the business address listed on Mr. Stein's 2010 Corporation Annual Report filed with the Secretary of State on behalf of ALW USA, that is, 210 West 22nd Street, Suite 105, Oak Brook, Illinois 60523. I received a return receipt for these summonses.
- c. Mr. William Cook, attorney for ALW USA, at his then-law firm address, Wildman, Harrold, Allen & Dixon, 225 W. Wacker Drive, Chicago, Illinois 60606-1229. I received a return receipt for these summonses as well.

5. The information set forth in this Affidavit is based on my personal knowledge of the facts of this investigation gained from my review of documents and information I obtained from and through, among other sources, other law enforcement officers and governmental agencies, public records, computer database searches, witness and informant interviews, documents and records seized during the execution of search warrants, other investigative sources, and my training and experience. Because of its limited purpose, this Affidavit does not set forth everything I know or that has been compiled concerning the criminal case and the ongoing criminal investigation.

ALW Food Group Operates As A Unified Entity

6. I am fully familiar with the allegations in the Indictment, including its description of the various components of the ALW Food Group, the individual defendants, and the roles they played in managing the enterprise. Based upon my review of all the evidence and information previously mentioned, I verify that the allegations and descriptions in the Indictment regarding ALW Food Group's structure, membership, and operation are true and correct to the best of my knowledge. See Indictment Paragraphs A 1-27; pp.1-7.

7. Although the ALW Food Group business components complied with the technical legal requirements regarding incorporation in the local jurisdictions in which they operated and maintained offices as a means to enjoy the benefits and protection of corporate status, my review of the evidence makes it clear that ALW Food Group's individual business units were *not* in fact independent corporations operating independently. Rather, the ALW Food Group functioned as a single, integrated criminal organization that conducted its activities in different geographical locales with one unified, overriding purpose to fraudulently import Chinese-origin honey into the United States to avoid antidumping duties. I believe it is accurate to liken the components of the ALW Food Group to the different components of a vertically integrated narcotics enterprise in which one group grows and harvests coco leaves in Peru, another processes it into cocaine paste in Bolivia, another transports it to Columbia where it is pressed into bricks for export, another transships it through Mexico to Chicago, where the last component distributes it to purchasers in retail quantities, collecting the proceeds and financing the operation.

8. Thus, in this case, ALW Beijing acquired raw Chinese-origin honey from honey producers and traders located in China; ALW Hong Kong arranged financing and shipping of the honey to the United States; ALW USA fraudulently imported the honey into the United States, sold and delivered the honey (including honey contaminated with antibiotics) to United States customers, and wired money back to ALW Honey and ALW Hong Kong as proceeds from the sale of the honey; and ALW Honey processed and resold raw honey, including Chinese honey, for distribution in Europe and/or the United States. These business units operated for the benefit and on behalf of ALW Germany and at the direction of and control by defendant Alex Wolff and other ALW Germany executives. The facts in support of these conclusions are set forth below.

ALW Food Group Website

9. From well before the time this investigation started in early 2008, the ALW Food Group operated and maintained one common internet website, www.alwolff.com (or www.alwolff.de which automatically directed traffic to www.alwolff.com).³ None of the individually-named entities that made up ALW Food Group maintained unique websites, and internet traffic or searches directed to any ALW component was sent or forwarded automatically to ALW Food Group's website. That website stated to the public that ALW Food Group functioned as a unified, family-owned business known as the "ALFRED L. WOLFF COMPANY" with operations in different countries that imported, exported, distributed, sold, and processed raw materials and supplies for the food industry. *See* Ex. 1. The website thus marketed the ALW Food Group to the worldwide food industry as a single, vertically integrated enterprise.

10. The website repeatedly referred to the "ALFRED L. WOLFF COMPANY" in unitary, singular terms. In the section of the website captioned "About Us" the "ALFRED L. WOLFF Company" described itself as "a family-owned enterprise with diversified activities in the food and fashion sectors." The "About Us" section further listed trade associations to which the "ALFRED L. WOLFF Company" belonged, including "international memberships" in China, Germany, and the United States, without any claim that distinct sub-corporate entities located in different countries belonged to different national organizations. *See* Ex. 1 at p.1-2.

11. Illustrative of the fact that ALW Germany controlled the other component units of ALW Food Group located in the United States, Hong Kong, and Beijing, the section of the website

³ ".de" is the country domain designation for internet service providers in the Federal Republic of Germany, where ALW Food Group was headquartered. The domain name is based on the first two letters of the German name for Germany – Deutschland.

titled “ALW Corporate Principles” stated that “ALFRED L. WOLFF GmbH [is] a family-owned and independent company, [and] is a worldwide acting trader and producer of functional food ingredients and additives,” and that “[b]ased on our international infrastructure to manage, trade, produce and control our range of natural products, we are in a position to fulfill the needs and requirements of the worldwide food manufacturers. Quality, efficiency and reliability constitute the very basis of our company philosophy.” *See* Ex. 1 at p. 3-4. Similarly, the section captioned “ALW Quality Management System” stated that “[a]ll departments and units within ALFRED L. WOLFF’s international network cooperate closely to secure ALW high Quality Standard from sourcing to selling,” and that “[w]e aim at a systematic building up of an overall ALW Management System. . . .” *See* Ex. 1 at p. 5.

12. The section of the website captioned “ALFRED L. WOLFF Who is Who” listed names, telephone numbers, and in some cases email addresses, of employees and executives of ALW Food Group’s business units, including “[c]ontact persons throughout ALFRED L. WOLFF group in China, Hong Kong, Hungary, Romania, Mexico, Argentina and the USA.” It stated that “ALFRED L. WOLFF INTERNATIONAL” conducted operations in Beijing, China; Hong Kong, China; Chicago, United States; Mexico City, Mexico; Buenos Aires, Argentina, Győr, Hungary; and Arad, Romania. *See* Ex. 1 at p. 6-7. Finally, in the “ALFRED L. WOLFF History” section it announced that “ALFRED L. WOLFF is a worldwide acting trader and producer of natural food raw materials,” and that “[a]ll operations are coordinated between the head office, the subsidiaries and production units in Germany, China, Hong Kong, Hungary, Romania, Mexico, Argentina, and the US of America.” *See* Ex. 1 at p. 8-9.

13. Thus, ALW Food Group's own website demonstrated that ALW Food Group operated as a single enterprise, controlled by ALW Germany.

ALW Food Group Executives

14. Documents I have reviewed and interviews I have conducted demonstrate clearly that ALW Germany exercised control over ALW Food Group through its managers, executives, and employees. Defendants Alex Wolff, Jürgen Becker, Tom Weickert, Marcel Belten, Yi Liu, Sven Gehricke, Thomas Marten, Thomas Gerkmann, Stefanie Giesselbach, and Magnus Von Buddenbrock (collectively, "ALW Food Group Executives") operated and managed ALW Food Group's honey business, and held executive positions at the various entities between approximately 1999 and 2009 from which they coordinated and directed ALW Food Group's business affairs. Among other things, those documents and interviews support that:

15. Defendant Alex Wolff held different titles at ALW Germany, including Managing Director and General Manager, and functioned as the Chief Executive Officer from about 2003 through about 2010, in which position he controlled the operations of ALW Food Group and directed ALW Food Group Executives. Alex Wolff also acted as the General Manager of ALW Hong Kong in or before 2003. From about 2005 Alex Wolff also held positions within ALW USA, including Treasurer, Secretary, Chairman, member of the Board of Directors, and served as President of ALW USA from about January 2006 to about January 2007. Alex Wolff exercised control, authority, and responsibility over ALW USA through his positions at ALW Germany and ALW USA. In this regard, one internal ALW business record described Alex Wolff as "President, Alfred L. Wolff World Wide," while another stated that in 2004 Alex Wolff took over from his father Hinrich Wolff as the "General Manager of the Alfred L. Wolff Group with sole signatory power." *See Ex. 2.*

16. Defendant Jürgen Becker was the co-Managing Director of ALW Honey until approximately 2010, and oversaw ALW Food Group's honey business in Europe. Becker advised and consulted with ALW Food Group Executives regarding the acquisition of honey by ALW Beijing, its financing and transportation by ALW Hong Kong, and its importation and sale in the United States by ALW USA.

17. Defendant Tom Weickert succeeded Alex Wolff as the General Manager of ALW Hong Kong from about 2003 through about 2005. In about 2007 Weickert became the co-Managing Director of ALW Honey in Germany and worked with Becker managing ALW Food Group's honey business in Europe, where he advised and consulted with ALW Food Group Executives regarding the importation and sale of honey in the United States.

18. Defendant Marcel Belten succeeded Weickert as General Manager of ALW Hong Kong from about August 2005 to about 2009, where he coordinated the shipment and financing of Chinese honey acquired by either ALW Hong Kong or ALW Beijing, and the importation of the honey to the United States by ALW USA.

19. Defendant Yi Liu was the General Manager of ALW Beijing, where he located, arranged, and sourced honey from China on behalf of ALW Food Group for importation into the United States.

20. Defendant Sven Gehricke served as the General Manager of ALW Hong Kong before 1999, when he became the first General Manager of ALW USA until late 2003. In 2003, Gehricke became the General Manager of Alfred L. Wolff S.A. de C.V., in Mexico City, Mexico (ALW Mexico), where he remained deeply involved in the importation scheme on behalf of ALW Food

Group. In fact, between 1999 to about 2006, Gehricke held other positions at ALW USA, including Chairman, President, Treasurer, and Secretary.

21. Defendant Thomas Marten succeeded Gehricke as General Manager of ALW USA from about January 2004 to about August 2007. From about 2006, Marten also held other positions at ALW USA, including President and Treasurer. Marten reported directly to Alex Wolff.

22. Defendant Thomas Gerkmann was ALW USA's National Sales Manager Bee Products from about December 2003 to December 2006, where he reported to Marten. Gerkmann oversaw the purchase of bee products, including honey; the importation of honey into the United States, including maintaining relationships with customhouse brokers; and the sale of honey to United States customers.

23. Defendant Stefanie Giesselbach was trained by Gerkmann to succeed him as ALW USA's National Sales Manager Bee Products in November 2006, a position she held until her arrest in this case in May 2008. Prior to becoming ALW USA's National Sales Manager, Giesselbach was employed at ALW Germany as Head of Honey Sales in about 2003.

24. Defendant Magnus Von Buddenbrock was trained by Marten and succeeded him as ALW USA's General Manager in August 2007, a position he held until his arrest in this case in May 2008. Von Buddenbrock reported directly to Alex Wolff.

25. For ease of reference, the chart below lists the varying positions held by the defendant co-conspirator executives of ALW Food Group within its business units between 1999 through the end of the charged conspiracy in January 2009.⁴

⁴Shortly after Von Buddenbrock and Giesselbach were arrested in May 2008, ALW Germany recalled to Germany those ALW Food Group German national executives who were stationed overseas and who had exposure for their involvement in the honey transshipping scheme, including defendants Sven Gehricke (ALW Mexico) and Marcel Belten (ALW Hong Kong).

- (1) **Alexander Wolff**
Citizen and national of Germany
ALW Germany
Managing Director
General Manager
Chief Executive Officer (2003 - 2009)
ALW Hong Kong
General Manager (2003 and before)
ALW USA
President (Jan. 2006 - Jan. 2007)
Treasurer
Secretary
Corporate Chairman
Board of Directors member
- (2) **Jürgen Becker**
Citizen and national of Germany
ALW Honey
Managing Director (Europe)
- (3) **Tom Weickert**
Citizen and national of Germany
ALW Honey
Managing Director (Europe)
ALW Hong Kong
General Manager (2003 - 2005)
- (4) **Marcel Belten**
Citizen and national of Germany
ALW Hong Kong
General Manager (2005 - 2009)
- (5) **Yi Liu**
Citizen and national of China
ALW Beijing
General Manager

- (6) **Sven Gehricke**
Citizen and national of Germany
ALW Germany (~ 2008 - 2009)
ALW Mexico
General Manager (2003 - 2008)
First General Manager
ALW USA
General Manager (1999 - 2003)
Corporate Chairman
President
Treasurer
Secretary
- (7) **Thomas Marten**
Citizen and national of Germany
ALW Germany (~ 2007 - 2009)
ALW USA
General Manager (2004 - 2007)
Succeeded Gehricke
President
Treasurer
- (8) **Thomas Gerkmann**
Citizen and national of Germany
ALW USA
National Sales Manager Bee Products (2003 - 2006)
- (9) **Stefanie Giesselbach**
Citizen and national of Germany
ALW USA
National Sales Manager Bee Products (2006 - 2008)
Succeeded Gerkmann
ALW Germany
Head of Honey Sales (2003 - 2006)
- (10) **Magnus Von Buddenbrock**
Citizen and national of Germany
ALW USA
General Manager (2007 - 2008)
Succeeded Marten
ALW Germany
Product Manager Gum Arabic (2003 - 2006)

Intracompany Movement Within ALW Food Group

26. As part of this investigation I have interviewed multiple witnesses and cooperating defendants, including Magnus Von Buddenbrock and Stefanie Giesselbach, who both cooperated with the investigation following their arrests in May 2008. According to Von Buddenbrock and Giesselbach, in order to manage the operations of ALW Food Group, ALW Germany trained its executives in Germany for several years, and then dispatched them to their respective international units, where they took orders and directions to execute the conspiracy from the German headquarters and its principal executives, particularly from Alex Wolff, Jürgen Becker, and Thomas Marten (upon his return to ALW Germany in August 2007). Von Buddenbrock and Giesselbach told me that the co-conspirators were not allowed to discuss the operation of the scheme with non-members, and that co-conspirators were reassigned periodically to different countries and to different aspects of the integrated operation by Alex Wolff personally.

27. Giesselbach was reassigned from ALW Germany to ALW USA in November 2006 to replace co-defendant Thomas Gerkmann, who had been ALW USA's National Sales Manager Bee Products for approximately three years working under co-defendant Thomas Marten. To allow Giesselbach to work in the United States, ALW USA sponsored Giesselbach's E-1 visa application to the United States Department of State.⁵ The October 11, 2006 petition letter supporting Giesselbach's visa application, which was signed by Thomas Marten as the General Manager of ALW USA, described how Giesselbach would seamlessly transition into Gerkmann's position and assume his duties:

⁵ An E-1 visa is defined as a "Treaty Trader" visa wherein the applicant is usually employed in a supervisory or executive capacity.

In light of the fact that our current sales manager for bee products, Mr. Thomas Gerkmann will be returning to our parent company in Germany after three years in the U.S. we seek to replace him with a manager that has significant experience in purchasing and selling bee products [sic]. Together with our German parent company we have identified Ms. Stefanie Giesselbach as an ideal candidate to immediately take over the responsibilities of Mr. Gerkmann. Since Mr. Gerkmann will be leaving our Company very shortly we do not have sufficient time to recruit and train a replacement for him and thus are dependent on support from Ms. Giesselbach, who currently heads the sales department at Alfred L. Wolff GmbH.

Ms. Giesselbach is a German citizen and she has been employed by the Wolff Group for over 7 years. In her current position as head of the sales department she is responsible for product supply management, including purchase of raw honey, import of honey to Germany and maintenance of sufficient levels of inventory to be able to timely fill our customers' orders. Furthermore, Ms. Giesselbach is responsible for negotiating purchases contracts [sic] with suppliers around the world and with freight companies. Her responsibilities extend to all aspects of sales (negotiations, shipping, establishment of sales networks) of honey blends to Latin America, North Africa, Asia, and southern European countries....

We seek to hire Ms. Giesselbach for a temporary period of 3 years as National Sales Manager - Bee Products. Her job functions would be very similar to her current functions. Specifically, she would be responsible for all of the purchasing activities of bee products, including honey, royal jelly, wax, propolis and pollen as well as for preparing price and profit calculations. Furthermore, she would be expected to manage sales of bee products to brokers and customers and to develop and maintain business relationships with warehouses, customs brokers and trucking companies. As sales manager, she would coordinate and oversee import and export of bee products and arrange customs clearance and FDA releases. She would be supported by our office staff with regard to the administrative functions of the position. Last but not least, Ms. Giesselbach would take on the responsibility of monitoring and collecting accounts receivables in close cooperation with the account department and attend trade shows and industry meetings as well as meeting with suppliers at the site of the suppliers' operations.

See Ex. 3.

28. Giesselbach told me that when she was assigned to ALW USA by ALW Germany, she overlapped with Thomas Gerkmann for approximately two months, during which time he taught her the details of ALW Food Group's illegal transshipping activities, particularly the aspect of the scheme that he and Thomas Marten had been conducting in the United States for the prior three years

at Alex Wolff's direction. Giesselbach said that her overlap with Gerkmann was specifically designed to allow her to learn from him before she officially took over his responsibilities in the United States. In fact, in an email between Gerkmann and Alex Wolff dated April 3, 2006, seven months before Giesselbach arrived in the United States, Gerkmann wrote in German: "Steffi [Giesselbach] to Chicago: Should be around 10/06[.] We should plan for 1.5 to 2 months of transition. Steffi knows this business and will do the same that Sven [Gehricke] did: personal introductions at customers." *See Ex. 4.*⁶

29. Von Buddenbrock too told me that he was initiated into the honey transshipping conspiracy shortly after his arrival in the United States to replace co-defendant Thomas Marten as General Manager of ALW USA in April 2007. He met Marten at an Italian restaurant in Chicago, where Marten explain how ALW Food Group was importing and entering Chinese honey using false documentation. Marten introduced Von Buddenbrock to the scheme because he was about to take over ALW Food Group's Chicago operations and needed the information to continue to carry out the fraud. When Von Buddenbrock began taking notes during the meeting, Marten told him to stop and not to discuss the details with anybody outside the conspiracy. Marten assured Von Buddenbrock that there would be no problems going forward and not to worry, saying words to the effect of "it has worked well for years and is foolproof."

30. Von Buddenbrock and Giesselbach further told me that besides keeping the membership of the conspiracy to a small and manageable group of trustworthy executives, transferring executives throughout the enterprise had the additional benefit of allowing members of the conspiracy to understand their co-conspirators' respective duties and the operations of the

⁶It should be noted that I speak and write German fluently.

different components of the unitary organization. An email dated September 19, 2006 written by an ALW Germany executive being relocated to Argentina⁷ to become the General Manager of ALW Food Group's Argentinian business unit underscores this point. In the email, this executive wrote to indicted co-conspirators Gerkmann (ALW USA) and Marten (ALW USA), with a copy to Becker (ALW Honey), Alex Wolff (ALW Germany), Gehricke (ALW Mexico), and Belten (ALW Hong Kong), referring to the ongoing fraudulent importation scheme as the "Chinese way" and suggesting ways for the co-conspirators to extend their operations to Argentina in the future:

Dear Honey team,

in the light of my soon departure to S - Am [South America] I did investigate a bit further the chances to participate in the US biz from Argentina.

As it seems right now it is rather impossible to do it the 'Chinese way' by using one exporter with a good rate as 'shell' to export the honey of other sources. Apparently the reason is the traceability of the price structure in case the DOC [Department of Commerce] investigates the price of production. It is only one parameter to determine dumping but apparently one the DOC likes a lot in Argentina.

In any case Thomas M [Marten (ALW USA)] and Thomas G [Gerkmann (ALW USA)] might have a word with a lawyer or other sources in the US to verify this issue. . . .

Meanwhile we shall have an eye on the issue of intercompany business: DOC might at one stage claim that we would artificially increase export prices [from an Argentinean honey manufacturer] by adding an agent fee (that might later be recovered by ALW Inc [ALW USA] from ALW HH [ALW Germany] and by ALW HH [ALW Germany] from ALW Arg).

To do:

ALW Inc. [ALW USA] talk to local lawyers (Why can the Chinese do what the Argentineans can not?)

See Ex. 5.

⁷ Although not charged in the Indictment, the United States imposes antidumping duties on Argentinian-origin honey entering the United States.

Control By ALW Germany and Alex Wolff

31. According to Von Buddenbrock and Giesselbach, they reported to, and were required to continuously consult with and obtain approval from, Alex Wolff and ALW Germany regarding day-to-day activities, decisions, and functions of ALW USA, including routine matters such as ordinary contract arrangements and disputes with customers. Von Buddenbrock and Giesselbach told me that although ALW USA had the ostensible authority to deal with its own customers directly, it and the other business units that comprised ALW Food Group lacked the authority to enter into significant sales contracts without the approval of ALW Germany and Alex Wolff. Thus, although as a matter of a 2006 company policy Alex Wolff was required to personally approve ALW USA business transactions of \$1 million or more, in practice he routinely was consulted on and approved dozens of transactions as small as \$26,000. Similarly, I know from Giesselbach that Marcel Belten (ALW Hong Kong) was required to adhere to a similar policy for ALW Hong Kong's purchases of honey where downstream sales to ALW USA's customers were expected to be \$1 million or more. Additionally, shipments of and payments for imports of honey generally had to be coordinated with other ALW Food Group business units as part of a system in which financial assets and commodities were regularly shuffled through intra-corporate transactions and transfers with the financial benefits flowing upwards to ALW Germany, as demonstrated by several emails discussed below.

32. Von Buddenbrock and Giesselbach also both told me that Alex Wolff (i) had to be consulted on customer contracts and disputes; (ii) had to personally approve the creation of any new employee position and other staffing matters; (iii) required ALW USA's General Manager to send for his review and approval weekly financial reports and annual budgets; (iv) approved all ALW Food Group strategic planning decisions, including any potential shift in market focus; (v) personally

negotiated bank credit terms; (vi) set ALW Food Group executive salaries; (vii) conducted year-end ALW Food Group executive performance evaluations; (viii) determined annual ALW Food Group executive bonuses; (ix) made ALW Food Group executive firing decisions; and (x) made decisions regarding intra-company ALW Food Group executive transfers. They also told me that Alex Wolff traveled regularly to the different ALW Food Group offices to meet with customers, conduct business, and perform employee reviews. In addition, Giesselbach told me that Alex Wolff and ALW Germany controlled the ALW Food Group operations “from A to Z” and that she and the other ALW Food Group Executives were “like marionettes on a string.”

ALW Food Group Emails Corroborate the Unitary Operation of ALW Food Group and Control by ALW Germany and Alex Wolff

33. I have reviewed thousands of emails related to the charged conspiracy and the activities undertaken by ALW Food Group and its Executives. Dozens of these emails corroborate Von Buddenbrock and Giesselbach’s accounts of the control exercised by ALW Germany and its executives over the operations of the business units that made up ALW Food Group. According to Von Buddenbrock and Giesselbach, Alex Wolff demanded that he be informed on all matters pertaining to the charged conspiracy. In turn, ALW Food Group Executives routinely sent Alex Wolff and each other emails dealing with their illegal activities so that he and they would be continuously informed about the day-to-day activities of the conspiracy and be able to make informed decisions to ensure its success. The emails summarized below illustrate the control Alex Wolff and other senior-level co-conspirators exercised over ALW Food Group and ALW Food Group Executives, and how their activities were carefully coordinated.

Alex Wolff Directed and Controlled ALW Food Group Executives in Illegal Activities Relating to the Conspiracy

34. In an email dated February 12, 2004, Indian Transshipper 1 wrote to an ALW Honey employee, with a copy to Jürgen Becker (ALW Honey) and Tom Weickert (ALW Hong Kong), stating with respect to a transshipment of Chinese honey declared as Indian honey:

Please be noted that in this particular transaction we were only suppose to shift the Honey from 1 container to the other and just dispatch as it is to USA. All the markings on the drums were suppose to be done by Kirkam [ALW Hong Kong].

It was very clearly stated before the agreement between Kirkam and us that our job was only to shift

On February 12, 2004, Becker (ALW Honey) forwarded Indian Transshipper 1's email to Marten (ALW USA) and Gerkmann (ALW USA) as an "FYI." *See* Ex. 6.

35. In an email dated August 3, 2005, Marten (ALW USA) wrote Liu (ALW Beijing), Weickert (ALW Hong Kong), and Belten (ALW Hong Kong), with a copy to Gerkmann (ALW USA) and Gehricke (ALW Mexico), discussing alternative countries of origin for falsely declaring Chinese-origin honey and the fact that some of the honey from a particular purchase order was adulterated with sugars and antibiotics. *See* Ex. 7. On August 8, 2005, Gerkmann (ALW USA) forwarded this email to Alex Wolff (ALW Germany), with a copy to Marten (ALW USA), and included a summary of a meeting attended by Weickert (ALW Hong Kong), Belten (ALW Hong Kong), and Liu (ALW Beijing) with a Chinese honey supplier, stating: "Alex, as discussed on the phone the report from Tom [Weickert (ALW Hong Kong)]." *See* Ex. 8.

36. Part of my investigation has determined that during 2005 and 2006 Hung Ta (a/k/a Michael) Fan, a honey importer from Taiwan, was supplying the ALW Food Group with hundreds of containers of Chinese honey transshipped through Taiwan, Korea, and Thailand. In addition to

being illegally transshipped and mismarked as to country of origin, much of Fan's honey was adulterated with sugars and antibiotics. In May 2006 one of Fan's shipments was seized by CBP in Chicago, and other shipments were detained and precluded from entering the United States.⁸ This caused great consternation among the ALW Food Group Executives because they were unable to fulfill pre-existing contracts with customers. Reflecting their concern, in an email dated May 3, 2006 Thomas Marten (ALW USA) wrote Jürgen Becker (ALW Honey) and Giesselbach (who was still in Germany; ALW Germany), with a copy to Alex Wolff (ALW Germany), Weickert (who was in Germany; ALW Germany), Belten (ALW Hong Kong), and Gerkmann (ALW USA), about the seizure of six container loads of Fan's Chinese honey by CBP in Chicago. The subject of Marten's email was "Loesungsmöglichkeiten" (translated "possible solutions") and stated to the co-conspirators in German:

To start the morning with some bad news Yesterday the American Customs seized 6 FCL of kor.w34 [Korean White honey] in Chicago. We do not exactly know what this means. Surely this honey will not be available and I doubt more and more that our supplier MF [Michael Fan] can or will ever be able to get a single FCL into the United States. This does not make the matter any easier. I request that all recipients not to write email about this topic. Please OVER THE TELEPHONE and in German! Thank you!

See Ex. 9.

37. In an email dated June 29, 2006, Liu (ALW Beijing) wrote Alex Wolff (ALW Germany), with a copy to Belten (ALW Hong Kong), Gerkmann (ALW USA), Marten (ALW USA), and Weickert (who was in Germany at the time; ALW Germany), in which he addressed Alex Wolff (ALW Germany) as "Dear Big Boss" and presented an opportunity to recruit a Chinese honey

⁸I arrested Michael Fan in Los Angeles in April 2010, and he confessed his role in the conspiracy to import Chinese honey. He was charged in this District as a co-conspirator with the defendants in this case, and entered a guilty plea before Judge Bucklo in August 2010 in case number 10 CR 198. Pursuant to a cooperation plea agreement, Fan received a 30 month sentence.

supplier to ALW Beijing. Belten (ALW Hong Kong) responded to the email, stating “Thanks for the information. I will talk to Alex [Wolff (ALW Germany)] and think about it.” *See* Ex.10. Two days later, on June 30, 2006, Belten (ALW Hong Kong) responded again, stating to Liu (ALW Beijing) that “Alex and my concern are the same” as the concerns raised by Gerkmann (ALW USA), and that the “problem is he would get to [sic] much knowledge.” Belten (ALW Hong Kong) concluded “We should talk about when Alex or the USA guys are in China next time.” *See* Ex.11.

38. In an email dated August 24, 2006, Liu (ALW Beijing) wrote to Alex Wolff (ALW Germany), Belten (ALW Hong Kong), Marten (ALW USA), and Gerkmann (ALW USA) about forming an illegal honey “joint structure” or “club,” which prompted Gerkmann (ALW USA) to respond the same day to the same recipients, addressing Liu (ALW Beijing) as “Dear Liu Vice President Honey Kartell! [sic].” In the same email, Gerkmann (ALW USA) stated that “Sven [Gehricke (ALW Mexico)], TM [Marten (ALW USA)] and I have shown all Chinese Exporters during the last 4 years that we are really able to be a big number in the US and able to handle such a volume.” Belten (ALW Hong Kong) responded to Gerkmann’s (ALW USA) email about the formation of such a “club,” stating that “[w]ill talk to Alex [ALW Germany] today and discuss this issue with Liu [ALW Beijing].” *See* Ex. 12.

39. In an email dated October 24, 2007, Becker (ALW Honey) wrote to Belten (ALW Hong Kong), with a copy to Liu (ALW Beijing), Giesselbach (ALW USA), Von Buddenbrock (ALW USA), and an employee working at ALW Food Group’s in-house laboratory in Germany, and stated:

Never indicate any numbers like contract number or container number, because those certificates might be traced back. You know that here in Germany is an ongoing discussion about the duty of labs to announce [sic] bad results towards authorities. Up

to now not in force and strictly rejected by labs, but firm interest of authorities to get a hint of bad qualities.

See Ex. 13.

40. In an email dated October 29, 2007, Liu (ALW Beijing) wrote Belten (ALW Hong Kong) and Giesselbach (ALW USA), with a copy to Alex Wolff (ALW Germany) and Von Buddenbrock (ALW USA), regarding an “internal memo****” dealing with the charged conspiracy to defraud the Department of Commerce (the New Shipper aspect of the fraud), attached a sales contract between ALW Beijing and codefendant Gong Jie Chen (aka George Gao), and stated:

Dear all,

This is a fake sales confirmation from George Gao [defendant Gong Jie Chen]. He is to use this to show the DOC [Department of Commerce] that he has busy [sic: business] with Wolff [ALW Food Group] also for Germany besides, USA. I will make a stamp. And he can use this to show the US DOC officer.

See Ex. 14.

41. In an email dated December 19, 2007, Belten (ALW Hong Kong) wrote to Giesselbach (ALW USA) and Von Buddenbrock (ALW USA) at their personal email accounts, with a copy to Alex Wolff (ALW Germany), Liu (ALW Beijing), and Marten (who had returned to Germany; ALW Germany), regarding the charged New Shipper fraud on the Department of Commerce and stated:

Now we really have to do some work and get prepared for the fight of the petitioners.

Just talked to CGJ [defendant Gong Jie Chen] this morning. The chance that DOC will come to your office is not very high but since Sanhai [defendant QHD Sanhai Honey] is the only new shipper case we should get prepared.

Therefore please:

- clean up your documentation for the fist [sic: first] import

- clean up your email files regarding the sale of the bears (I remember there was some back and forth with refund to [USA Customer 8] and so on, there can be no trace of this discussion)
- please make sure that the [antidumping] duty and the DNs [debit notes] (discussed yesterday) are not booked as duty but as quality or some other claim, and it should not be related to QHD Sanhai Honey

CGJ (George) [defendant Gong Jie Chen] will send an email to you soon regarding another business (I believe that was discussed in Chicago already) similar the the [sic] first import. Since the preliminary rate is 0% now, they would really like to ship this container.

I keep the fingers crossed now and hope that the final rate will be zero as well!

Thanks for your good and hard work for this new shipper case.

See Ex. 15.

42. In an email dated April 17, 2008, Von Buddenbrock (ALW USA) emailed a customs broker, with a copy to Giesselbach (ALW USA) and Alex Wolff (ALW Germany), stating “Alex, As per your instructions, I have issued a check and sent it via UPS to [the customs broker]” in furtherance of the charged New Shipper scheme. *See Ex. 16.* On that same day and related to the same shipment, Giesselbach (ALW USA) emailed Alex Wolff (ALW Germany), with a copy to Von Buddenbrock (ALW USA) and a customs broker, asking Alex Wolff (ALW Germany) to “confirm if PO [purchase order] 1159, Acacia Honey Bears shall be stored in a warehouse nearby (Minneapolis).” On April 18, 2008, Alex Wolff (ALW Germany) responded to the foregoing email stating “yes, pls store it for the time being.” *See Ex. 17.*

43. In another email in furtherance of the charged New Shipper scheme dated May 13, 2008, Giesselbach (ALW USA) wrote to Alex Wolff (ALW Germany), with a copy to Von Buddenbrock (ALW USA), Belten (ALW Hong Kong), and Liu (ALW Beijing), stating “Alex, As

instructed by you on the phone, I will be sending out [a CBP] entry summary report to [a lawyer representing defendant QHD Sanhai Honey] today.” *See* Ex. 18.

Alex Wolff Required ALW USA’s General Managers to Send for His Review and Approval Financial Reports and Budgets

44. Attached as Exhibits 19 - 23 are illustrative examples of the control Alex Wolff exercised in reviewing and approving financial reports and budgets of the ALW Food Group.

45. In an email dated November 6, 2007, Belten (ALW Hong Kong) wrote to Giesselbach (ALW USA) and Von Buddenbrock (ALW USA), stating “Alex reduced my budget by roughly 700.000 USD in turnover with ALW Inc [ALW USA] because your budget showed less than mine. . . . Need to know what / where the difference is today (your day) as I have to report to Hamburg [ALW Germany].” *See* Ex. 19.

46. In an email dated February 4, 2005, Gerkmann (ALW USA) wrote to Alex Wolff (ALW Germany), with a copy to Marten (ALW USA) and Gehricke (ALW Mexico), informing Alex Wolff of a variety of issues relating to import costs, the collection of pending obligations, and expected future payments from USA Customer 1. Alex Wolff (ALW Germany) responded to each issue identified by Gerkmann (ALW USA) and stated as to one issue, **“WE CANN [sic] NOT ACCEPT GIVING CREDIT OF > [i.e., more than] 1,5 - 2 MIO [i.e., million] US\$ TO SUCH A COMPANY! YOU NEED TO MAKE SURE THAT OUR EXPOSURE IS GOING DOWN!”** *See* Ex. 20; emphasis in original.

47. In an email dated April 12, 2006, Alex Wolff (ALW Germany) wrote Marten (ALW USA) and Gerkmann (ALW USA), with a copy to Belten (ALW Hong Kong), stating that because of Michael Fan’s inability to deliver contractually-called-for honey to ALW USA, a situation was emerging with USA Customer 1, which expected certain honey deliveries:

with the pending cash flow situation for the whole group [ALW Food Group] I do need in addition a detailed cash flow plan of how you think these shipments can be financed.

you now [sic: know] that marcel [Belten (ALW Hong Kong)] is having a hard time and his cash might get too tight to be the bank for you.

See Ex.21.

48. In an email dated April 24, 2006, Gehricke (ALW Mexico) wrote to Marten (ALW USA), Alex Wolff (ALW Germany), Gerkmann (ALW USA), Belten (ALW Hong Kong), and Liu (ALW Beijing), including the text of an email from Marten (ALW USA) addressed specifically to Alex Wolff (ALW Germany) regarding a substantial quantity of honey that had been seized and a large percentage of which was also failing production specification requirements. In response, Belten (ALW Hong Kong) proposed various solutions for dealing with the honey, suggested alternative countries-of-origin for falsely declaring Chinese-origin honey, provided background information on co-conspirator Michael Fan, and concluded:

Alex, please do not think that we do not treat this major issue seriously because we do. The odds are against us, and especially the bad crop in Asia creates additional headache.

Please be assured that we are working hard to resolve this situation. Any input from anybody in the group [ALW Food Group] will be helpful!

See Ex. 22. In a related email dated June 6, 2006, Marten (ALW USA) wrote to Alex Wolff (ALW Germany), with a copy to Gerkmann (ALW USA), Belten (ALW Hong Kong), Liu (ALW Beijing), again updating Alex Wolff (ALW Germany) on the “analysis & forecast” for the honey referenced immediately above, and concluded “[o]ther possibilities will be discussed in person, please, when you are here [in the USA]. Of course, we will keep you posted as further developments become available.” *See Ex. 23.*

Alex Wolff Personally Approved New Employee Positions and Other Staffing Matters and Bonuses

49. Attached as Exhibit 24 is an email that illustrates the control Alex Wolff exercised in approving the creation of new employee positions and other staffing matters at ALW USA. When Von Buddenbrock (ALW USA) wanted to hire a new internal logistics person for ALW USA, he wrote to Alex Wolff regarding the position. As Von Buddenbrock (ALW USA) explained in an email dated May 20, 2007, “[i]ntense talks with [the potential new hiree] are in progress. You will certainly hear more details about this from Thomas [Marten (ALW USA) who was returning to Germany; ALW Germany] when you will meet him in Hamburg the next days. If this would be implemented, the Personnel costs would increase further. On the other side this would grant (major) savings in all Logistic related costs such as Import-, freight- and storage costs.” In the same email Von Buddenbrock (ALW USA) suggested to Alex Wolff (ALW Germany) a way in which ALW USA might be able to outsource certain staff responsibilities, stating “[w]ith increasing business and more diverse sourcing (especially in the honey department) we think that a part-time accountant can take a lot of work [from two particular ALW USA employees’] shoulders who can then be more helpful to their respective departments.” Von Buddenbrock (ALW USA) went on to explain how such a change could lead to greater efficiencies and productivity for ALW USA. *See Ex. 24.*

50. Along these same lines, Von Buddenbrock and Giesselbach told me that one time while Alex Wolff was in the United States on business, he ordered them to terminate from ALW USA an underperforming employee and gave them a firm deadline by which to act.

Alex Wolff Personally Approved Executive Transfers

51. Attached as Exhibits 25 - 27 are illustrative examples of the control Alex Wolff exercised in approving intra-company moves within ALW Food Group. In January 2006, Thomas

Gerkmann (ALW USA) wrote to Alex Wolff (ALW Germany) and Jürgen Becker (ALW Honey) affirming in German that “it is your wish” that he continue to work at ALW USA through the end of the calendar year. Gerkmann (ALW USA) summarized other potential intra-company transfers that were of interest to him. *See* Ex. 25. On March 10, 2006, Alex Wolff (ALW Germany) wrote Gerkmann (ALW Chicago) an email stating that he is “looking forward to discussing this in china [sic],” and included a two-page ‘Job Offer’ as an attachment. *See* Ex. 26. The terms of the ‘Job Offer’ including the position, responsibilities, and salary are largely incomplete. Alex Wolff (ALW Germany) stated in German that the ‘Job Offer’ is meant “as a guideline for our upcoming talk in China.” The ‘Job Offer’ was prepared for signature by Alex Wolff (ALW Germany). *Id.* In another German-language email dated April 3, 2006, Gerkmann (ALW USA) thanked Alex Wolff (ALW Germany) “for the very constructive talk in China” and summarized among other things that he had been awarded a 2005 year-end bonus of \$15,000. *See* Ex. 27.

52. Similarly, attached as Exhibit 28 is an email string from late September 2005 regarding an intra-company honey transaction that had to be approved by Alex Wolff (ALW Germany) in part because a financial loss would be incurred by ALW Honey. In the first of the emails, dated September 19, 2005, Marcel Belten (ALW Hong Kong) wrote to Gerkmann (ALW USA) and Thomas Marten (ALW USA), Tom Weickert (ALW Hong Kong), and Yi Liu (ALW Beijing), advising that a large quantity of honey from India was available for shipment to the United States, that “all realized profits would have to be credited to ALW Honey,” and that the “**final decision is up to Hamburg.**” On September 28, 2005, Gerkmann (ALW USA) responded that ALW USA would accept the shipment “to help Mr. Becker [ALW Honey].” The next day, Belten (ALW Hong Kong) added Alex Wolff (ALW Germany) as an addressee and responded with a

request that Becker (ALW Honey) confirm his approval for the transaction. That same day, Becker (ALW Honey) responded to Belten (ALW Hong Kong) that “Alex will call Tom to make the final decision, but Hamburg will not/can not take further loss, because we have already reduced prices. Please remember that this is mostly honey shipped by Kirkam [ALW Hong Kong] and that is why Kirkam is responsible. Kirkam still has money from suppliers in hand, which you can use to cover the loss. So I expect full payment of my invoices at the adjusted and agreed levels.” Becker (ALW Honey) continued, “Alex [Wolff (ALW Germany)] has to decide whether the group [ALW Food Group] will make any loss in Hongkong [sic] or in USA depending on tax. But as mentioned he will talk with Tom [Weickert (ALW Hong Kong)].” Belten (ALW Hong Kong) replied that “Alex [Wolff (ALW Germany)] already informed that we should ship out the goods at costs price. He will talk with Thomas [Gerkmann (ALW USA)] tonight.” Finally, Gerkmann [ALW USA] advised Belten [ALW Hong Kong] and the other conspirators that “I talked to Alex [ALW Germany] and we agreed to take the goods to USA.” *See* Ex. 28; emphasis in original.

53. In another email chain relating to a transaction that involved another co-conspirator who was indicted and pled guilty in this District to transshipping Chinese honey via the Philippines for and with the ALW Food Group and its Executives (*U.S. v. Yong Xiang Yan*, No. 09 CR 424) (N.D. Ill; Manning, J.), Gerkmann (ALW USA) and Belten (ALW Hong Kong) discussed multiple containers of falsely-declared Phillipines-origin honey that had not arrived on time into the United States. In an email dated March 20, 2006, Gerkmann (ALW USA) wrote to Belten (ALW Hong Kong), with a copy to Marten (ALW USA) and Liu (ALW Beijing), stating in relevant part “I believe this is something what [sic] Alex should know as well.” Belten (ALW Hong Kong) responded the same day that he hoped ALW USA could “share a little bit and don’t invoice us your profit, so that we end up with around 30000 USD as claim value.” On March 20, 2006, Marten added Alex Wolff

(ALW Germany) as an addressee and responded, "I agree this will be an important part of the agenda for our visit to China. Not to be discussed further via email, please! . . . ALEX: I'm copying you FYI so you know what's going to be discussed." *See Ex. 29.*

Alex Wolff and Other Top ALW Food Group Executives in Germany Were Consulted On and Personally Approved Routine, Small Business Transactions

54. Attached as Exhibits 30 - 40 are emails relating to separate transactions that demonstrate the lack of autonomy of ALW USA and its sister ALW Food Group constituent units had over even routine, small business transactions. These emails further corroborate Von Buddenbrock's and Giesselbach's statements to me that Alex Wolff and other top-level, German-based ALW executives controlled the affairs of the entire ALW Food Group.

55. In an email dated January 25, 2005, Gerkmann (ALW USA) wrote to Alex Wolff (ALW Germany) and USA Customer 3, with a copy to Marten (ALW USA) and Gehricke (ALW Mexico), stating that he could not move forward with an eleven container transaction the value of which was under \$300,000 because "our Hamburg Office has to give the final ok for each new sale." Gerkmann (ALW USA) stated that "I have forward [sic] your message to Alexander Wolff [;] much to my regret I did not reached [sic] him today in the office." *See Ex. 30.* Also on January 25, 2005, Alex Wolff (ALW Germany) sent an email to Gerkmann (ALW USA) and Marten (ALW USA) setting forth the parameters for doing future business with USA Customer 3, which was also the subject of a telephone call referenced in Alex Wolff's email. *See Ex. 31.* On January 26, 2005, USA Customer 3 responded to Gerkmann (ALW USA) and Marten (ALW USA), with a copy to Gehricke (ALW Mexico) and Alex Wolff (ALW Germany), summarizing a conference call on this topic and stating his understanding that "ALW Hamburg will not authorize sales to [USA Customer 3] until after the next payment pursuant to the May 2004 Agreement between ALW & [USA

Customer 3].” USA Customer 3 stated that he was cancelling the eleven container transaction because “ALW [USA] is not able at this time to perform.” USA Customer 3 stated further, “[I]et us know when you receive authority to sell honey to [USA Customer 3] and the nature of the terms approved by Hamburg.” *See Ex. 32.*

56. In an email dated April 1, 2005, Gerkmann (ALW USA) wrote to USA Customer 3 and Marten (ALW USA) regarding ALW USA selling four containers of honey to USA Customer 3. In his email, Gerkmann (ALW USA) stated that he would be obtaining “shipping details from our Hong Kong Office” and that ALW USA could move forward with the deal because “Sven [Gehricke (ALW Mexico)] and Alex [Wolff (ALW Germany)] already confirmed. . . .” *See Ex. 33.*

57. In an email dated July 20, 2005 relating to a different transaction, Gerkmann (ALW USA) told USA Customer 3, again copying Marten (ALW USA) and Gehricke (ALW Mexico), that he could move forward with a transaction for four containers of honey because he had first “talked with Hamburg to get the ok for this sale.” *See Ex. 34.*

58. In an email dated November 21, 2005, Gerkmann (ALW USA) wrote to Alex Wolff (ALW Germany), with a copy to Marten (ALW USA) and Gehricke (ALW Mexico), regarding a shipment of ten containers of honey, asking Alex Wolff (ALW Germany) to confirm that ALW USA can buy honey from Chinese Transshipper 2 located in China. *See Ex. 35.*

59. In an email chain spanning from November 30, 2006 to December 8, 2006, several key executives of ALW Food Group discussed the best way to handle a container of honey adulterated with an antibiotic. In the first of the emails, Becker (ALW Honey) stated to Gerkmann (ALW USA), with a copy to Giesselbach (ALW USA), the options available to ALW USA; specifically, “we have no chance to reimport the lot here. So either we must blend [the antibiotic] somewhere off or we have to sell at given prices. Unfortunately with all the costs involved shipment

to India is also not very attractiv [sic].” On December 3, 2006, Gerkmann (ALW USA) responded to the email, adding Marten (ALW USA) as another recipient, and stated that he could have open and frank conversations with USA Customer 3 about the adulterated honey, but then stated “[p]lease let me know your instrucion [sic] as the load cost you money every day in the warehouse.” On December 6, 2006, Gerkmann (ALW USA) updated Becker (ALW Honey) on his discussions with USA Customer 3, including Giesselbach (ALW USA) and Marten (ALW USA) and Alex Wolff (ALW Germany), stating in German that “I spoke to [USA Customer 3], he will take this lot . . . I told [USA Customer 3] that I need the OK from Becker [ALW Honey], Wolff [ALW Germany], and Marten [ALW USA].” Marten (ALW USA) provided his approval in an email dated December 7, 2006, and Becker (ALW Honey) followed suit with his approval on December 8, 2006. *See Ex. 36.*

60. In an email dated February 15, 2007, Belten (ALW Hong Kong) wrote to Giesselbach (ALW USA) and a Chinese honey supplier, copying Marten (ALW USA), Von Buddenbrock (ALW USA), and Chinese Transshipper 2 regarding one container of honey adulterated with an antibiotic. Belten (ALW Hong Kong) confronted the Chinese supplier regarding “a deadline from our headoffice in Hamburg [ALW Germany].” Furthermore, Belten (ALW Hong Kong) instructed the Chinese supplier to deposit \$3,634.49 to “our USA account immediately” or risk, among other things, that “we will keep[] the money for the Beepollen delivery to Hamburg [ALW Germany]: USD 15.500,00.” Belten (ALW Hong Kong) ended by stating “I am sorry that I have to proceed like this but I can unfortunately not change the rules and regulation of my head office [ALW Germany].” *See Ex.37.*

61. In an email dated January 24, 2008, Giesselbach (ALW USA) sent Alex Wolff (ALW Germany) an email with no text in the body of the email and only the following question stated in

German in the subject field: “Can I book new business with [USA Customer 1]?” Alex Wolff (ALW Germany) responded, also in German and in the subject field “CLEARLY.” *See* Ex. 38.

62. In an email chain dated May 7 and 8, 2008, Giesselbach (ALW USA) wrote to Alex Wolff (ALW Germany), Belten (ALW Hong Kong), and Von Buddenbrock (ALW USA), asking “Shall we book” six containers of honey, to which Alex Wolff (ALW Germany) responded, “go for it.” *See* Ex.39.

63. In an email string in April and May 2008, Belten (ALW Hong Kong) emailed a supplier in China, with a copy to Liu (ALW Beijing), Giesselbach (ALW USA), Von Buddenbrock (ALW USA), and Alex Wolff (ALW Germany), rejecting four containers of adulterated honey, but stating to the supplier that “we will have to charge you with the analysis costs for the 4 rejected containers, Ms. Giesselbach (ALW USA) will send you a debit note next week.” In turn, on May 6, 2008, Giesselbach (ALW USA) emailed Alex Wolff (ALW Germany), with a copy to Belten (ALW Hong Kong) and Von Buddenbrock (ALW USA), asking Alex Wolff (ALW Germany) whether ALW USA should secure replacements for the four containers that had already been rejected and “[s]hall we go for the deal (better than nothing) or insist on a total of 8 [containers] which we might not get?” Giesselbach (ALW USA) further advised Alex Wolff (ALW Germany) “P.S.: I am also not sure whether containers will be imported correctly . . . but that is a different story.” On May 13, 2008, Alex Wolff (ALW Germany) responded to Giesselbach (ALW USA), copying Belten (ALW Hong Kong), and ordered “go ahead.” *See* Ex. 40.

Alex Wolff Personally Approved Future Business Opportunities

64. Attached as Exhibit 41 is an email dated March 16, 2006 in which Gerkmann (ALW USA) wrote to a top executive at USA Customer 5 regarding “The future. . . .”, with a copy to

Marten (ALW USA) and Alex Wolff (ALW Germany), stating “I have shared our discussions first with Thomas Marten [ALW USA] and Alexander Wolff [ALW Germany]. Both liked the idea and are looking forward to discuss more in details.” Gerkmann (ALW USA) continued, “Alex told us this Morning that we will share more information in details during our China trip. After that I am sure we will arrange a meeting between you and Alex Wolff [ALW Germany] here or in Germany. . . .” *See* Ex. 41.

65. In an email dated July 5, 2006, Alex Wolff (ALW Germany) wrote to Gerkmann (ALW USA) with a copy to Giesselbach (who was still in Germany; ALW Germany) and Marten (ALW USA) about future business opportunities with USA Customer 5. In his email, Alex Wolff (ALW Germany) attached a document called “ALW Inc USA Honey Market,” and stated that “we will have a clearer pic here in [ALW Germany] by the end of this months [sic]. i will keep you posted. do think it is a good idea to see [a top executive of USA Customer 5] and discuss further steps, however need to be carefull [sic] as we are not yet in the position to make ANY commitments.” Alex Wolff (ALW Germany) continued, “in order to speed up things i have prepared a draft map of the us [United States] honey market out of my memory.” *See* Ex. 42.

Alex Wolff Personally Approved Credit Extensions to U.S. Customers

66. Attached as Exhibits 43 - 45 are emails that illustrate the sort of continuous consultation and approval that ALW USA executives provided to and obtained from Alex Wolff and ALW Germany regarding ALW USA’s day-to-day financial activities, decisions, and functions.

67. In an email dated April 12, 2006, Gerkmann (ALW USA) wrote to Alex Wolff (ALW Germany), with a copy to Marten (ALW USA), regarding whether ALW USA could extend USA Customer 5 a “higher internal credit line,” to which Alex Wolff (ALW Germany) chastised

Gerkmann (ALW USA) and stated “you should have thought abt this before signing the orders” and eventually stating the next day, “ok, let me know the outcome and if we have to think abt internal limits further.” *See Ex. 43.*

68. In an email dated June 19, 2006, Gerkmann (ALW USA) wrote to Alex Wolff (ALW Germany) and Marten (ALW USA) in German stating that USA Customer 3 had sent ALW USA a check in the mail, to which Alex responded the same day, “ok. tks for the info. let me know when money arrives. we will talk abt new [credit] limits afterwards. ok?” *See Ex. 44.*

69. In an email dated September 11, 2007, Giesselbach (ALW USA) wrote to USA Customer 1, with a copy to Von Buddenbrock (ALW USA), regarding a contract claim that USA Customer 1 was making on a portion of the honey that had already been delivered. In her email, Giesselbach (ALW USA) stated that as far as “Payment,” “Hamburg HQ could not accept a six months payment plan and offers four installments of \$100,000 each, starting on October, 15th ending January, 15th.” Alex Wolff (ALW Germany) responded to Giesselbach (ALW USA) on September 12, 2007, adding Marten (who had returned to Germany; ALW Germany) and Von Buddenbrock (ALW USA), and stating “that sounds very good. . . . appreciate your verbal input when you are in the office.” *See Ex. 45.*

Alex Wolff Consulted on Customer Contract Disputes and Rejected Honey

70. Attached as Exhibits 46 - 48 are emails that demonstrate that Alex Wolff was consulted on, and decided matters relating to, customer contract disputes.

71. On February 16, 2007, Marten (ALW USA) emailed Alex Wolff (ALW Germany), with a copy to Von Buddenbrock (ALW USA) regarding “problematic material rejected by [USA Customer 6] which we need to get rid of . . .”, outlining a proposal to blend the honey [at USA

Customer 8], and asking Alex Wolff (ALW Germany) to “confirm that this procedure as described above would be ok with you.” On February 19, 2007, Alex Wolff (ALW Germany) responded to Marten (ALW USA), with a copy to Von Buddenbrock (ALW USA), stating “ok, go for it,” to which Marten responded to Giesselbach (ALW USA), “[h]ere comes the OK from the boss.” *See* Ex. 46.

72. In an email dated October 9, 2007, USA Customer 1 emailed Giesselbach (ALW USA) regarding ALW USA’s non-fulfillment of a honey and packer syrup contract. On the same day, Giesselbach forwarded USA Customer 1's email to Alex Wolff (ALW Germany), with a copy to Marten (who had returned to Germany; ALW Germany) and Von Buddenbrock (ALW USA), stating “Alex, **This is top urgent now.**” Giesselbach concluded her email stating “I will check with Marcel [Belten; ALW Hong Kong] /Liu [ALW Beijing] for offers from China/Malaysia again [as replacement honey to be sent to USA Customer 1] **we will call you tomorrow morning. 9 AM our time.**” *See* Ex. 47; emphasis in original.

73. On October 23, 2007, Alex Wolff (ALW Germany) wrote USA Customer 1, with a copy to Marten (ALW Germany) regarding USA Customer 1's issues referenced in the previous email and stated:

however, [USA Customer 1] is an importnat [sic] customer of ours not only for our US subsidiary but for our groupwide honey business and within our longterm relationship we always have found solutions for problems.

I would be willing, without any prejudice, to reconsider a proposal from your end how we as supplier can give you a certain US\$ compensation with future orders. . .

[USA Customer 1], I am looking forward to receiving your ideas of how we can solve this matter.

See Ex. 48.

Recent ALW Food Group Documents and Transactions Confirm That It Operated As A Single Criminal Enterprise

74. The documents, emails, and witness accounts set forth above demonstrate that Alex Wolff exercised control and authority over the ALW Food Group components in a manner that rendered them mere instrumentalities of ALW Germany despite their ostensible independent incorporation. Additional documents describing ALW Food Group's structure and control between 1999 and 2010 reinforce this point. For example, the previously-mentioned October 11, 2006 petition letter submitted to the U.S. Department of State supporting Giesselbach's visa application also described the corporate history and structure of the "Wolff & Olsen Group" as well as its ownership by "the fourth generation of members of the Wolff family." See Ex 3. The letter recounted that the "Wolff & Olsen Group" was the holding company of "the Alfred Wolff Group" and set up ALW USA in 1999 by providing loans totaling over \$2,481,788 as investment capital. *Id.* at p. 2. In a January 19, 2009 letter to Government counsel, the German law firm of TaylorWessing sought to "clarify" the visa letter by emphasizing that ALW Germany wholly owned or controlled as majority shareholder all the ALW Food Group components, and that Alex Wolff was the sole general manager of ALW Germany:

ALW, Inc. was incorporated in 1999 by Wolff & Olsen GmbH & Co. KG holding 49% and Kirkam, Ltd. [ALW Hong Kong] holding 51% of the shares. In 2000 Wolff & Olsen GmbH & Co. KG transferred its 49% in ALW, Inc. [ALW USA] to Alfred L. Wolff GmbH [ALW Germany] in an effort to concentrate all food activities in Alfred L. Wolff GmbH [ALW Germany]. In 2003 Kirkam, Ltd. [ALW Hong Kong] transferred its 51% in ALW, Inc. [ALW USA] to Alfred L. Wolff GmbH [ALW Germany] after a legal requirement for US-subidiaries of foreign entities to have at least two shareholders ceased to exist....

The business of the Wolff & Olsen Group is divided into three separate and distinct divisions: Fashion, Non-Food and Food. For each of these divisions Wolff and Olsen GmbH & Co. KG holds a separate operational holding company which is run by its own management. As far as the Food division is concerned, Alfred L. Wolff GmbH

[ALW Germany] is the operational holding company.... Alfred L. Wolff GmbH [ALW Germany] is either directly or indirectly the sole shareholder of all companies operating in the Food division, with two exceptions where it holds a majority interest only. In particular, Alfred L. Wolff GmbH [ALW Germany] is the direct and only shareholder of Alfred L. Wolff Honey GmbH [ALW Honey], where its German honey business is concentrated, and ALW, Inc. [ALW USA]....

Enclosed with this letter as Exhibit 1 is a proposed organizational chart of the Wolff & Olsen Group as of December 31, 2008....

....Alexander Wolff was and still is the general manager of Alfred L. Wolff GmbH [ALW Germany].

See Ex. 49 at 2-3 and attached Chart (confirming that on December 31, 2008 ALW Germany owned or controlled all the other members of the ALW Food Group, and that Alex Wolff was the sole General Manager of ALW Germany).

75. Submissions by defendant ALW USA further confirm that as late as January 2011 the ALW Food Group conducted its affairs as it did during the period charged in the Indictment. In its pleadings in support of filing its appearance in this case, ALW USA submitted a sworn affidavit maintaining that ALW Germany's current "sole Managing Director," Frank Breuer, has "unlimited power" under German law to conduct the affairs of both ALW Germany and ALW USA. *See* Exhibit 2 to Bench Memorandum In Support Of ALW, Inc. Appearance, Dkt No. 104-2; Reply In Further Support Of ALW, Inc. Appearance at 10, Dkt. No. 113. As ALW Germany wholly owns ALW Honey, ALW Hong Kong, and ALW Beijing, by default Breuer therefore exercises "unlimited power" over them too. Nothing I have reviewed in this case indicates that the ALW Food Group changed any of its practices, procedures, or policies regarding the manner in which it operated in the 14 months between January 2009, the end of the conspiracy charged in the Indictment, and the appointment of Breuer in April 2010. It therefore seems clear that Alex Wolff previously wielded the same "unlimited power" over the entire ALW Food Group that Breuer admittedly did only a few

months ago when he used that power to specifically authorize ALW USA's appearance as a defendant in this case.

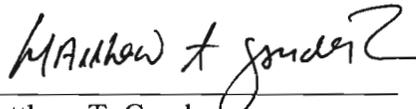
76. An additional factor that supports my conclusion that the ALW Food Group operated as a unitary criminal enterprise throughout the period charged in the indictment is its conduct in what I believe the facts demonstrate was a sham "asset sale" in February 2010. At that time, correctly anticipating that an indictment was imminent, all the assets of the ALW Food Group conspicuously, but for ALW USA, which ceased its operations immediately following the arrests of Von Buddenbrock and Giesselbach in May 2008 were putatively "sold" to a German corporate entity called Norevo GmbH in what was characterized as an "asset sale transaction." *See* Ex. 50 (email from defendant Thomas Marten on February 5, 2010 attaching letter describing the transaction to ALW Food Group customers). I have interviewed persons who did business with ALW Germany and ALW USA during 2006 - 2010 and are continuing to do business with Norevo. Those persons told me that they were assured by Thomas Marten shortly after the alleged "sale" in February 2010 that the effect of the "sale" to Norevo would be "business as usual." They understood Marten to mean that business would continue with the ALW Food Group simply using a different name, which based on their continuing transactions since February 2010 they believe has occurred. *See id.* (Marten letter stating that "Your contact persons at Norevo remain unchanged"). This "asset sale transaction" took place while all the ALW Food Group entities and individuals later indicted were well aware of the ongoing grand jury investigation.⁹ Moreover, this putative "asset sale" left

⁹ Not only did Giesselbach and Von Buddenbrock tell me that all their former colleagues knew of their arrests and the ensuing investigation, but as ALW USA defense counsel pointed out in the Reply In Further Support Of ALW, Inc. Appearance, they engaged in extensive "discussion and correspondence" with government counsel from at least March 21, 2008 through the service of the Indictment on September 14, 2010. *See* Reply at 5-7, Dkt 113 (listing details of the contacts during the grand jury investigation).

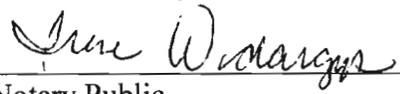
nothing but an empty shell with only one known purported “employee” (Breuer) in place in the ALW Food Group – a shell that is now attempting to contest service of process despite the fact that it has no assets, no longer conducts business, but nonetheless apparently continues to operate under a different German corporate name. Notably, it was only on April 23, 2010 that ALW Germany purported to replace Alex Wolff with Frank Breuer as sole Managing Director of ALW Germany, a full six weeks after all the assets of ALW Food Group allegedly were transferred and “sold” to Norevo and its active operations shut down. Based on the foregoing, I believe that this “transaction” and the purported appointment of Breuer as Managing Director of an inoperative shell company was a sham designed to allow the ALW Food Group to continue to operate under a different name in an attempt to shield its assets from seizure by the United States in the event service of process was effected on its various components in this case.

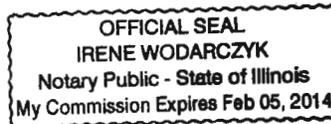
ALW Germany Pays Defendant ALW USA’s Legal Fees

77. A final example of ALW Germany’s control over ALW USA and its operations is that I have reviewed wire transfer records that show that from June 2008 through at least November 2010 ALW Germany made approximately 27 wire payments totalling approximately \$1.7 million to the law firm of Wildman, Harrold, Allen & Dixon LLP in Chicago, Illinois to defend ALW USA in this investigation and prosecution.¹⁰


Matthew T. Gauder
Special Agent, ICE-HSI

Sworn to and signed before me
on this 17th day of June 2011


Notary Public



¹⁰ Counsel for ALW USA have represented to the government and to the Court repeatedly that they represent only ALW USA.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA) Case No. 08 CR 417
v.)
ALFRED L. WOLFF GMBH, et al.) Judge Amy J. St. Eve

**Exhibits 1-50 To Special Agent Gauder's
Affidavit In Support of Government's
Opposition To Motion To Quash Service of
Summons On The Indictment**

UNDER SEAL