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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

_____)	
UNITED STATES OF AMERICA,)	
)	
)	
Plaintiff,)	
)	
vs.)	Case 2:12CR113
)	
GENWAL RESOURCES,)	
)	
Defendant.)	
_____)	

BEFORE THE HONORABLE DAVID SAM

MARCH 14, 2011

REPORTER'S TRANSCRIPT OF PROCEEDINGS

CHANGE OF PLEA AND SENTENCING HEARING

Reported by: KELLY BROWN, HICKEN CSR, RPR, RMR

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A P P E A R A N C E S

FOR THE PLAINTIFFS: OFFICE OF THE US ATTORNEY

BY: DAVID BARLOW

STU WALZ

KARIN FOJTIK

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ONE UTAH CENTER, 13TH FLOOR

SALT LAKE CITY, UTAH 84111

1 SALT LAKE CITY, UTAH, WEDNESDAY, MARCH 14, 2012

2 * * * * *

3 THE COURT: Good afternoon, counsel, and parties
4 and all who are here to be present for this hearing. The
5 Court welcomes you here.

6 We're here to address case Number 2:12-CR-113. The
7 United States of America vs. Genwal Resources. This has been
8 calendared for a plea and sentencing.

9 Counsel, are you ready to proceed?

10 MR. WALZ: Yes, Your Honor. The United States is
11 ready.

12 MR. KAPLAN: Yes, Your Honor. Genwal Resources is
13 ready.

14 THE COURT: All right. Very well. Let me just for
15 the record recognize you individually. For the United States,
16 we have Mr. David Barlow, who's the United States attorney
17 from the District of Utah; and Mr. Stu Walz, assistant United
18 States attorney; Mr. Jared Bennett, assistant United States
19 attorney; Ms. Karen Fojtik, assistant United States attorney.
20 For the defendant, Mr. Neil Kaplan and Ms. Anneli Smith, who
21 are at counsel table.

22 All right. Counsel, we'll proceed first with the
23 taking of a plea. Now, this is a corporate defendant. And,
24 Mr. Kaplan, you have been authorized to act as the agent for
25 this corporation; is that correct?

1 MR. KAPLAN: Yes, I have, Your Honor.

2 THE COURT: All right. Now I'm going to ask that
3 you be placed under oath after which I'm going to have you
4 questioned regarding this matter.

5 (Whereupon, Mr. Kaplan was sworn.)

6 MR. KAPLAN: I do.

7 THE COURT: All right. Mr. Kaplan, you are the
8 duly authorized agent for the defendant Genwal Resources, and
9 you have stated that; is that correct?

10 MR. KAPLAN: Yes, Your Honor, that's correct.

11 THE COURT: And you certify and acknowledge that on
12 Genwal's behalf you have been advised of and you understand
13 the following facts and rights and that Genwal has had the
14 assistance of counsel in reviewing, explaining and completing
15 on behalf of Genwal; is that correct?

16 MR. KAPLAN: That's correct, Your Honor.

17 THE COURT: All right. Now I'm going to read
18 portions of this statement in advance of plea. And this is a
19 plea entered pursuant to Federal Criminal Rule 11C1C. I'm
20 going to read now starting with Paragraph 1.

21 As part of this agreement with the United States,
22 Genwal will plead guilty to Counts One and Two of the
23 information. Genwal's attorneys have explained to you the
24 nature of the charges against Genwal, and you've had an
25 opportunity to discuss the nature of the charges with Genwal's

1 corporate secretary. You on behalf of Genwal understand the
2 charges and what the United States is required to prove in
3 order to convict Genwal.

4 The elements of Count One are, one, a mine operator
5 that is Genwal; 2, willfully violated; number 3, a mandatory
6 health and safety standard, to wit, failing to notify MSHA
7 within 15 minutes once the operator knew or should have known
8 that an incident had occurred, all in violation of 30 USC
9 Section 820(d) and 30 CFR Section 50.10.

10 The elements of Count Two are, 1, a mine operator,
11 that is, Genwal; 2, willfully violated; 3; a mandatory health
12 and safety standard, to wit, mining in an area that was
13 prohibited under the roof control plan, all in violation of
14 30 USC Section 820(d).

15 Do you understand all that?

16 MR. KAPLAN: Yes, I do, Your Honor.

17 THE COURT: Number 2. You on Genwal's behalf know
18 that the maximum possible penalty is a \$250,000 fine for each
19 count because, as the United States agrees, the evidence does
20 not support applying the increased penalty under
21 18 USC Section 3571(C)(4). You also acknowledge that a term
22 of probation up to five years may apply. You also know that
23 the Court is required pursuant to 18 USC Section 3013 to
24 impose an assessment in the amount of \$125 for each offense of
25 conviction.

1 You understand all of that, sir?

2 MR. KAPLAN: Yes, I do, Your Honor.

3 THE COURT: Number 3. Because Genwal's plea of
4 guilty is being entered pursuant to Federal Rules of Criminal
5 Procedure 11C1C as explained below, you know that Genwal will
6 be able to withdraw its plea if the Court does not accept the
7 Rule 11C1C agreement.

8 MR. KAPLAN: Yes, Your Honor, I understand that.

9 THE COURT: All right. Now I'm going to skip some
10 of the reading. If there's any portions that I skip that you
11 would like the Court to read into the record, counsel for
12 either side, indicate that to the Court and I will read that
13 portion that I skipped verbatim.

14 I'm going to drop down to Paragraph 6. Paragraph 6
15 contains the constitutional rights that you have pursuant to
16 our Constitution and pursuant to the Federal Rules of Criminal
17 Procedure. Those are outlined in Paragraph 6A through I. You
18 understand that you have all of those rights?

19 MR. KAPLAN: Yes, Your Honor. And I've advised
20 Genwal that they have those rights, yes.

21 THE COURT: All right. Very well. And you also
22 understand the circumstances under which an appeal may be
23 taken from this case.

24 MR. KAPLAN: Yes, we do, Your Honor.

25 THE COURT: All right. Let's drop down to

1 Number 10. You know under a plea of guilty the Judge may ask
2 you questions under oath about the offense. The questions if
3 asked on the record in the presence of counsel must be
4 answered truthfully. And if you give false answers on behalf
5 of Genwal you can be prosecuted for perjury in your personal
6 capacity.

7 MR. KAPLAN: I understand that, Your Honor.

8 THE COURT: All right. I'm going to read now
9 Paragraph 11. You stipulate and agree that the following
10 facts accurately describe Genwal's conduct. These facts
11 provide a basis for the Court to accept Genwal's guilty plea
12 and for calculating the sentence in Genwal's case. You
13 understand and you will stipulate to those facts?

14 MR. KAPLAN: Yes, we do, Your Honor.

15 THE COURT: All right. I'm going to read those to
16 you and ask you several questions regarding them.

17 On or about March 10, 2007, Genwal through its
18 agents knew that it had a duty to report to the Mine Safety
19 and Health Administration, MSHA, M-S-H-A, within 15 minutes at
20 the toll free number 1-800-746-1553, once Genwal knew or
21 should have known that an accident occurred. On or about
22 March 10, 2007, an accident as defined under CFR Section 50.2
23 Paragraph 9 occurred when a coal outburst disrupted regular
24 mining activity for more than one hour. Genwal willfully did
25 not report the accident to MSHA within 15 minutes at the above

1 stated toll free number once it knew or should have known that
2 an accident occurred.

3 On June 15, 2007, MSHA approved an amendment to the
4 roof control plan that authorized Genwal to conduct secondary
5 mining or pillar recovery operations in an area of the mine
6 known as Main West South Barrier. Genwal through its agents
7 was aware that this approved roof control plan amendment
8 prohibited Genwal from mining the barrier pillar between
9 crosscuts 142-139 in the Number 1 entry. On about August 3,
10 2007, Genwal willfully mined in the barrier pillar between
11 crosscuts 142-139 in the Number 1 entry.

12 Now, did you hear those facts as I read them into
13 the record?

14 MR. KAPLAN: Yes, I did, Your Honor.

15 THE COURT: Do you understand them?

16 MR. KAPLAN: Yes, I did, Your Honor.

17 THE COURT: Are they all true and correct?

18 MR. KAPLAN: Yes, they are.

19 THE COURT: Now, Paragraph 12 contains the terms
20 and conditions pertaining to your plea agreement with the
21 United States. Those are outlined on Page 3 and Page 4. Now,
22 you understand and agree to all of those terms on behalf of
23 the defendant?

24 MR. KAPLAN: Yes. Pardon my coughing, Your Honor.
25 Yes, I understand.

1 THE COURT: Are there any portions of that plea
2 agreement that you wish the Court to read verbatim into the
3 record?

4 MR. KAPLAN: No, we do not, Your Honor.

5 THE COURT: On behalf of the United States?

6 MR. WALZ: No, Your Honor.

7 THE COURT: I want to ask you, Mr. Walz, if this
8 paragraph contains full and complete agreement between the
9 defendant and the United States.

10 MR. WALZ: It does, Your Honor.

11 THE COURT: And is that correct, Mr. Kaplan?

12 MR. KAPLAN: Yes, it is, Your Honor.

13 THE COURT: All right. I'm going to drop now down
14 to Page 4 in the middle. Mr. Kaplan, Number 1. You indicate
15 that you're over and you admit to being over 21 years of age;
16 is that correct?

17 MR. KAPLAN: Yes, Your Honor.

18 THE COURT: And your education consists of a
19 bachelor's and juris doctorate degree, and you can read and
20 understand English.

21 MR. KAPLAN: Yes, Your Honor.

22 THE COURT: And, Number 2, the statement in advance
23 contains all the terms of the agreement between Genwal and the
24 United States. If there are exceptions, the Court will be
25 specifically advised on the record at the time of Genwal's

1 guilty plea of the additional terms. You understand the Court
2 and the United States -- that the United States and Genwal
3 cannot have terms of this plea agreement that are not
4 disclosed to the Court. You understand that?

5 MR. KAPLAN: Yes, Your Honor.

6 THE COURT: And 3. No one has made threats,
7 promises or representations to Genwal or to you that have
8 caused Genwal to enter a plea of guilty on Genwal's behalf.

9 MR. KAPLAN: That's correct, Your Honor.

10 THE COURT: And 4. You understand that the Court
11 can accept or reject this agreement and the parties retain
12 their rights in that event as set forth above.

13 MR. KAPLAN: That's correct, Your Honor.

14 THE COURT: And 5. You have discussed this case
15 and -- this case with Genwal's corporate secretary as much as
16 you wish, and you on behalf of Genwal have no additional
17 questions; is that correct?

18 MR. KAPLAN: That's correct, Your Honor.

19 THE COURT: And Number 6. You have discussed this
20 statement with Genwal's corporate secretary, and you have
21 fully explained Genwal's rights to him and have assisted him
22 in completing this agreement. He has provided you appropriate
23 documentation of action by Genwal's board of directors
24 authorizing you to knowingly and voluntarily enter a plea
25 undertaken with full knowledge of Genwal's legal rights, and

1 that there is a factual basis for the plea; is that correct?

2 MR. KAPLAN: That's correct, Your Honor.

3 THE COURT: And 7. Genwal's corporate secretary
4 advised you that Genwal is satisfied with its lawyers; is that
5 correct?

6 MR. KAPLAN: That's correct.

7 THE COURT: And 8. Genwal's decision to enter this
8 plea was made after full and careful thought with the advice
9 of counsel and with its full understanding of its rights, the
10 facts and circumstances of a case and the consequences of a
11 plea. And you are not now under the influence of any drugs,
12 medication or intoxicants; that is right?

13 MR. KAPLAN: That's correct.

14 THE COURT: And 9. On behalf of Genwal's behalf,
15 you have no mental reservations concerning the plea.

16 MR. KAPLAN: That's correct, Your Honor.

17 THE COURT: And 10. You on behalf of Genwal
18 understand and agree to all of the above. You know that you
19 on behalf of Genwal are free to change or delete anything
20 contained in this statement, and you do not wish to make
21 changes to this agreement because Genwal agrees with the
22 terms, and all of the statements are correct; is that right?

23 MR. KAPLAN: That's right, Your Honor.

24 THE COURT: All right. Now I'm going to turn to
25 the information now. And, Count One, I'm not going to read

1 all the terms of Count One, except that this is an alleged
2 violation of 30 USC Section 820(d), violation of a mandatory
3 health or safety standard.

4 MR. WALZ: Your Honor --

5 THE COURT: Yes.

6 MR. WALZ: I hesitate to interrupt. But since this
7 is the first appearance of this defendant in court, perhaps
8 the record should reflect the fact that the information has
9 been furnished to Mr. Kaplan, he's read it and understands it.

10 THE COURT: All right. Very well.

11 You have received a copy of the misdemeanor
12 information; is that correct?

13 MR. KAPLAN: That's correct, Your Honor. And I
14 have gone over it with Genwal's officers.

15 THE COURT: And you have reviewed it and understand
16 it?

17 MR. KAPLAN: Yes.

18 THE COURT: And have no questions regarding it.

19 MR. KAPLAN: No questions, Your Honor.

20 THE COURT: All right. Very well. To Count One,
21 what is your plea on behalf of the defendant?

22 MR. KAPLAN: Genwal Resources pleads guilty.

23 THE COURT: All right. Very well. As to
24 Count Two, this is a violation, alleged violation of
25 30 USC Section 820(d), a violation of mandatory health or

1 safety standards. And this is alleged to have occurred,
2 Count One alleged to have occurred March 10, 2010, and
3 Count Two on or about August 3rd, 2007.

4 To Count Two what is your plea on behalf of the
5 defendant?

6 MR. KAPLAN: Genwal Resources, Inc., pleads guilty
7 to Count Two, Your Honor.

8 THE COURT: Very well. The Court will accept the
9 pleas of the defendant to Counts One and Two and finds the
10 pleas are made freely and voluntarily with full knowledge of
11 your legal rights, and that there is a factual basis for the
12 acceptance of the pleas.

13 Now with respect to sentencing, counsel, what is
14 your pleasure regarding sentencing?

15 MR. WALZ: We would like sentencing to occur today,
16 Your Honor.

17 THE COURT: Is that the request of the defendant,
18 as well?

19 MR. KAPLAN: Yes, it is, Your Honor.

20 THE COURT: Is there any legal reason that you know
21 of why sentence should not proceed at this time?

22 MR. WALZ: No, Your Honor, there is none.

23 THE COURT: All right. Do you wish to make any
24 comment before the Court before imposing sentence?

25 MR. WALZ: Yes, Your Honor, if I may.

1 THE COURT: You may.

2 MR. WALZ: May it please the Court, this case
3 because of the tragic loss of life and magnitude of the
4 tragedy has caused as the Court is aware immense public
5 interest. The plea by the company has sharpened the public
6 interest and raised questions about the role of the criminal
7 law and the prosecutor in our system and in this case. And I
8 am happy to take an opportunity to answer some of those
9 questions.

10 I know the Court is aware that not every evil in
11 society, not every wrong that has happened is to be redressed
12 by the criminal process. Wrongs are frequently addressed
13 through civil, civil suit between parties and through the
14 regulatory process, and both have been or will be brought to
15 bear in this particular case.

16 The public has a right to expect our office to
17 bring well-founded charges where provable facts established
18 violations of specific criminal statutes beyond a reasonable
19 doubt, and the fact that these statutes are violated by
20 specific parties, we have found that the facts establish the
21 two criminal charges in the information and believe that we
22 could succeed on those charges at trial if required beyond a
23 reasonable doubt. The same cannot be said for some other
24 charges that have been the subject of the investigation.
25 There has been and is a great and understandable tendency to

1 expect that serious consequences such as occurred in this case
2 demands more serious charges. People ask, why isn't there
3 more? But the application of the law to the facts must result
4 in provable charges and not the result of circumstances that
5 are serious, that are tragic and that leave us all breathless.

6 We believe that these charges are serious, and it
7 is for that reason that we brought them and demanded that the
8 defendant agree to the maximum fine for each in this
9 particular case.

10 The United States Attorney's Office has considered
11 all of the evidence upon which our investigation was based.
12 The office has determined that the enhancement that certain
13 people have said applies cannot be sustained in this case, and
14 therefore, we urge the Court to accept the plea agreement and
15 sentence according to its terms.

16 THE COURT: All right. Very well, counsel. Is
17 there a signed statement in advance, counsel? Do you have a
18 copy?

19 MR. WALZ: I think one was filed with the court
20 clerk's office on Friday. We can certainly sign and file
21 another one.

22 THE COURT: All right. Would you do that also in
23 open court?

24 MR. KAPLAN: Your Honor, while we're doing that,
25 Ms. Smith noted that there's a typographical error on the

1 information. It alleges that the offense occurred in 2010.
2 We certainly agree to that amendment. It should be 2007.

3 THE COURT: Count one is amended on or about
4 March 10, 2007; is that correct?

5 MR. KAPLAN: Yes, Your Honor. That's good.

6 THE COURT: All right. Very well.

7 After that is signed, counsel present that to the
8 Court.

9 MR. WALZ: What we have, Your Honor, is a signed
10 plea agreement signed by Mr. Kaplan on the 8th day of March,
11 and it was signed by Mr. Barlow, the United States attorney,
12 on the 9th of March at the time it was filed with the Court.
13 May I lodge this with the Court?

14 THE COURT: You may do so.

15 Mr. Kaplan, do you wish to make any comment on
16 behalf of the defendant?

17 MR. KAPLAN: No, Your Honor.

18 THE COURT: All right. Counsel, let me just make a
19 few comments.

20 MR. FOJTIK: Your Honor?

21 THE COURT: Yes.

22 MR. FOJTIK: I believe there were some family
23 members that had come and family members wanted to speak. Did
24 you want to allow them first to --

25 THE COURT: Yes. I want the record to reflect that

1 I have received some communications from various individuals.
2 I have provided a copy -- whenever the Court receives a
3 communication, I provide copies to counsel for each side and
4 also a copy for US probation. I have read those and
5 considered those, and I have some comments to make. But maybe
6 I'll reserve those until after anyone wishes to address the
7 Court.

8 I may say that normally all communications
9 regarding sentencing are made by written communications to the
10 Court. However, the Court on occasion has and does make some
11 exception if there is a brief comment that anyone wishes to
12 make in this matter. I understand that Mr. Havas, you wish to
13 make a comment on behalf of the victims; is that correct?

14 MR. HAVAS: That's correct, Your Honor. And thank
15 you for that opportunity.

16 I'm Edward Havas. And along with Colin King and
17 Alan Mortensen of my office, we are here on behalf of a number
18 of families and victims of this senseless and avoidable
19 tragedy. And I appreciate the Court to be willing to hear my
20 comments. I'll be brief.

21 The family wishes me to communicate to the Court
22 that it responds to the charges and the guilty pleas with
23 mixed emotions. Obviously having this chapter of proceedings
24 behind them is beneficial to allowing them to continue the
25 healing process and move forward. But the families are

1 disappointed that the combination of this many years of
2 investigation and the efforts of the US Attorney's Office has
3 resulted in nothing more than a couple misdemeanors, which is
4 I guess a corporate defendant, and individuals that the
5 families believe have some responsibility or should be held to
6 account are not here before the Court to answer. We recognize
7 the limitations that the US Attorney's Office operates under,
8 and we appreciate their efforts.

9 It is also acknowledged, Your Honor, that the
10 proposed find is the maximum for each count, and we appreciate
11 that. And yet, it is with some reluctance that the families
12 acknowledge that a half million dollars to this corporate
13 defendant is nothing more than a slap on the wrist. If it
14 were possible to do more, we would urge the Court to do so.
15 We understand that this is the maximum fine.

16 Perhaps the most disappointing thing to the
17 families, however, is despite admitting to the knowing and
18 wilful violations that underline these counts, this corporate
19 defendant has yet to acknowledge responsibility for the actual
20 tragedy that caused these families their lives and hurt these
21 victims and, in fact, recently publicly denied and persist in
22 denying responsibility for this tragedy. That's hurtful to
23 the families. Genwal has bypassed a golden opportunity to say
24 I'm sorry to these families, and that's something that should
25 have been said long before now.

1 We realize the limitations that the US Attorney's
2 Office operates under. There is a sad lack I think of
3 applicable mine safety and health regulations that can
4 underpin criminal conduct, and the US Attorney's Office is
5 bound by that. We recognize that, and we appreciate their
6 efforts. It is fitting that those statutes be revised and
7 revisited, but we also accept them with resignation, the
8 understanding that that's something for a different forum and
9 not something we can ask Your Honor to do.

10 Thank you for considering our comments.

11 THE COURT: Thank you very much, Mr. Havas.

12 Let me comment. My initial review of this, and I
13 want the families and the victims to understand this, that I
14 certainly am not without compassion and concern for them at
15 this very tragic loss. No amount of money can be adequate to
16 compensate for the loss of a loved one, and I understand that.
17 I want them to know that my initial take on this is outrage at
18 the miniscule amount of penalty provided by the criminal
19 statute involved in this matter. And I have taken upon myself
20 to review some of the statutes that are applicable to this
21 case. And I have some questions regarding the matter under
22 18 USC Section 3571(C), fines for organizations; and also the
23 statute referred to in the information 30 USC Section 820(d);
24 and also the amendment to that statute which also has amended
25 some of the fines provided by law.

1 Now, I want them to know that I have weighed
2 whether I should accept or reject this plea agreement. The
3 alternatives as I weigh that very carefully was to put this
4 matter on further hold, to what end? It seemed to me as I
5 considered this it would be delaying another proceeding. I
6 understand the MSHA administrative proceeding, which is
7 ongoing but on hold because awaiting the outcome of the
8 criminal disposition in this court. And it's my understanding
9 that that hearing may further result in fines and penalties.
10 I have also been concerned about whether the victims of this
11 terrible tragedy pursued any recourse through the civil
12 courts. And again, I'm not familiar with what occurred there,
13 but I understand that their interests have been in the hands
14 of very capable counsel who I am very familiar with. And I
15 understand that those proceedings have resulted in -- again, I
16 don't know what amounts, I know that no amount is adequate to
17 pay for the loss of a loved one.

18 And I want to say again that my initial take is
19 outrage because of the miniscule amount provided by the
20 criminal statute. I also reviewed what has gone on in this
21 case being new to it since its investigation, which was
22 commenced I understand in 2008. And I am satisfied having
23 reviewed what has occurred that the US Attorney's Office has
24 done a very thorough and as complete a review as can be
25 conducted in this type of a case. And they came to the

1 conclusion as they did that the maximum that could, that was
2 provided by law was the two statutes -- of the two counts to
3 which this matter was brought before this Court.

4 And to which the Court because of all that I
5 examined, all that I determined because of what further delays
6 would take place, what good would that do to further prolong
7 what already has been suffered in this case, it seemed to me?
8 That overruling, my putting it on delay to no avail would just
9 be further compiling of the sorrow and grief of you who have
10 suffered your loss. And I want you to know that I certainly
11 am not without my compassion and concern for you. But because
12 of all of that, it is my view that it is best to proceed and
13 to accept the plea as I have and to pronounce judgment.

14 Now, counsel, is there anything else that need be
15 said for the record?

16 MR. WALZ: Nothing from the United States, Your
17 Honor.

18 MR. KAPLAN: No, Your Honor.

19 THE COURT: All right. Very well. Thank you very
20 much. And I ask, is there any legal reason why sentence
21 should not be imposed at this time?

22 MR. WALZ: There is none, Your Honor.

23 MR. KAPLAN: None, Your Honor.

24 THE COURT: All right. Let me just take a moment.

25 All right. It is the judgment of the Court that

1 the defendant is ordered to pay \$250,000 fine as to Count One
2 and \$250,000 fine as to Count Two, making a total fine of
3 \$500,000. In addition, there's a requirement for a special
4 assessment of \$125 as to each count, making a total of \$250,
5 and that is to be paid immediately.

6 All right. Anything else, counsel?

7 MR. WALZ: No, Your Honor.

8 MR. KAPLAN: No, Your Honor.

9 THE COURT: All right. Thank you very much. I
10 appreciate the comments that you have made and the comments,
11 Mr. Havas, that you made on behalf of these aggrieved
12 defendants of which I concur in what you said.

13 With that, we'll be in recess. Thank you very
14 much.

15 (Whereupon, the court proceedings were concluded.)

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1 STATE OF UTAH)

2) ss.

3 COUNTY OF SALT LAKE)

4 I, KELLY BROWN HICKEN, do hereby certify that I am
5 a certified court reporter for the State of Utah;

6 That as such reporter, I attended the hearing of
7 the foregoing matter on March 14, 2011, and thereat reported
8 in Stenotype all of the testimony and proceedings had, and
9 caused said notes to be transcribed into typewriting; and the
10 foregoing pages number from 3 through 22 constitute a full,
11 true and correct report of the same.

12 That I am not of kin to any of the parties and have
13 no interest in the outcome of the matter;

14 And hereby set my hand and seal, this ____ day of
15 _____ 2012.

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KELLY BROWN HICKEN, CSR, RPR, RMR

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