

1 GEORGE S. CARDONA  
Acting United States Attorney  
2 CHRISTINE C. EWELL  
Assistant United States Attorney  
3 Chief, Criminal Division  
BRUCE H. SEARBY (SBN 183267)  
4 Assistant United States Attorney  
Major Frauds Section  
5 1100 United States Courthouse  
312 North Spring Street  
6 Los Angeles, California 90012  
Telephone: (213) 894-5423  
7 Facsimile: (213) 894-6269  
[bruce.searby@usdoj.gov](mailto:bruce.searby@usdoj.gov)

8 Attorneys for Plaintiff  
9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA, ) CR No. 08-59(B)-GW  
13 )  
Plaintiff, ) GOVERNMENT'S RESPONSE AND  
14 ) OBJECTIONS TO PRE-SENTENCE REPORT  
v. ) AS TO DEFENDANT GERALD GREEN  
15 )  
GERALD GREEN and ) Sent. Date: January 21, 2010  
16 PATRICIA GREEN, ) Sent. Time: 8:30 a.m.  
17 )  
Defendants. )  
18 )

19 Plaintiff United States of America, through its counsel of  
20 record, the United States Attorney's Office for the Central  
21 District of California, hereby submits its attached response and  
22 objections as to the Pre-Sentence Report ("PSR") for defendant  
23 GERALD GREEN, disclosed on November 30, 2009.

24 The government understands the Court is being asked to  
25 depart or otherwise adopt a variance from the Federal Sentencing  
26 Guidelines. The government submits the following objections in  
27 order to ensure an appropriate guidelines analysis as an initial  
28 matter. At the time for filing of its main sentencing position





1 PSR,<sup>2</sup> namely, that defendant GERALD GREEN repeatedly and  
2 blatantly perjured himself under oath during his testimony over  
3 three days of trial in this matter. The government will supply  
4 the United States Probation Officer with the transcripts of  
5 defendant GERALD GREEN's trial testimony on September 8-10, 2009.

6 In his direct examination, not only did defendant GERALD  
7 GREEN deny the allegations of bribery against him,<sup>3</sup> but also he  
8 fabricated elaborate explanations for the payments he directed  
9 defendant PATRICIA GREEN and Susan Shore to make to accounts held  
10 in the name of the Governor's Daughter, Jittisopa Siriwan, and  
11 the Governor's Friend, Kittti Chambundabongse.

12 These explanations contradicted the evidence (including both  
13 witness testimony and documentary evidence) in the case, and were  
14 further discredited upon defendant GERALD GREEN's cross-  
15 examination.

16 As demonstrated by the guilty verdicts against him, the jury  
17 disbelieved and rejected defendant GERALD GREEN's explanations.

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23 <sup>2</sup> The PSR noted the government's dismissal of the count  
24 of obstruction of justice under 18 U.S.C. § 1519 (on which the  
25 jury deadlocked after a day of deliberation), and cited to the  
26 complaint affidavit regarding one of the events that formed the  
evidentiary basis of that count. (PSR ¶¶ 25-26.)

27 <sup>3</sup> A defendant's simple denial of the charges, without  
28 more, may be insufficient to apply the obstruction enhancement.

1 Paragraph 39 (Role Adjustment)

2       The government objects to the PSR's finding that defendant  
3 GERALD GREEN was no more culpable than any other participant, and  
4 therefore does not merit an aggravating role adjustment. The  
5 government contends that a four-level aggravating role adjustment  
6 is appropriate for being "an organizer or leader of criminal  
7 activity that involved five or more participants or was otherwise  
8 extensive." U.S.S.G. § 3B1.1(a) (emphasis added).

9       This "otherwise extensive" ground for leader/organizer role  
10 adjustment is applicable to defendant GERALD GREEN because of the  
11 large amount of loss, the extensive duration of the bribery  
12 scheme, its international scope, the number of witting and  
13 unwitting participants, and defendant GERALD GREEN's role in  
14 directing defendant PATRICIA GREEN and others employed at  
15 defendants' several companies (including Susan Shore) and at the  
16 various prime contractors and subcontractors in executing the  
17 details of the scheme.

18       The PSR's discussion of role exclusively analyzes the  
19 applicability of § 3B1.1(c), which only counts criminally  
20 culpable participants managed or supervised by the defendant.  
21 The government does not argue that this particular role  
22 adjustment applies.

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1 Paragraph 117 (Guideline Provisions for Custody)

2       The PSR calculates defendant GERALD GREEN's Total Offense  
3 Level as 38, his Criminal History Category as I, and his  
4 sentencing range as 235-293 months. With the inclusion of the  
5 additional role and obstruction enhancements recommended above,  
6 his Total Offense Level would be 44 and his sentencing range  
7 would be life in prison.

8 DATED: December 14, 2009

Respectfully submitted,

9                   GEORGE S. CARDONA  
10                   Acting United States Attorney

11                   CHRISTINE C. EWELL  
12                   Assistant United States Attorney  
13                   Chief, Criminal Division

14                   \_\_\_\_\_/s/\_\_\_\_\_  
15                   BRUCE H. SEARBY  
16                   Assistant United States Attorney

17                   Attorneys for Plaintiff  
18                   UNITED STATES OF AMERICA  
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