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USA PERFORMANCE TECHNOLOGY, INC.  
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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA,  
12 Plaintiff,

13 v.

14 WALTER LIEW, CHRISTINA LIEW, USA  
PERFORMANCE TECHNOLOGY, INC.,  
15 and ROBERT MAEGERLE,  
16 Defendants.  
17

Case No. CR 11-0573-JSW (NC)

**DECLARATION OF STUART L. GASNER  
IN SUPPORT OF MOTION TO SEVER  
COUNTS 15-22 OF THE SECOND  
SUPERSEDING INDICTMENT REPLY**

Date: August 8, 2013  
Time: 2:00 p.m.  
Place: Courtroom 11, 19th Floor  
Dept.: Hon. Jeffrey S. White

1 I, Stuart L. Gasner, declare and state that:

2 1. I am an attorney licensed to practice law in the State of California and am a  
3 member of the law firm of Kecker & Van Nest LLP, located at 633 Battery Street, San Francisco,  
4 California 94111, counsel for defendants Walter Liew and USA Performance Technology, Inc. in  
5 the above-captioned action. I am duly admitted to practice law before this Court. Except where  
6 expressly stated, I have knowledge of the facts set forth herein, and if called to testify as a witness  
7 thereto, could do so competently under oath.

8 2. As recently as June 15, 2013, the government indicated in a letter brief submitted  
9 to Magistrate Judge Cousins that it intends to call expert witnesses specifically to testify as to “the  
10 bankruptcy process” and “the falsity of the charged tax returns” and represented that it will  
11 submit separate tax and bankruptcy expert reports. See Dkt. 341 at ¶¶ 2, 6. These two expert  
12 witnesses presumably would not be necessary to prove up the alleged trade secret crimes or even  
13 the existence of specific contracts with Chinese companies; they would merely help the  
14 government make its case related to the financial charges. At the very least, the direct and cross-  
15 examination of these financial experts, and any defense experts necessary to refute their opinions,  
16 would add to length and complexity of trial in this case.

17 3. To rebut the government’s financial theories, the defense will need to delve into  
18 the complex financial affairs of two different corporations over a 5 year period, which will  
19 require the assistance of tax experts and exploration of a quantity of paperwork that exceeds even  
20 the thousands of pages on the government’s “case-in-chief” listing.

21 4. The defense to the bankruptcy-related charges will require delving into a morass of  
22 evidence and expert testimony relating to letters of credit, international business transactions, the  
23 role of written contracts in business dealings with Chinese counter-parties, the details of  
24 bankruptcy proceedings, and the reasons why Performance Group failed.

25 5. Defending against the tax and bankruptcy charges will inject a slew of expert and  
26 lay witnesses and documents explaining relating to the entire financial and legal histories of  
27 Performance Group and USAPTI, as well as the companies’ solvency and finances over a period  
28 lasting more than a decade.

1 I declare under penalty of perjury under the laws of the United States of America that the  
2 foregoing is true and correct and that this declaration was executed on July 19, 2013 at San  
3 Francisco, California.

4  
5 /s/ Stuart L. Gasner  
STUART L. GASNER

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