IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

LOCKHEED MARTIN CORPORATION, a Maryland corporation,

Plaintiff,

v.

THE BOEING COMPANY, a Delaware corporation, WILLIAM ERSKINE, KENNETH BRANCH, and LARRY SATCHELL,

Defendants.

Case No. 6:03-CV-796-ORL-28-KRS

COMPLAINT AND DEMAND FOR TRIAL BY JURY

PRELIMINARY STATEMENT OF CASE

COMES NOW the Plaintiff, LOCKHEED MARTIN CORPORATION ("***LOCKHEED MARTIN***"), a leader in the research, design, development, manufacture and integration of advanced technology systems, products and services, including military, civil, and commercial space products and services, and sues Defendants (1) THE BOEING COMPANY ("***BOEING***"), (2) WILLIAM ERSKINE, ("***ERSKINE***"), (3) KENNETH BRANCH ("***BRANCH***"), and (4) LARRY SATCHELL ("***SATCHELL***"), seeking both preliminary and permanent injunctive relief, and compensatory, punitive and other damages resulting from BOEING's, ERSKINE's, SATCHELL's and BRANCH's pattern and practice of unlawful activities alleged herein.

SUMMARY OF ACTION

The crux of LOCKHEED MARTIN's claims against BOEING, ERSKINE, BRANCH and SATCHELL is the injury to its business and results of operations due to the following acts of the Defendants and others acting on behalf of BOEING:

A. Fraudulently, illegally and intentionally soliciting, possessing, using, misusing and concealing thousands of pages of highly proprietary LOCKHEED MARTIN competition sensitive and trade secret information to (i) unfairly win 19 of 28 launch service awards in a major United States Air Force (the "**Air Force**") competition to provide space launch services as described later in this Complaint; (ii) deprive LOCKHEED MARTIN of the opportunity to fairly compete for such work; (iii) impair LOCKHEED MARTIN's substantial investment in its endeavor to compete for the Air Force business and other business opportunities that would have spawned from winning the competition; and (iv) derive a benefit, to the detriment of LOCKHEED MARTIN, by continuing to provide space launch services to the Air Force.

B. Continuing and ongoing efforts to fraudulently, illegally and intentionally solicit, possess, use, misuse and conceal thousands of pages of highly proprietary LOCKHEED MARTIN competition sensitive and trade secret information for the reasons described in the preceding subparagraph.

C. Continuing and ongoing efforts to fraudulently conceal their wrongful actions from the U.S. Government and LOCKHEED MARTIN to avoid the resulting legal and business consequences.

The foregoing misconduct transpired unbeknownst to LOCKHEED MARTIN, and LOCKHEED MARTIN believes that similar such misconduct continues.

The following table identifies each claim asserted by LOCKHEED MARTIN in this Complaint and the party or parties to whom such claim pertains.

COUNT I	Violation of Federal Civil Racketeer Influenced And Corrupt Organizations Act (ALL DEFENDANTS)
COUNT II	Conspiracy To Violate the Federal Civil Racketeer Influenced And Corrupt Organizations Act (ALL

These claims are based on BOEING's continuing and ongoing scheme and conspiracy to fraudulently, illegally and intentionally solicit, possess, use, misuse and conceal LOCKHEED MARTIN's proprietary cost and technical information relating to a multi-billion dollar Air Force procurement for space launch services to be ordered through the year 2007 and beyond.

BOEING's actions, in concert with those of its individual employees, indelibly tainted the outcome of this procurement, undermined an investment in excess of $1.0 Billion by LOCKHEED MARTIN, and resulted in LOCKHEED MARTIN's ongoing loss of a significant portion of the Air Force space launch business over a ten (10) year period, which has adversely impacted LOCKHEED MARTIN's continuing business prospects in the national and international commercial space launch market.

For its claims against BOEING, ERSKINE, BRANCH and SATCHELL, LOCKHEED MARTIN alleges the following:

JURISDICTION AND VENUE

1. This Court has jurisdiction over the claims for relief arising under the Racketeer Influenced and Corrupt Organizations Act, ("***RICO***"), 18 U.S.C. §§ 1961, *et seq.*, (Counts I and II) pursuant to 18 U.S.C. § 1964(c), and the remaining federal claims pursuant to 28 U.S.C. § 1331 and § 1337. In addition, this Court has jurisdiction over SATCHELL pursuant to 18 U.S.C. § 1965.

2. The Court has supplemental jurisdiction over the claims for relief arising under state law pursuant to 28 U.S.C. § 1367.

3. The Court also has jurisdiction over the claims for relief in this Complaint pursuant to 28 U.S.C. § 1332, because LOCKHEED MARTIN and Defendants are citizens of different states and the amount in controversy exceeds $75,000.

4. Venue is proper in the District in which this Court sits pursuant to 28 U.S.C. § 1391 because at all times material hereto, most of the Defendants resided within the State of Florida, and:

(i) At all times material hereto, BOEING (a) was and is conducting business in this District, and (b) has performed acts in furtherance of its illegal and wrongful conduct alleged in this Complaint that have had substantial effects in this District;

(ii) At all times material hereto, ERSKINE (a) was a resident of the State of Florida; (b) was and is domiciled in the State of Florida; (c) held a Florida driver's license; (d) was registered to vote in the State of Florida, and (e) performed acts in furtherance of his illegal and wrongful conduct alleged in this Complaint that have had substantial effects in this District;

(iii) At all times material hereto, BRANCH (a) was and is a resident of the State of Florida; (b) was and is domiciled in the State of Florida; (c) held and currently holds a Florida driver's license; (d) was and is registered to vote in the State of Florida, and (e) performed acts in furtherance of his illegal and wrongful conduct alleged in this Complaint that have had substantial effects in this District;

(iv) At all times material hereto, SATCHELL performed acts with ERSKINE, BRANCH, and other unknown BOEING employees, in furtherance of his

illegal and wrongful conduct alleged in this Complaint that have had substantial effects in this District; and

(v) At all times material hereto, a substantial part of the events giving rise to the claims in this Action occurred within the jurisdictional boundaries of this District, including the use of interstate communications and telecommunications to and from the State of Florida via the U.S. mails, private or commercial interstate carriers, telephonic communications, and Internet communications.

THE PARTIES

5. LOCKHEED MARTIN is a Maryland corporation with its principal offices located at 6801 Rockledge Drive, Bethesda, Maryland, and is engaged in the satellite launch services business and other defense and aerospace business in the State of Florida. LOCKHEED MARTIN, an advanced technology company, was formed in March 1995 as a result of the merger of Lockheed Corporation and Martin Marietta Corporation. LOCKHEED MARTIN employs approximately 125,500 people worldwide, including approximately 6,000 within the State of Florida, and is principally engaged in the research, design, development, manufacture, and integration of advanced technology systems, products, and services.

6. LOCKHEED MARTIN has had significant operations throughout the State of Florida representing all of its major business areas, with more than sixty (60) locations in the State and approximately thirty (30) primary manufacturing and service operations. Florida operations represent the third largest number of total LOCKHEED MARTIN employees in its entire workforce. For example, LOCKHEED MARTIN

operates satellite integration and launch vehicle facilities at Cape Canaveral Air Force Station, Cocoa Beach, Florida with approximately thirteen hundred and fifty (1,350) employees located at that facility.

7. BOEING is a Delaware corporation with its principal offices located at 100 N. Riverside Drive, Chicago, Illinois, and a competitor of LOCKHEED MARTIN in, among other things, the medium and heavy lift space launch markets, as well as the civil, national and international commercial space launch markets.

8. At all times material hereto, ERSKINE was an individual (a) residing within the boundaries of the District, (b) domiciled in the State of Florida, (c) holding a valid Florida driver's license, and (d) registered to vote in the State of Florida, and is a citizen of this State. At certain times material hereto, ERSKINE was employed by BOEING and his principal place of employment was in the State of Florida. On August 2, 1999, BOEING terminated ERSKINE's employment for the stated reason that ERSKINE violated company policy by receiving from BRANCH, and maintaining in his possession LOCKHEED MARTIN proprietary documents related to the Air Force Evolved Expendable Launch Vehicle Program, ("**EELV Program"**) during the EELV competition as further described below.

9. At all times material hereto, BRANCH was and is an individual (a) residing within the boundaries of the District, (b) domiciled in the State of Florida, (c) holding a valid Florida driver's license, and (d) registered to vote in the State of Florida, and is a citizen of this State. BRANCH was an employee for LOCKHEED MARTIN, until January 29, 1997 when he terminated his employment. BRANCH began working as

an employee for BOEING on January 28, 1997. On August 2, 1999, BOEING terminated BRANCH's employment with the company for the stated reason that BRANCH violated company policy by possessing and distributing LOCKHEED MARTIN EELV-related proprietary documents during the EELV competition.

10. At all times material hereto, SATCHELL was BOEING's Manager of Strategic Planning and Analysis for BOEING's EELV Program who participated in BOEING's efforts to acquire LOCKHEED MARTIN's highly proprietary information from BRANCH and other LOCKHEED MARTIN employees. This position was known as the "**Black Hat Team Leader**". SATCHELL's job responsibilities included gathering information about LOCKHEED MARTIN's EELV program and presenting to BOEING his insights into or concerning LOCKHEED MARTIN's EELV proposal. This task included determining how much it would cost LOCKHEED MARTIN to launch an EELV for the Air Force, and identifying the technical characteristics of LOCKHEED MARTIN's proposal so BOEING could develop a lower cost, technically superior proposal. SATCHELL was responsible for modeling LOCKHEED MARTIN's EELV proposal so that BOEING could ensure that it had a lower cost bid that would ultimately win the EELV competition.

FACTS COMMON TO ALL COUNTS

Background Information About The Industry And Competition For U.S. Government Contracts To Conduct Space Launches

11. The EELV Program is a multi-billion dollar Air Force space program to design, develop, build and operate the next generation of expendable launch vehicles. The

EELV Program's original objectives were to develop a national space launch capability that satisfied the Air Force's satellite launching requirements, increase the U.S. space launch industry's international competitiveness in the commercial launch services business, and reduce the cost of space launches by 25% to 50%, as compared to launches using then existing launch vehicles manufactured by LOCKHEED MARTIN and McDonnell Douglas Corporation.

12. The EELV Program was and still remains of vital national importance given the heavy and growing reliance on satellites for defense and homeland security purposes. The EELV Program is administered by the Department of the Air Force, Space and Missile Systems Center, Evolved Expendable Launch Vehicle System Program Office.

13. The Air Force's original EELV procurement strategy was to conduct a multi-phased competition among interested aerospace contractors covering the design, development, and prototyping of the EELV, followed by acquisition of the actual initial and subsequent launch missions. The Air Force referred to this strategy as a "rolling down-select acquisition strategy."

14. The Air Force's initial strategy was that the third phase of the down-selection process would result in an award of a development and launch services contract to a single contractor as part of a "winner-take-all" competition. The winner of that competition would not only have captured the U.S. Government market for launch services for the foreseeable future, but would have gained a significant competitive advantage in both the domestic and international commercial launch markets.

15. At the time the EELV Program was initiated, the U.S. Government envisioned a robust commercial space launch industry that would encourage significant private investment in new space launch technologies. Telecommunications companies, in particular, were clamoring for additional satellite capacity. Companies in the space launch business segment also anticipated a high demand for commercial launch services, along with significant attendant revenues.

16. The first phase of the EELV competition was called the "Low Cost Concept Validation," or "**LCCV**," phase. During this phase, the Air Force selected contractors to compete in developing cost and risk reduction concepts for the next generation of Air Force launch vehicles and ground support infrastructure to achieve program objectives. Offerors were required to submit proposals for the LCCV phase on June 16, 1995.

17. On August 24, 1995, the Air Force awarded LCCV contracts to four (4) contractors: LOCKHEED MARTIN, McDonnell Douglas (prior to its acquisition by BOEING), BOEING and Alliant Techsystems. The Air Force agreed to pay each of the contractors $30 million for work associated with the LCCV phase of the EELV Program.

18. After completing the LCCV phase, the Air Force requested the four (4) contractors to submit proposals for the EELV competition's next phase, called the "Pre-Engineering and Manufacturing Development," or "**Pre-EMD**," phase. The Air Force's Request for Proposals imposed significant technical and cost requirements as a condition of being allowed to proceed to the Pre-EMD phase of the project. For example, the Air Force required that offerors' proposals demonstrate at least a projected twenty five

percent (25%) savings over the then current launch costs. The Air Force's requirements highlighted the importance of innovation and cost reduction strategies, especially in areas such as ground operations.

19. On September 30, 1996, the four (4) offerors submitted Pre-EMD proposals to the Air Force. On November 26, 1996, the offerors updated their proposals with Best and Final Offers. On December 20, 1996, the Air Force made a "down-select" decision, trimming the number of EELV competitors from four (4) to two (2) contractors. The Air Force selected LOCKHEED MARTIN and McDonnell Douglas for Pre-EMD contracts, each valued at $60 million and requiring further refinement of the contractors' system concepts and their completion of a detailed system design. As a result of the Air Force's down-select decision, both BOEING and Alliant Techsystems were eliminated from the competition.

20. BOEING did, however, manage to reenter the competition on August 1, 1997, when it acquired McDonnell Douglas Corporation. BOEING's acquisition of McDonnell Douglas Corporation not only enabled BOEING to continue its participation in the EELV Program, but also would eventually allow BOEING to leverage the Air Force funding to enter the commercial launch services market, a market in which BOEING previously received very little business. (Hereinafter, the term "**BOEING**" is used to describe The Boeing Company and McDonnell Douglas Corporation.)

21. Until November 1997, the EELV competition was based on the Air Force's plan to select only one of the contractors in a "winner-take-all" competition, which would include $1.0 billion in U.S. Government funding to the winning contractor to pay for

development costs for the new EELV launch vehicle. The "winner-take-all" approach would also result in all thirty (30) of the U.S. Government's initial planned space launch missions, as well as all future EELV missions, being awarded to a single contractor.

22. It was the Air Force's announced intent to award this business to the company that submitted an EELV proposal representing the "best value" to the U.S. Government.

23. On November 3, 1997, however, the Air Force radically changed its acquisition strategy. Instead of awarding one contract on a "winner-take-all" basis, the Air Force announced it would award two $500 million Engineering and Manufacturing Development Contracts ("**EMD Contracts**"), one contract to each Pre-EMD contractor to support the final EELV design and manufacturing development process. The Air Force's new approach resulted in large part from the U.S. Government's industrial base concerns, *i.e.*, the need to assure long-term competition for U.S. Government satellite launch requirements and "assured access" to space in the event that one company exited the market or otherwise could not fulfill its contractual obligations.

24. In addition, as part of its new strategy, the Air Force decided to require each contractor to make a significant financial investment in this new technology. This new requirement was justified by the Air Force based on the expectation that both contractors would be able to use the EELV launch vehicle system to benefit from a robust commercial space launch market. In a report dated June 24, 1997, the U.S. General Accounting Office ("**GAO**") had suggested that the Air Force adopt a cost-sharing approach because "the winning contractor will enjoy an enhanced competitive position in

the national and international commercial space launch vehicle market from DoD's investment in the program."

25. The Air Force's new competition strategy also required that the two contractors bid for the initial thirty (30) launch missions on a firm-fixed-price basis, *i.e.*, a guaranteed set price per launch. This firm-fixed-price approach increased the stakes for the contractors because it placed maximum risk and full responsibility on the contractor to perform even in the event that the costs of the launch far exceeded the fixed price to be paid by the Air Force.

26. Because the competition was conducted over multiple phases as a "rolling down-select acquisition," the information that offerors submitted to the Air Force or were required to prepare in the earlier phases of the competition remained highly relevant in the Air Force's final source selection and allocation of initial launch missions.

27. For example, an essential document that each offeror was required to provide to the Air Force throughout all three (3) phases of the down-selection process was the Life Cycle Cost Estimate (the "**LCCE**"). The LCCE continued to be a significant consideration in the Air Force's final evaluation of proposals.

28. On February 24-26, 1998, at the end of the Pre-EMD phase, the Air Force conducted a "Downselect Design Review," which resulted in the Air Force requesting that LOCKHEED MARTIN and BOEING each submit proposals for separate EMD Contracts and Initial Launch Services contracts. The Air Force announced that its allocation of the thirty (30) initial planned launch missions between LOCKHEED MARTIN and BOEING was to be based on its evaluation of which company's proposal

presented the "best value" to the Air Force. LOCKHEED MARTIN and BOEING submitted their respective proposals to the Air Force on July 20, 1998.

29. On October 16, 1998, the Air Force announced the award of Engineering and Manufacturing Development Contracts to LOCKHEED MARTIN and BOEING. Under each agreement, the Air Force committed to pay the contractor $500 million in return for the contractor completing the engineering and manufacturing development of its launch vehicle system, launch pads, satellite interfaces, and support infrastructure. Essentially, these contracts required each company to demonstrate that its systems not only would be capable of launching commercial satellites, but also would be capable of fulfilling the Air Force's unique specifications and mission requirements. To achieve these objectives, LOCKHEED MARTIN ultimately made a corporate investment in excess of $1.0 Billion, which was over and above the $500 Million paid under the EMD Contract.

30. The Air Force also awarded Initial Launch Services contracts awarding twenty eight (28) of thirty (30) launch missions and allocated them between LOCKHEED MARTIN and BOEING. BOEING received more than two thirds (2/3) of the total number of missions, with the Air Force awarding BOEING nineteen (19) missions and LOCKHEED MARTIN only nine (9) missions. BOEING's lower proposed price was a significant factor in the "best value" allocation of launches. However, BOEING's lower evaluated "risk" in several assessment categories, as well as the Air Force having evaluated BOEING's proposal as being essentially technically equivalent to LOCKHEED MARTIN's proposal, were also considered important factors.

31. This lop-sided allocation, and BOEING's lower evaluated mission risk for several launch missions, came as a complete shock to LOCKHEED MARTIN in as much as BOEING had far less experience than LOCKHEED MARTIN in the medium, intermediate and heavy-lift space launch categories, a fact that should indicate greater risk for BOEING, not less.

32. This lop-sided allocation of initial launches was significant in that it has enabled BOEING to allocate its up-front investment in the EELV Program over a much wider base of U.S. Government launch missions, while depriving LOCKHEED MARTIN an adequate base to allocate its investment. In addition, BOEING not only had captured a lop-sided allocation of the initial launch award, BOEING captured one hundred percent (100%) of the early missions. All seven (7) of the EELV Program's initial launches were awarded to BOEING. LOCKHEED MARTIN's first mission was not to be funded until the fourth fiscal year of the EELV Program, thereby resulting in a significant negative impact to LOCKHEED MARTIN's overhead allocation and initial cash flow, as compared to that of BOEING. Awarding the majority of launches and the first launches to BOEING also enhanced BOEING's competitive position for NASA space launches and commercial launches in that market. The Air Force's selection was seen by the marketplace as tacit endorsement of BOEING's launch vehicle over LOCKHEED MARTIN's, making it much more difficult for LOCKHEED MARTIN to sell commercial launches.

33. One of LOCKHEED MARTIN's significant competitive advantages over BOEING in the EELV competition is LOCKHEED MARTIN's substantial investment in

launch vehicle technologies and actual experience in designing and building launch vehicles over the course of several decades. LOCKHEED MARTIN drew upon this experience in designing its EELV launch system. By way of contrast, BOEING had virtually no experience since the 1970's with intermediate and heavy-lift launch vehicles or the specialized technologies including high-energy upper stages necessary to boost heavy payloads into orbit.

34. The fact that LOCKHEED MARTIN received only a small number of the initial launches, including only two (2) West Coast launches, forced LOCKHEED MARTIN to request a restructuring of the EELV Program in December 1999.

35. The restructuring request was made by LOCKHEED MARTIN primarily because of the small quantity of launch awards it received, which made it impractical for LOCKHEED MARTIN to invest hundreds of millions of dollars in constructing a new launch facility on the West Coast for only two (2) launches. Thus, LOCKHEED MARTIN agreed to a transfer of its two (2) West Coast EELV launches to BOEING, leaving it with only seven (7) of a total of twenty eight (28) total initial launches. This left BOEING as the sole provider of launch services on the West Coast, and this would not have occurred had LOCKHEED MARTIN won a larger portion of the launches.

36. On February 4, 2003, the Air Force announced plans to purchase up to four (4) additional West Coast EELV launches from BOEING on a sole source basis, apparently based on the rationale that only BOEING had the required launch facilities to conduct the West Coast missions.

37. The Air Force has stated that it is currently planning to purchase additional EELV launch missions that would involve both East Coast and West Coast launches. Due to the disparity in launch awards between LOCKHEED MARTIN and BOEING, and BOEING's perceived sole source status for West Coast launches, LOCKHEED MARTIN is at a serious disadvantage to avail itself of these future opportunities.

38. As stated above, the EELV Program constitutes an on-going and continuous competition between BOEING and LOCKHEED MARTIN that began with the LCCV Phase and is now at the point where the Air Force is considering expanding the program from twenty-eight (28) to approximately fifty (50) launches over the next ten (10) to twelve (12) years.

39. The fact that BOEING received a significantly larger number of initial launch missions, including the award of the earliest scheduled launches, provided BOEING with a substantial advantage over LOCKHEED MARTIN with respect to the future competitions for the additional launch missions because of BOEING's ability to spread its investment costs over a substantially larger volume of U.S. Government business, which is an advantage that LOCKHEED MARTIN does not have.

Branch Acquired Lockheed Martin Trade Secrets While Employed By Lockheed Martin To Work On Lockheed Martin's EELV Program

40. BRANCH began working for LOCKHEED MARTIN (including its predecessor, General Dynamics) as an engineer for General Dynamics' Cape Canaveral, Florida facility in 1989. BRANCH was assigned to work on Atlas I and Atlas II

launches. BRANCH continued to be assigned to LOCKHEED MARTIN facilities at Cape Kennedy until the effective date of his resignation on January 29, 1997.

41. The Atlas II launch vehicle is the launch vehicle that evolved into LOCKHEED MARTIN's EELV design. The first step in the evolution to LOCKHEED MARTIN's EELV was a commercially developed Atlas launch vehicle that initially was designated the "Atlas IIAR" and later the "Atlas III."

42. BRANCH first became involved in LOCKHEED MARTIN's EELV proposal effort in May 1995, and initially spent approximately two (2) weeks at LOCKHEED MARTIN's Denver facility assisting with LOCKHEED MARTIN's LCCV proposal. BRANCH was then assigned full-time (temporary duty) to LOCKHEED MARTIN's Denver facility to work on the EELV Program from October 1995 to August 1996.

43. During his months in Denver, BRANCH worked as part of the EELV Operations Group and focused on reduction of launch vehicle processing time at the launch site. BRANCH was asked to work on EELV because the engineers in the EELV Operations Group wanted someone with Atlas II launch site experience on LOCKHEED MARTIN's EELV team.

44. Streamlining the operations at the launch site was vital if LOCKHEED MARTIN was to achieve the aggressive cost reduction targets and launch rate requirements specified by the Air Force, which was the key to success with the then current Air Force "winner-take-all" acquisition strategy. LOCKHEED MARTIN's approach drew upon its decades of experience with its Atlas family of launch vehicles.

Because the Atlas II rocket was the starting point for the EELV design concept, BRANCH's experience with the Atlas II program made him an ideal candidate for the EELV proposal team.

45. BRANCH's efforts included designing and developing EELV launch operations processes and flows, especially EELV processing activities at the launch site. Process improvements to reduce launch costs included reducing the amount of facilities (*i.e.*, buildings and equipment) required to launch the rockets as well as the amount of manpower expended to assemble, prepare, and ultimately launch the rockets.

46. Because LOCKHEED MARTIN used an integrated product team approach to its EELV project, BRANCH had access to a wealth of sensitive information and documents covering many areas of LOCKHEED MARTIN's EELV program, including cost targets. In fact, BRANCH was involved in obtaining and providing Atlas IIAR cost data to the EELV proposal team that would provide the starting point for the "must win" cost objectives for the EELV.

47. Although BRANCH had no direct role in producing confidential and proprietary documents relating to vehicle design, BRANCH nonetheless had access to and reviewed such documentation in connection with his work, and had a role in preparing proprietary documents relating to launch site design. BRANCH had relatively free access to such documents because he worked in close physical proximity to the locations where such documents were stored and took part in many proposal team meetings, and he was trusted by LOCKHEED MARTIN not to take any action that would adversely affect LOCKHEED MARTIN and its business.

48. Because of the great value of the proprietary and trade secret information to which EELV employees had access, LOCKHEED MARTIN took great pains to protect the information. In particular, LOCKHEED MARTIN established procedures to keep sensitive cost data confidential and on "close hold."

49. LOCKHEED MARTIN implemented procedures for marking and protecting proprietary and/or competition sensitive EELV materials. EELV employees were instructed on the importance of not disclosing sensitive EELV information or documents outside the team without authorization. All LOCKHEED MARTIN employees were required to sign confidentiality and nondisclosure agreements that required them to hold LOCKHEED MARTIN proprietary information in confidence and not disclose such information without express authorization.

50. BRANCH signed a confidentiality agreement with LOCKHEED MARTIN's predecessor in interest, General Dynamics, on his first day of employment in 1989. When BRANCH signed his 1994 Performance Evaluation in the middle of 1995, he pledged to perform his duties in compliance with the LOCKHEED MARTIN Code of Ethics and Business Conduct, which mandated that "Proprietary company information may not be disclosed to anyone without proper authorization." BRANCH also signed confidentiality agreements in February and November 1996, copies of which are attached hereto, as Composite Exhibit "A."

51. BRANCH's EELV assignment ended in August 1996, just as LOCKHEED MARTIN was putting the final touches on its EELV Pre-EMD proposal. When BRANCH completed his temporary duty assignment in Denver, he returned to his office

in Florida, where he was at all times domiciled. However, upon his return he learned that his previous LOCKHEED MARTIN position in Florida had been eliminated. BRANCH was permitted to remain in his Florida office while looking for another position within the company, and during that period he continued to act as a consultant for the EELV team in Denver.

52. On November 3, 1996, BRANCH accepted a position in Florida at the LOCKHEED MARTIN Michoud Division, where he worked on the Reusable Launch Vehicle program.

53. On or about January 14, 1997, BRANCH gave LOCKHEED MARTIN two-weeks' notice and resigned, effective January 29, 1997. At the time, LOCKHEED MARTIN was not aware that BRANCH had been involved in surreptitious activities, that he had held clandestine meeting with BOEING, or that he had engaged in the wrongful solicitation, possession, use, misuse and concealment of LOCKHEED MARTIN's competition sensitive, proprietary and trade secret information.

Boeing's Wrongful Recruitment And Hiring Of Branch

54. In August 1996, while BRANCH was still working for LOCKHEED MARTIN and assigned to the EELV proposal team, and at approximately the same time that LOCKHEED MARTIN was finalizing its Pre-EMD proposal, BRANCH clandestinely traveled to BOEING's Huntington Beach, California facilities to meet with at least two BOEING employees, Tom Alexiou, BOEING's EELV Infrastructure Team Lead, and ERSKINE, to interview for a position with BOEING. Huntington Beach, California is where a majority of BOEING's EELV proposal team was located at the

time. BRANCH carried with him to this meeting a stack of documents that were clearly marked as "Lockheed Martin Proprietary" or "Competition Sensitive," or had similar protective legends.

55. This meeting between BOEING personnel and BRANCH was quickly arranged with only one day's notice, and BOEING paid for BRANCH's travel expenses to and from Huntington Beach, California.

56. ERSKINE was BOEING's EELV Ground Operations Lead. ERSKINE's job position, at the time of the meeting with BRANCH, was physically located in Cape Canaveral, Florida. Later, in early, 1997, ERSKINE's job position was relocated to Titusville, Florida. Alexiou was BOEING's EELV Infrastructure Team Lead and was ERSKINE's superior in BOEING's organizational chain of command. ERSKINE had traveled to Huntington Beach, California to attend the BRANCH meeting because he was one of the key persons responsible for BRANCH's recruitment.

57. During the meeting, BRANCH showed copies of a presentation entitled "EELV Launch Operations Cycle Time Reduction" to ERSKINE and possibly Alexiou. This document was marked "Lockheed Martin Proprietary/Competition Sensitive" and contained valuable and LOCKHEED MARTIN proprietary and trade secret information pertaining to LOCKHEED MARTIN's strategy to reduce costs and specific ideas for reducing "span time," *i.e.*, the number of days that the launch vehicle must sit on the launch pad during the preparations for the launch.

58. BRANCH presented at least two (2) LOCKHEED MARTIN documents to ERSKINE and one (1) or more documents to Alexiou during the meeting, including the

EELV Launch Operations Cycle Time Reduction, some of which ERSKINE took back to Florida with him after the meeting. During the meeting, Alexiou sought other information from BRANCH regarding LOCKHEED MARTIN's EELV proposal, including information regarding engines and performance. BRANCH described to ERSKINE and Alexiou LOCKHEED MARTIN's plan, among other things, for reducing the cost of its EELV program.

59. At the end of the meeting, BRANCH gave Alexiou copies of one or more LOCKHEED MARTIN documents that BRANCH had brought with him to the meeting. Both Alexiou and ERSKINE were part of BOEING's EELV program, including its proposal activities.

60. BRANCH was not authorized to disclose the EELV Launch Operations Cycle Time Reduction presentation or any other LOCKHEED MARTIN proprietary and trade secret information to ERSKINE or Alexiou, and to do so violated his contractual and fiduciary duty to LOCKHEED MARTIN, as well as federal and state laws.

61. BRANCH's actions described above were a violation of his confidentiality agreements with LOCKHEED MARTIN, and a blatant disregard of his fiduciary obligations to LOCKHEED MARTIN. BRANCH knowingly and willfully conspired and participated in this unlawful transfer of LOCKHEED MARTIN's proprietary and trade secret information, and in BOEING's scheme to fraudulently conceal its wrongdoing in violation of federal and state laws.

62. ERSKINE and Alexiou each knew that they were not authorized to solicit, obtain, receive and use LOCKHEED MARTIN's EELV Launch Operations Cycle Time

Reduction presentation or any other LOCKHEED MARTIN proprietary and trade secret information, and that to do so violated federal and state laws, particularly, the Procurement Integrity Act, 41 U.S.C. §423. Nevertheless, ERSKINE and Alexiou knowingly and willfully conspired and participated in the unlawful transfer of LOCKHEED MARTIN's proprietary and trade secret information.

63. LOCKHEED MARTIN would not have permitted BRANCH to remain on its EELV team had it known of his efforts to secure employment with BOEING's EELV proposal team, or of BRANCH's misappropriation and wrongful use of LOCKHEED MARTIN's proprietary and trade secret information. Moreover, LOCKHEED MARTIN would have taken necessary and appropriate action to protect it rights.

64. After the August 1996 meeting, Alexiou told ERSKINE "that if we win [the Pre-EMD phase of the EELV competition], give that guy a job."

65. After approaching BOEING for a job on its EELV team, BRANCH returned to LOCKHEED MARTIN, where he worked for approximately five (5) more months.

66. LOCKHEED MARTIN had no knowledge of BRANCH's meeting with BOEING until receiving, on March 1, 2002, a copy of BOEING's Motion for Summary Judgment in the lawsuit filed by ERSKINE and BRANCH against BOEING for wrongful discharge from their employment. The case was then pending in the U.S. District Court, Middle District of Florida, Orlando Division, Case No. 6:01-cv-229-Orl-19DAB, (the "**Erskine litigation**").

67. Subsequent to BRANCH's clandestine August 1996 meeting at BOEING, BRANCH made at least two (2) other visits to BOEING's facilities while still employed by LOCKHEED MARTIN. For example, Tom Arranyos, a Florida-based BOEING EELV ground support engineer, stated that BRANCH visited his facility several times before BRANCH was hired. Arranyos' place of employment was at BOEING's Florida facility, not Huntington Beach, California, which was the location of the initial BRANCH/BOEING meeting.

68. BOEING subsequently was one (1) of two (2) contractors down-selected by the Air Force on December 20, 1996, and ERSKINE thereafter offered BRANCH a job at BOEING.

69. On January 7, 1997, BOEING offered BRANCH a position on BOEING's EELV proposal team, with a salary of $1,485 per week (based on a 40-hour work week). BOEING's offered salary was approximately seven and one half percent (7.5%) higher than BRANCH's last salary at LOCKHEED MARTIN. BRANCH accepted BOEING's offer on or about January 14, 1997 and gave LOCKHEED MARTIN two-weeks' notice and resigned, effective January 29, 1997.

70. Arranyos and at least one other Florida-based BOEING employee, Will Crawford, at the time believed that BOEING was extending an offer of employment to BRANCH as a "quid pro quo" for BRANCH handing over LOCKHEED MARTIN's proprietary and trade secret information.

71. On January 28, 1997, one day prior to his resignation's effective date at LOCKHEED MARTIN, BRANCH officially commenced working at BOEING and

immediately began working with BOEING's EELV proposal team. When BOEING hired BRANCH, the Air Force still was pursuing its "winner-take-all" procurement strategy.

72. On February 5, 1997, Ed Rodriguez, a LOCKHEED MARTIN employee, spoke with BRANCH at an Air Force meeting at Patrick Air Force Base, Florida ("***AFB***"). The meeting was one of a series of meetings, between the contractors and Patrick AFB and Vandenburg AFB personnel, designed to provide a forum for the contractors to discuss their proposed ground operations and facilities with the Air Force and for the Air Force to raise any concerns it had about the competitors' planned facility use and design.

73. LOCKHEED MARTIN and BOEING personnel usually met separately with the Air Force, but at this particular meeting, LOCKHEED MARTIN and BOEING personnel were initially asked to wait in the same auditorium. Rodriguez was surprised to see BRANCH representing BOEING at the meeting and reminded BRANCH of his obligation not to divulge LOCKHEED MARTIN confidences.

74. Prompted in part by Rodriguez's report of seeing BRANCH at the Air Force meeting, LOCKHEED MARTIN sent BRANCH a letter on March 18, 1997 referencing BRANCH's obligations under confidentiality agreements signed by BRANCH, a copy of which are attached as Composite Exhibit "A." The letter states as follows:

> It has recently come to our attention that subsequent to your separation from Lockheed Martin you accepted employment with McDonnell Douglas [BOEING] to work in their space launch group as an engineer. As you no doubt realize, Lockheed Martin and McDonnell Douglas are actively competing under the Air Force's EELV program and we are concerned that in your new capacity you may be called upon to perform duties that may place you in conflict with an existing obligation with Lockheed Martin.
>
> As an engineer for Lockheed Martin, you had direct and substantial involvement in the Lockheed Martin's performance of the LCCV phase of the EELV proposal, as well as the development of Lockheed Martin's proposal for the Pre-EMD phase of the EELV program. In that role, you both developed and had access to a large amount of private competition sensitive information which is proprietary and highly valuable to Lockheed Martin. Much of that information would have direct applicability to McDonnell Douglas' EELV program.
>
> When you became an employee of Martin Marietta, you signed an agreement to keep confidential all Martin Marietta information which came to your attention during the course of your employment. A copy of that agreement is attached hereto. Lockheed Martin, the legal successor to Martin Marietta, has the legal right to enforce that agreement.
>
> Therefore, we wish to remind you of your obligations under this agreement and to notify you that disclosure by you of any Martin Marietta and/or Lockheed Martin confidential information is strictly prohibited. Such disclosure would cause Lockheed Martin serious damage and irreparable harm.
>
> This letter should not be interpreted to suggest that you will or intend to violate these important obligations, but we do request that you keep them well in mind in your new position since we believe it would be very difficult to perform your new duties without disclosing, unintentionally or otherwise, any of our valuable confidential and proprietary information. Lockheed Martin will take whatever legal action is necessary to protect its rights in this matter.

75. BRANCH failed to respond to the letter and did not heed the letter's admonishments, but continued to violate LOCKHEED MARTIN's confidences and otherwise engaged with BOEING and others to conspire against LOCKHEED MARTIN to win the Air Force EELV competition and profit therefrom.

76. LOCKHEED MARTIN heard nothing further from, or about, BRANCH from that point until long after the Air Force awarded the EELV contracts to LOCKHEED MARTIN and BOEING.

Boeing's Deliberate Acquisition, And Continued Use Of Lockheed Martin Trade Secrets, And Fraudulent Concealment Of Its Wrongdoing

77. After BRANCH commenced working at BOEING he was immediately faced with questions about LOCKHEED MARTIN's proposal effort from individuals involved in the bidding process on EELV. BRANCH was introduced by Alexiou to the members of the "capture team" that was responsible for developing the win strategy to beat LOCKHEED MARTIN in the EELV competition. This was immediately followed by high-level BOEING personnel asking BRANCH for any LOCKHEED MARTIN data he might possess. This pressure to turn over LOCKHEED MARTIN's proprietary and trade secret information by BOEING high-level personnel started with BRANCH's job interview and continued until he was terminated by BOEING on August 2, 1999.

78. Alexiou took BRANCH into the BOEING Delta IV Vice President's, Tom Parkinson, and program managers' offices and introduced him as a former LOCKHEED MARTIN employee who had worked on and knew the details of LOCKHEED MARTIN's EELV program. Almost immediately people from Parkinson's office began asking BRANCH for LOCKHEED MARTIN's proprietary and trade secret information. This included organization, performance, strategy, cost, and other information that was integral to LOCKHEED MARTIN's EELV bid proposal to the Air Force.

79. SATCHELL, among others from BOEING's management, participated in BOEING's efforts to acquire LOCKHEED MARTIN's proprietary and trade secret information from BRANCH. Management-level marketing people from BOEING's Delta IV Program were also involved in this scheme to acquire LOCKHEED MARTIN's proprietary and trade secret information from BRANCH.

80. ERSKINE told Mark Rabe, an attorney for BOEING, "Mr. Branch, after I hired him, became a very popular man in Sales & Marketing in [Huntington Beach, California], along Mahogany Row." ("Mahogany Row" is a reference to BOEING management and marketing personnel who oversaw BOEING's EELV proposal activities.) When asked why, ERSKINE said, "Competition information he knew from working at Lockheed."

81. On or about February 19, 1997, approximately three weeks after BRANCH officially commenced work at BOEING, BRANCH met with BOEING's EELV capture team in Huntington Beach, California to present his "impressions" of LOCKHEED MARTIN's proposed strategy for competing against BOEING.

82. On March 10, 1997, BOEING reassigned BRANCH on paper to Alexiou's Huntington Beach, California organization, which caused BRANCH to spend "significant periods of time in California," apparently at the Huntington Beach, California facility where a majority of BOEING's EELV proposal team was located, although he was still officially based in Florida.

83. Although BRANCH's job position was located in Florida, BRANCH made some forty-three (43) trips from Florida to BOEING's Huntington Beach,

California offices to confer with members of BOEING's EELV proposal team to provide them with the LOCKHEED MARTIN proprietary and trade secret information they sought to prepare, among other things, BOEING's proposal to the Air Force.

84. In the same time frame, BOEING promoted BRANCH to the position of Ground Command Control & Communication Mechanical Equipment Lead in charge of developing the electrical ground support system for EELV launches. According to BOEING, this was a management-level position in which BRANCH ultimately served as a lead manager for approximately sixty (60) employees. At about this same time, BOEING also promoted ERSKINE to a manager's position.

85. BRANCH spent considerable time with SATCHELL, who, as noted above, was the Manager of Strategic Planning and Market Analyst for BOEING's EELV program in 1997-98 and leader of the "Black Hat Team." SATCHELL had numerous conversations with BRANCH regarding LOCKHEED MARTIN's EELV program while developing his model of LOCKHEED MARTIN's proposal for BOEING's EELV proposal team.

86. On at least one occasion, one of SATCHELL's analysts brought BRANCH into SATCHELL's Huntington Beach, California office, and he and BRANCH discussed LOCKHEED MARTIN's procedures for performance of certain EELV tasks. SATCHELL spoke with BRANCH regarding LOCKHEED MARTIN's EELV engine, and obtained copies of LOCKHEED MARTIN's proprietary and trade secret information from BRANCH, which included cost data.

87. According to BRANCH, SATCHELL "was trying to build a model [of LOCKHEED MARTIN's EELV proposal] and about five times he called and asked questions . . . ." SATCHELL "had a model and he wanted to validate it. He would say, '"what/how do you think LOCKHEED MARTIN would handle this, etc."'

88. SATCHELL continued to receive copies of LOCKHEED MARTIN's proprietary and trade secret information from BRANCH, at least through early-to-mid 1998.

89. BOEING's efforts to obtain LOCKHEED MARTIN's proprietary data were not confined to its arrangement with BRANCH. During the EELV competition BOEING personnel were encouraged not only to speak with BRANCH, but also to seek out proprietary and trade secret EELV information from former LOCKHEED MARTIN employees then employed by BOEING.

90. SATCHELL admitted that one of his "analysts" asked him if he "wanted to talk to a couple of LOCKHEED MARTIN people." In addition, another BOEING manager encouraged SATCHELL and others at BOEING to seek out former LOCKHEED MARTIN and General Dynamics personnel to interview regarding their thoughts and impressions of LOCKHEED MARTIN's probable EELV approach.

91. SATCHELL apparently saw nothing improper in seeking proprietary and trade secret EELV information from former LOCKHEED MARTIN employees, even including people like BRANCH who had worked directly on LOCKHEED MARTIN's EELV proposal and current LOCKHEED MARTIN employees.

92. SATCHELL was of the view and acted as if he had no duty to ensure that the LOCKHEED MARTIN information he was requesting was indeed not proprietary or competition sensitive. SATCHELL claims that he placed in a burn barrel whatever documents provided by BRANCH that SATCHELL thought were sensitive.

93. ERSKINE, BRANCH, and SATCHELL were not alone on BOEING's EELV program with respect to unauthorized possession and use of LOCKHEED MARTIN proprietary and trade secret information. According to ERSKINE, J. David Schwiekle, BOEING's Delta IV EELV Program Manager, "had [LOCKHEED MARTIN's] cost of the EELV program."

94. Peter Ferland, a Florida based BOEING employee, reportedly had a "six-foot high" stack of LOCKHEED MARTIN documents in his office. ERSKINE testified in the Erskine litigation that "Pete Ferland had a ton of LOCKHEED MARTIN documents or Atlas documents in his office" in Florida, which ERSKINE personally saw. Ferland later claimed that these documents were discarded.

95. ERSKINE used the knowledge he gained from the LOCKHEED MARTIN proprietary and trade secret information that BRANCH had provided in a presentation he gave to the Air Force where, in ERSKINE's own words, he taunted the Air Force about how wonderful BOEING was and how lousy LOCKHEED MARTIN's launch processing solution was.

The Undisclosed Tran Report and Sham Investigation

96. Completely unbeknownst to LOCKHEED MARTIN, at least one BOEING employee, Kimberly Tran, a BOEING Senior Software Engineer, became

concerned about BRANCH's activities and reported them to her supervisors in 1997. Tran, who no longer is employed by BOEING, saw BRANCH in BOEING's Huntington Beach, California offices with a binder that contained LOCKHEED MARTIN proprietary materials. According to Tran, the binder appeared to be part of a formal document that LOCKHEED MARTIN sent or presented to the Air Force.

97. Tran reported the incident to her manager, Rick Taylor, and to her senior manager, Karen Powell. Shortly thereafter, she told Alexiou what she had seen. In an apparent attempt to "keep the lid" on the situation, Alexiou reportedly told Tran that she should have come directly to him first with her report.

98. BOEING took no corrective action in response to Tran's report. According to Alexiou, BOEING investigated the matter and had cleared BRANCH of any wrongdoing. BOEING, however, has now admitted that there is no record whatsoever of any such investigation in response to the Tran reports. BOEING never notified LOCKHEED MARTIN of Tran's report or the so called "investigation."

99. BOEING still has not returned to LOCKHEED MARTIN the binder containing the LOCKHEED MARTIN proprietary and trade secret information referenced by Tran. BOEING did not conduct a real investigation of the incident, but rather, Alexiou's and BOEING's statements to that effect were a part of a larger scheme to fraudulently conceal the situation to avoid legal and business repercussions resulting therefrom.

100. BOEING submitted to the Air Force its proposals for the EELV development and initial launch services in July 1998. On October 16, 1998, the Air Force

awarded BOEING a $500 million development agreement and nineteen (19) of the twenty eight (28) launches.

Examples Of BOEING's Continual And Ongoing
Fraudulent Concealment Of Its Wrongdoing And Use Of
LOCKHEED MARTIN's Proprietary Information

101. Another example of BOEING's continued and ongoing fraudulent concealment of its wrongdoing occurred in June 1999, when BOEING failed to respond properly to yet another report of misconduct involving BRANCH, ERSKINE and other members of the BOEING EELV proposal team. Steve Griffin, a BOEING engineer, reported to BOEING Human Resources Representative Lea Ann Potts and David Herst, the BOEING Delta IV launch site manager, that ERSKINE had boasted to Steve Griffin that he had hired BRANCH in order to obtain proprietary LOCKHEED MARTIN EELV proposal information. Steve Griffin reported that ERSKINE stated he was determined to win the downselect at any cost and had cut a deal with BRANCH; *i.e.*, BRANCH would get a BOEING job in exchange for bringing LOCKHEED MARTIN's "entire proposal presentation" along with him to BOEING.

102. It happens that Steve Griffin was married to Bridget Griffin, a LOCKHEED MARTIN engineer at Cape Canaveral, Florida, who, on or about June 23, 1999, alerted her ethics officer at LOCKHEED MARTIN of this situation. BOEING employees were aware that Steve Griffin's spouse was a LOCKHEED MARTIN employee and that Steve Griffin's report would be accompanied by a similar report by Bridget Griffin to LOCKHEED MARTIN. Aware that LOCKHEED MARTIN now knew

about this situation, BOEING could no longer conceal these circumstances from LOCKHEED MARTIN.

103. As a result, once BOEING's Law Department in Seal Beach, California (where the lawyers for BOEING's EELV/Delta IV business unit are located) was notified of Steve Griffin's ethics report, BOEING's in-house attorney, Mark Rabe, who was based at BOEING's facility in Saint Louis, Missouri, was assigned to go to Florida on behalf of BOEING.

104. One of Rabe's first tasks was to interview Steve Griffin. Steve Griffin reported that he questioned ERSKINE to determine why BOEING hired BRANCH knowing of his former position with LOCKHEED MARTIN. Steve Griffin reported that ERSKINE said that he was responsible for the hiring of BRANCH. ERSKINE proceeded to tell Steve Griffin the background of how BRANCH, while an employee of LOCKHEED MARTIN, came to him with an "under the table" offer to deliver the entire LOCKHEED MARTIN EELV proposal presentation to aid in ERSKINE's proposal work. According to Steve Griffin, ERSKINE told BRANCH that if Delta IV [*i.e.*, BOEING's EELV] won the downselect he would hire him, and BRANCH then gave the set of documents to ERSKINE and ERSKINE used them to modify his EELV presentation package. BOEING's Delta IV business unit, along with LOCKHEED MARTIN, won the down-select. Shortly thereafter, BOEING hired BRANCH.

105. Steve Griffin reported to Rabe that ERSKINE told him that the documents were useful because they allowed ERSKINE to tell the Air Force that there was a right

way to do things and a wrong way, and that the way LOCKHEED MARTIN planned to do it was the wrong way.

106. Steve Griffin reported to Rabe that he was shocked by ERSKINE's comments, and later went back over to ERSKINE's office and said, 'We just took that Procurement Integrity Law class, I can't believe you did that.' ERSKINE said, 'I don't care, I was hired to win three downselects and I was going to do whatever it took to do it."

107. Rabe interviewed BRANCH on June 18, 1999 and July 1, 1999 in Florida. After interviewing BRANCH on June 18, 1999, Rabe and Florida Manager of Facilities and Program Support, Mike Woolley, escorted BRANCH to his cubicle at BOEING's Delta IV Operations Center, which was in the Cape Canaveral, Florida area, to look for LOCKHEED MARTIN documents.

108. Upon questioning by Rabe, BRANCH showed Rabe a five-to-six inch high stack of LOCKHEED MARTIN proprietary marked documents sitting on his desk. According to BRANCH's report to Rabe, these documents were truly proprietary, and Rabe ultimately recognized them as such. Thereafter, BRANCH was suspended with pay pending the completion of the investigation. Rabe later found another box of LOCKHEED MARTIN proprietary marked documents in BRANCH's cubicle.

109. Rabe discovered a file in BRANCH's Florida office that was marked "Satchell EELV Observations." This file appeared to contain information relevant to BRANCH's presentation to BOEING's proposal team on or about February 19, 1997.

110. Rabe interviewed ERSKINE on or about June 18 and June 24, 1999, and was told by ERSKINE that at the time of his August 1996 meeting with BRANCH, ERSKINE was part of BOEING's EELV Proposal Team. ERSKINE also told Rabe that Alexiou was involved in BOEING's proposal efforts.

111. ERSKINE told Rabe "I will tell you one last thing. Mr. Branch, after I hired him, became a very popular man in H[untington] B[each], Sales, and Marketing in HB, along Mahogany Row," and "as far as getting competition information out of Mr. Branch, the folks in Huntington Beach were the kings."

112. During Rabe's June 24, 1999 interview of ERSKINE, Rabe showed ERSKINE several LOCKHEED MARTIN proprietary documents that Rabe found in ERSKINE's Florida office in a file labeled "Competition."

113. From his interviews, Rabe learned that Florida based employees Will Crawford and Tom Arranyos believed that BOEING had hired BRANCH for the express purpose of obtaining LOCKHEED MARTIN's proprietary and trade secret information.

114. Through an interview conducted on or about June 18, 1999, by BOEING in-house attorneys Gary Black and Valerie Schurman, BOEING learned that SATCHELL had indeed received LOCKHEED MARTIN proprietary documents from and spoke with BRANCH about LOCKHEED MARTIN's EELV proposal on several occasions.

115. According to ERSKINE and BRANCH, Rabe made several comments during interviews to the effect that he should not "turn a pebble into a landslide," and left them with the impression that BOEING's intent was to "contain" this situation and not implicate BOEING's EELV proposal team.

116. By the end of June 1999, BOEING was fully aware of substantially all, if not all, of the facts that transpired prior to June 1999, alleged in this Complaint. BOEING knew that BRANCH had been assigned to the Huntington Beach, California EELV proposal team, had been given a significant title and responsibilities for BOEING's EELV proposal, and assisted BOEING in winning the Air Force competition and eliminating LOCKHEED MARTIN as a competitor, or at least in making LOCKHEED MARTIN a lesser competitor that would not be a threat to the future viability of BOEING's operations in this market.

117. BOEING undoubtedly knew that BRANCH and other of its personnel working together on behalf of BOEING had acquired, used, and continued to use a substantial quantity of LOCKHEED MARTIN proprietary and competition sensitive EELV information. BOEING attorneys almost immediately found more than a box of LOCKHEED MARTIN proprietary documents in BRANCH's possession. BOEING, however, knew, or should have known, that this is just the "tip of the iceberg."

118. By the end of June 1999, BOEING knew of the extensive interaction between BRANCH and SATCHELL, as well as between BRANCH and other BOEING executives on "Mahogany Row" in Huntington Beach, California where BOEING's EELV proposal team was based. Nevertheless, BOEING set out on a course to conceal this information and knowledge so that it could continue to profit from such furtive and unlawful activities.

119. As addressed in paragraphs 121 through 133, and 145 through 148 below, beginning in June 1999, BOEING intentionally and fraudulently withheld this material

information about this improper and illegal activity from LOCKHEED MARTIN and the Air Force, to the detriment of LOCKHEED MARTIN and to the continuing benefit of BOEING. In fact, not only did BOEING fraudulently conceal these facts, it actively misrepresented key facts in order to cover-up, downplay and minimize the monumental significance of what it knew had transpired, to the detriment of LOCKHEED MARTIN and to the continued benefit of BOEING.

120. BOEING undertook to actively and fraudulently conceal these facts because it had concluded that, if the true facts were revealed, BOEING could lose its multi-billion dollar EELV business to LOCKHEED MARTIN and its overall business operations would suffer. BOEING knew this and intended to benefit from its continuing and ongoing use of LOCKHEED MARTIN proprietary and trade secret information by actively and fraudulently concealing these facts from LOCKHEED MARTIN and others in violation of federal and state laws.

BOEING Intentionally Misrepresented And Fraudulently Concealed Key Facts Regarding LOCKHEED MARTIN's Proprietary And Trade Secret Information Used By BOEING And Found In The Possession Of BOEING Personnel

121. In furtherance of the "cover-up" described above, on or about June 29, 1999, BOEING in-house counsel Gary Black telephoned Stephen E. Smith, LOCKHEED MARTIN's Deputy General Counsel and Vice President, and General Counsel of Lockheed Martin Space Systems Company. Black told Smith that BOEING had learned the previous week that when BOEING hired a former LOCKHEED MARTIN employee,

whom he identified as Ken Branch, in January 1997, and BRANCH brought some LOCKHEED MARTIN proprietary and trade secret materials with him.

122. According to Black, at that point in BOEING's investigation, BOEING had identified only two LOCKHEED MARTIN documents, both dated 1996. Black further stated that BOEING had suspended BRANCH and his supervisor.

123. Black assured Smith that BOEING had no indication that the two documents had been seen or used by anyone on BOEING's EELV proposal team. In this conversation with Smith, Black knowingly and grossly misrepresented the extent of LOCKHEED MARTIN's proprietary and trade secret information that BOEING knew had been compromised, the volume of LOCKHEED MARTIN proprietary information in BOEING's possession, and the state of BOEING's knowledge of the matters.

124. Smith requested that Black speak with Michael Kramer, Vice President and General Counsel of Lockheed Martin Astronautics, the LOCKHEED MARTIN division from which the EELV program was bid. Black then had a similar conversation with Kramer a day or two after talking to Smith.

125. Black repeated to Kramer his knowingly false assurance that the two documents never reached Huntington Beach, California and were not used in BOEING's EELV proposal. Black promised that he would get back to Kramer with final information when BOEING completed its internal investigation of the matter. Again, Black grossly misrepresented the extent of LOCKHEED MARTIN's proprietary and trade secret information that BOEING knew had been compromised, the volume of LOCKHEED

MARTIN proprietary information in BOEING's possession, and the state of BOEING's knowledge of the matters.

126. One of the two (2) documents faxed by Black was a three (3) page excerpt from the "EELV Launch Operations Cycle Time Reduction presentation." This is part of the same document that BRANCH had provided ERSKINE and possibly Alexiou during BRANCH's August 1996 meeting with them. This document was marked "Lockheed Martin Proprietary/Competition Sensitive." The three (3) page excerpt from the presentation faxed by Black identified the facilities that LOCKHEED MARTIN planned to build at Cape Canaveral and the ground enhancements that LOCKHEED MARTIN made to the EELV.

127. The second document was four (4) pages, dated April 14, 1996, and marked "Lockheed Martin Sensitive—For Official Use Only". The document provides evaluation comments and concerns of U.S. Government evaluators regarding LOCKHEED MARTIN's System Design to Cost Review, a major Air Force EELV performance review held on April 3-4, 1996, during the first phase of the EELV Program.

128. Based on Black's representations that only two (2) documents had been found and Black's assurances that the documents had not reached BOEING's EELV proposal team, LOCKHEED MARTIN reasonably relied on such representations and did not consider this to be a serious matter at the time, reasonably concluding that the matter was being handled responsibly and ethically by BOEING, and that LOCKHEED MARTIN had suffered no competitive harm.

129. In late June, a member of BOEING's management contacted the Air Force and reported that two (2) BOEING employees, one of whom had previously been employed with LOCKHEED MARTIN, had been found in possession of LOCKHEED MARTIN proprietary and trade secret EELV-related documents. This intentionally limited disclosure contained the same incomplete and misleading information that was relayed to LOCKHEED MARTIN, and was based upon one or more BOEING documents described in the Erskine litigation as indicating that the disclosures to the Air Force were "scripted."

130. Four (4) months later, on or about November 1, 1999, Black telephoned Kramer. Black told Kramer that BOEING had found an additional fifteen (15) documents, a package about one-inch thick, in BRANCH's possession and that these documents might contain LOCKHEED MARTIN proprietary and trade secret information. Black represented that these were all of the "significant" LOCKHEED MARTIN proprietary documents that been found. According to Black, all of the documents were dated pre-1996. Again, Black misrepresented that no one on BOEING's proposal team had been given access to these documents, which he said never left BOEING's Florida offices. The "bottom line," Black unequivocally stated, was that no one on BOEING's EELV proposal team was exposed to the documents and that none of the documents were used in connection with BOEING's EELV proposal.

131. Black further misrepresented that BRANCH worked in ground support for BOEING as a low-level, first line engineer. According to Black, BRANCH played no role in BOEING's EELV proposal. Black also indicated that BRANCH's supervisor had

been terminated. In order to conceal the complicity of BOEING's Huntington Beach proposal team, Black made no mention of SATCHELL or SATCHELL's admission regarding his receipt of two LOCKHEED MARTIN proprietary documents. Black also did not disclose BOEING's disciplinary action (in the form of a letter of reprimand) taken against SATCHELL for his failure to report his receipt of the LOCKHEED MARTIN documents provided by BRANCH. The foregoing statements by Black contradict or omit the facts obtained by BOEING's June 1999 internal investigation as well as facts later set forth in BOEING's March 2002 court filings in the Erskine litigation.

132. On November 4, 1999, Black sent Kramer the fifteen (15) LOCKHEED MARTIN documents in question. Upon reviewing the fifteen (15) documents, it was immediately evident to LOCKHEED MARTIN that fourteen (14) of the fifteen (15) documents included LOCKHEED MARTIN proprietary and/or competition sensitive markings. The remaining document was marked "General Dynamics Proprietary Data." After deliberation, and based on Black's representations and assurances, LOCKHEED MARTIN reasonably believed that it had not been damaged insofar as BOEING's EELV team was not exposed to the LOCKHEED MARTIN proprietary and trade secret material. Further, again based on Black's representations and assurances, LOCKHEED MARTIN reasonably believed BOEING had taken appropriate disciplinary action against BRANCH and ERSKINE by terminating those employees.

133. Before the true facts came to light, LOCKHEED MARTIN reasonably believed and in good faith relied upon Black's representations, and at that time concluded that BRANCH's and ERSKINE's possession of the documents had not resulted in

competitive harm to LOCKHEED MARTIN. It was not until LOCKHEED MARTIN learned of the Erskine litigation, that it actually realized that Black's representations in June and November of 1999 were false, as he had misrepresented the extent to which BOEING had possessed and misused, and continued to possess and misuse, LOCKHEED MARTIN proprietary and trade secret information during the EELV competition.

BOEING's Misappropriation And Fraud Discovered
As A Result Of The ERSKINE Litigation

134. Subsequent to Black's last communication with LOCKHEED MARTIN, BRANCH and ERSKINE initiated the Erskine Litigation described earlier. Among other allegations, BRANCH and ERSKINE claimed that they were "scapegoats" fired by BOEING in an attempt to fraudulently conceal the extent of BOEING's misuse of LOCKHEED MARTIN's proprietary and trade secret information.

135. LOCKHEED MARTIN was astonished to learn from documents produced in the Erskine litigation that Black's representations were deceitful, inaccurate, incomplete, and misleading. When submitting its evidence of misconduct by BRANCH and ERSKINE, BOEING produced a full box of LOCKHEED MARTIN competition sensitive, proprietary and trade secret information that BOEING alleged had been found in BRANCH's possession in June and July 1999.

136. The existence of this box first became known to LOCKHEED MARTIN in November 2001 when BOEING's outside counsel called LOCKHEED MARTIN to say that BOEING was ready to produce a full box containing LOCKHEED MARTIN documents, some of which "might be proprietary." LOCKHEED MARTIN immediately

objected, asserted that the documents were proprietary, and sought to obtain these documents, most of which turned out to be documents that LOCKHEED MARTIN did not know were in BOEING's possession.

137. In fact, the box contained thousands of pages of documents concerning proprietary EELV cost data and engineering designs, much of which did not relate in any way to BRANCH's duties at LOCKHEED MARTIN. In fact, at least one sensitive document concerned a satellite program undertaken by an entirely different business unit at LOCKHEED MARTIN. How and when BRANCH and BOEING obtained such information is unclear due to BOEING's active scheme to fraudulently conceal the information and all records of its wrongdoing.

138. As a result, unbeknownst to LOCKHEED MARTIN, LOCKHEED MARTIN was competitively harmed in the EELV competition as a result of the undisclosed illegal conduct of BOEING and several of its employees, managers, officers, agents, and in-house attorneys. The competition sensitive and proprietary information in this box would have permitted BOEING to improve its own competitive position, including reducing its bid price or costs by using the LOCKHEED MARTIN cost, manpower, technical, and schedule information as a guide.

139. The information essentially provided a roadmap to LOCKHEED MARTIN's specific cost estimate and pricing strategy for LOCKHEED MARTIN's EELV proposal, and even provided cost-cutting measures with detailed labor rate, profit margin, and staffing plans. LOCKHEED MARTIN's internal critiques identified problem areas and proposed solutions that could have been used in BOEING's bid

proposal. The information could have been used to "ghost" a feature of LOCKHEED MARTIN's solution by being critical of that feature in BOEING's own proposal similar to how ERSKINE "taunted" the Air Force that LOCKHEED MARTIN's launch processing solution was "lousy." LOCKHEED MARTIN's information also enabled BOEING to direct its efforts toward developing technology that it did not previously have.

140. However, LOCKHEED MARTIN had no reason to believe those documents had been shared with BOEING's EELV proposal team until BOEING publicly filed in March 2002 a "Statement of Undisputed Material Facts" in support of its Motion for Summary Judgment ("***Motion***") in the Erskine litigation. That filing revealed for the first time that BOEING knew in June 1999 that BOEING EELV proposal team members and employees had access to LOCKHEED MARTIN documents, many of which were proprietary and constituted trade secrets.

141. The Motion and supporting exhibits (sworn affidavits and deposition testimony) also disclosed that BOEING had hired BRANCH for his access to LOCKHEED MARTIN proprietary and trade secret information and that BOEING personnel actively sought LOCKHEED MARTIN EELV proprietary and trade secret information from BRANCH and used this information to gain a competitive advantage in the Air Force's EELV competition. This information was also relevant to competitions against LOCKHEED MARTIN in the civil, national and international commercial launch services markets.

142. After reviewing this material, counsel for LOCKHEED MARTIN called counsel for BOEING and demanded a full, complete, and honest disclosure of the facts. Instead of providing that disclosure, BOEING began tailoring its court filings to conceal sensitive information, claiming that the information was covered by a protective order. Although LOCKHEED MARTIN sought access to the documents that were filed under seal, the requested access was vigorously contested by BOEING lawyers, and LOCKHEED MARTIN's request for access was denied by the court because it was not a party to the Erskine litigation.

143. Although BOEING's tactical victory had the effect of precluding LOCKHEED MARTIN from reviewing key documents filed in the case, nonetheless, there was sufficient information already made public to demonstrate that BOEING misused, continued to misuse, fraudulently concealed the misuse of, and conspired to misuse and conceal the misuse of LOCKHEED MARTIN's proprietary and trade secret information.

144. LOCKHEED MARTIN continued to demand that BOEING provide a full disclosure of the facts, but received little substantive additional information from BOEING. What it did receive was directed toward persuading LOCKHEED MARTIN not to further pursue the matter.

145. A letter from Valerie K. Schurman, BOEING Vice President & Assistant General Counsel, Space & Communications Group, to Stephen E. Smith, dated March 19, 2002, provides, in part, that she "cannot explain why the entire universe of LOCKHEED MARTIN documents obtained from Messrs. BRANCH and ERSKINE

was not shipped to you in 1999." Schurman further represented "At any rate, all documents have now been transmitted to you and I would like to apologize for the series of errors that have occurred in handling this case." At that time, however, BOEING still had only disclosed the existence of one box of documents, when, in fact, it knew that there were many thousands of pages of additional documents in its possession, which BOEING continued to actively and fraudulently hide from disclosure.

146. Subsequently, in a so-called "Investigation Report" dated April 8, 2002, prepared by BOEING for LOCKHEED MARTIN, BOEING stated that BRANCH actually "possessed approximately two boxes of LOCKHEED MARTIN documents." When this statement was made, BOEING, had in its possession far more than the "approximately two boxes" of LOCKHEED MARTIN documents referenced the April 8, 2002 report. BOEING deliberately misrepresented and omitted material facts concerning BOEING's possession and use of LOCKHEED MARTIN proprietary and trade secret information in an effort to further BOEING's surreptitious scheme and artifice to defraud LOCKHEED MARTIN to benefit from and continue to use LOCKHEED MARTIN's proprietary and trade secret information, and to actively and fraudulently conceal such documents and BOEING's unlawful activities in connection therewith.

147. By letter dated April 26, 2002, Valerie Schurman responded to Smith's April 25, 2002 request for clarification on the number of boxes of LOCKHEED MARTIN documents in BOEING's possession. BOEING's April 8, 2002 report referenced two boxes. In November 2001, however, BOEING's outside counsel in the

Erskine litigation provided one box of LOCKHEED MARTIN proprietary documents and represented that those were all of the LOCKHEED MARTIN documents. Schurman responded that "Branch possessed [LOCKHEED MARTIN] documents that partially filled two boxes. I confirmed in my March 19, 2002 letter that we have provided you with copies of all [LOCKHEED MARTIN] documents found in the possession of Messrs. Branch and Erskine."

148. On May 17, 2002, Schurman sent an email responding to Smith's email of May 13, 2002. Smith had stated: "On a couple of occasions, you have stated that [BOEING] has already provided to [LOCKHEED MARTIN] all [LOCKHEED MARTIN] documents found in BRANCH and/or Erskine's possession. I would appreciate your confirmation that these represent all [LOCKHEED MARTIN] expendable launch vehicle proprietary documents in BOEING's possession, whether they . . . were found in Branch or Erskine's possession or elsewhere." Schurman responded: "On your question about documents, I think we've answered that a number of times. We have provided you with all LOCKHEED MARTIN documents of which we are aware."

149. Eleven (11) months later, on April 21, 2003, however, in the midst of an Air Force investigation of BOEING's Procurement Integrity Act violations and an ongoing criminal investigation, Steven Horton, BOEING's Chief Counsel at its Seal Beach, California office, admitted to Smith in a telephone conversation that BOEING had an additional ten (10) boxes of LOCKHEED MARTIN documents that contained "maybe 3 or 4" LOCKHEED MARTIN proprietary documents and "maybe 1 or 2" General Dynamics documents with proprietary markings.

150. In a letter dated April 21, 2003 from Horton to Smith, Horton stated that:

> When the U.S. Attorney's Office informed Boeing of its investigation of this matter in September 2002, Boeing retained the law firm of Munger, Tolles and Olson to review this matter and assist Boeing in responding to the U.S. Attorney's inquiry. In the course of Munger's review of the documents, it was discovered that Boeing security personnel removed six boxes of materials from Branch's cubicle (and later re-stored in 10 boxes) in the course of the 1999 Law Department investigation. These boxes were retained in offsite storage and later with Florida counsel representing Boeing in the employment litigation. The Law Department was unaware that these boxes contained Lockheed Martin documents with proprietary markings because the Department understood that the original investigating attorney had separated out all such documents and that those documents had been produced to Lockheed Martin in the Florida litigation.
>
> In Munger's review, they discovered additional Lockheed Martin and General Dynamics documents in these boxes that have not been previously provided by Boeing to Lockheed Martin. Some of the documents are hard copies, and others are on computer diskettes. Included among the hard copies are approximately three notebook binders of Lockheed Martin documents and six boxes of General Dynamics documents. Only a handful of the hard copies contain Lockheed Martin or General Dynamics proprietary markings.

151. Smith asked Horton to send any documents identified by BOEING's outside counsel as LOCKHEED MARTIN proprietary directly to him. On April 24, Smith received a package of nineteen (19) documents, eighteen (18) of which bore LOCKHEED MARTIN or General Dynamics proprietary markings. Extremely sensitive proprietary and trade secret information in this package included a 99-page detailed launch operations plan for LOCKHEED MARTIN's EELV launch vehicle and an internal strategic plan containing Single Stage Atlas cost estimates and other sensitive proprietary and trade secret information about LOCKHEED MARTIN's launch vehicle strategy.

152. On April 26, 2003, outside counsel for LOCKHEED MARTIN received eleven (11) boxes of documents from BOEING, which included more proprietary and trade secret material not previously identified as such or supplied to LOCKHEED MARTIN.

Examples Of Delayed Disclosure of Wrongdoing

153. Provided below is a brief chronology and summary of BOEING's delayed and misleading disclosure of its wrongdoing:

(i) On or about June 29, 1999 - BOEING produced to LOCKHEED MARTIN, two (2) documents that Black stated were the only LOCKHEED MARTIN proprietary documents that BOEING had found up to that point. Approximately seven (7) pages were produced at such time.

(ii) November 14, 1999 - BOEING produced fifteen (15) additional documents to LOCKHEED MARTIN. Fourteen (14) of the fifteen (15) documents were marked "LOCKHEED MARTIN Proprietary" or "Competition Sensitive," and the remaining document was marked "General Dynamics Proprietary." Approximately 197 pages were produced, thereby making the cumulative total of pages produced at such time 204 pages.

(iii) November 2001- BOEING produced an entire box of EELV proprietary documents found during its June 1999 investigation. Approximately 2,765 pages were produced, thereby making the cumulative total of pages produced at such time 2,969 pages.

(iv) March 22, 2002 - BOEING refused to disclose to LOCKHEED MARTIN, or produce, (a) certain documents and other information collected during BOEING's June 1999 investigation, (b) copies of Four "Sealed Documents" including documents indicating that the disclosures to the Air Force were "scripted"; or (c) other documents referenced in the court file in the Erskine Litigation.

(v) Spring of 2002 - BOEING represented on several occasions that all LOCKHEED MARTIN documents had been furnished to LOCKHEED MARTIN.

(vi) April 21, 2003 - BOEING disclosed that it had removed an additional six (6) boxes, later re-stored as ten (10), of LOCKHEED MARTIN documents from BRANCH's office in Florida.

(vii) April 24, 2003 - BOEING produced a package containing nineteen (19) documents, eighteen (18) of which bore "LOCKHEED MARTIN" or "General Dynamics" proprietary markings. Approximately 278 pages were produced, thereby making the cumulative total of pages produced at such time 3,247 pages.

(viii) April 26, 2003 - BOEING produced eleven (11) boxes of additional documents that included extremely sensitive LOCKHEED MARTIN proprietary and trade secret information. Approximately 22,493 pages were produced, thereby making the cumulative total of pages produced at such time 25,740 pages.

(ix) May 8, 2003 - BOEING disclosed that another former LOCKHEED MARTIN employee, Don Deming, admitted having LOCKHEED MARTIN proprietary and trade secret information in his possession.

(x) May 9 and May 23, 2003 - BOEING produced four (4) boxes of LOCKHEED MARTIN proprietary and trade secret documents that it had allegedly found in the possession of Deming and others. Approximately 9,361 pages were produced, thereby making the cumulative total of pages produced at such time 35,101 pages.

(xi) June 2, 2003 - BOEING produced copies of two (2) email messages sent by BRANCH to another BOEING employee, which had LOCKHEED MARTIN proprietary documents attached. Approximately 242 pages were produced, thereby making the cumulative total of pages produced at such time 35,343 pages.

(xii) June 4, 2003 - BOEING produced an additional 1,830 pages of LOCKHEED MARTIN documents, thereby making the cumulative total of pages produced at such time 37,173 pages.

(xiii) June 6, 2003 - BOEING advised LOCKHEED MARTIN that it was in the process of shipping additional LOCKHEED MARTIN documents that were confiscated from BOEING employees. BOEING did not specify the number of documents. Accordingly, as of June 6, 2003, LOCKHEED MARTIN is aware of more than 37,173 pages of its documents that were wrongfully in the possession of BOEING.

General Description Of Documents Misappropriated by BOEING And Its Employees And Agents

154. Provided below is a brief synopsis of the types of documents, and proprietary and competition sensitive information contained within those documents, that BOEING had in its possession at the times material to this action.

(i) Cost comparison data - information that would enable BOEING to estimate LOCKHEED MARTIN's cost/price margin and other related information that would be included in LOCKHEED MARTIN's EELV proposal.

(ii) EELV Operations Labor Comparison data - information that would enable BOEING to estimate LOCKHEED MARTIN's labor cost, rates and other related information that would be included in LOCKHEED MARTIN's EELV proposal and other proposals to the U.S. Government.

(iii) EELV Manpower data - information that would enable BOEING to estimate LOCKHEED MARTIN's labor cost, rates and other related information that would be included in LOCKHEED MARTIN's EELV proposal.

(iv) Booster Element Cost data - information that would enable BOEING to estimate LOCKHEED MARTIN's launch vehicle cost and other related information that would be included in LOCKHEED MARTIN's EELV proposal. This information also shows differences between costs estimates and target costs.

(v) Propellant Utilization Controller data - information that would enable BOEING to know LOCKHEED MARTIN's technology for enhancement of propellant utilization, and the significant cost implications thereof, and other related information that would be included in LOCKHEED MARTIN's EELV proposal.

(vi) Test Program Roadmap and Launch Rate Analysis data - information that would provide a roadmap to LOCKHEED MARTIN's solution and insight into its business. This information also contains detailed analysis of perceived risks and means to overcome such risks, as well as an analysis of the overall risk and

mission by mission risk evaluation factors that LOCKHEED MARTIN used to formulate various aspects of its EELV proposal.

(vii) Other documents by category without description are: cost history, profit margins, nonrecurring cost information, reccurring cost information, cost comparisons, breakdown of specific costs comparisons, element and unit costs, EELV projected cost savings, technology to be developed and/or employed, EMD risk analysis and evaluations, launch operation costs and concepts, time tables for various aspects of the operations, development and test schedules, vehicle designs, and proposal strengths and weaknesses.

155. The foregoing list is but a small sample of the myriad of highly sensitive proprietary and trade secret information that BOEING fraudulently, illegally, and intentionally solicited, obtained, possessed, used, misappropriated and concealed from LOCKHEED MARTIN.

Examples Of Similar BOEING Misconduct

156. BOEING's illegal use of LOCKHEED MARTIN's proprietary information is part of a pattern and practice by BOEING to engage in economic espionage to gain a competitive advantage. Another recent example of such espionage by BOEING employees was the subject of a recently published GAO report, which was reported in the Washington Post and other media. The misconduct at issue in the GAO report pertained to BOEING's involvement in the U.S. Missile Defense Agency's ("**MDA's**") competition for the exoatmospheric kill vehicle ("**EKV**").

157. According to GAO, several employees of BOEING purportedly discovered in BOEING's facility a competitor's (Raytheon's) software test plan and prepared an analysis of that plan before advising BOEING's attorneys of their discovery. Notably, the employees retained copies of the documents for several weeks even after they disclosed their possession of Raytheon's test plan to BOEING's attorneys.

158. Raytheon was made aware of this misconduct and, with the MDA, BOEING sought to resolve the issue to Raytheon's satisfaction. When it became apparent that there was no way to satisfy Raytheon's concerns regarding competitive harm, BOEING's EKV team was forced to withdraw from the competition and a sole source contract was awarded to Raytheon.

159. Significantly, the EKV situation arose only a few months prior to the June 1999 BOEING investigation that led to the discharge of BRANCH and ERSKINE. The U.S. Government's investigation of potential sanctions against BOEING related to the EKV matter was ongoing during June 1999, and for a number of months thereafter.

160. Another example of BOEING's willingness to circumvent federal and state laws for a profit is BOEING's guilty plea to criminal charges and agreement to pay the U.S. Government $5.0 million for illegally obtaining classified Pentagon planning and budget documents in 1989. Like the Raytheon incident described above, BOEING, through its management, employees, and agents, undertook a fraudulent scheme to obtain and misuse these classified documents, and fraudulently conceal such actions, to gain an unfair advantage over its competitors.

161. Another example of BOEING's misconduct can be gleaned from a lawsuit recently filed against BOEING by AssureSat, Inc. ("**AssureSat**"), filed in the Superior Court in Los Angeles County, California, in which BOEING is accused of stealing AssureSat's trade secrets and forcing it out of business. AssureSat's business model was to develop and launch satellites that could be rented to firms whose own multimillion-dollar satellites were destroyed after liftoff or stopped working. In the lawsuit, AssureSat claims that executives at Hughes Space & Communications Co. -- which was acquired by BOEING in 2000 -- "blatantly" stole AssureSat's trade secrets while the two companies were discussing a potential venture. Hughes executives signed a confidentiality agreement, according to the lawsuit, then broke it by filing for a patent for satellite technology BOEING had illegally obtained from AssureSat.

162. The misconduct at issue here is far more egregious than that at issue in the EKV competition, the AssureSat situation, or the plea agreement mentioned above. Here, BOEING illegally obtained and used a treasure trove of LOCKHEED MARTIN documents (over 37,000 pages), including documents relating to cost, profit margin, manpower, design, operations, and scheduling.

163. Among other things, this information provided a clear roadmap to LOCKHEED MARTIN's cost-cutting measures, investment strategy, projected recurring and nonrecurring costs, launch operations approach, and identified risk areas that LOCKHEED MARTIN perceived as critical. Moreover, BOEING could have easily used this information to arrive at a very accurate estimate of LOCKHEED MARTIN's EELV proposal price.

Duty Not To Engage in Unlawful Procurement Practices

164. BOEING, ERSKINE, SATCHELL, and BRANCH had a statutory duty under the Procurement Integrity Act, 41 U.S.C. §423, and an ethical duty under the standards of conduct set forth by the U.S. Defense Industry Initiative on Business Ethics and Conduct, in which BOEING is a participant and signatory, not to engage in the illegal procurement practices described above and throughout the remainder of this Complaint.

165. Specifically, BOEING, ERSKINE, SATCHELL, and BRANCH had a duty (a) not to obtain or use LOCKHEED MARTIN's proprietary and trade secret information; (b) to disclose to LOCKHEED MARTIN and the U.S. Government such wrongful activities; and (c) return to LOCKHEED MARTIN all of its proprietary and trade secret information.

166. At all times material hereto, BOEING, ERSKINE, SATCHELL, and BRANCH, together with others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, violated the Procurement Integrity Act, 41 U.S.C. §423, and otherwise engaged in a pattern and practice of unethical conduct in contravention of the standards of procurement practices adopted by the U.S. Defense Industry Initiative on Business Ethics and Conduct, to which BOEING is a participant and signatory, that have caused LOCKHEED MARTIN to suffer the damages described below.

DAMAGES SUFFERED BY LOCKHEED MARTIN

167. LOCKHEED MARTIN has sustained a myriad of damages, yet to be completely identified and quantified, that are the direct and proximate result of the

wrongful actions of BOEING, ERSKINE, BRANCH, SATCHELL, and others known and unknown to LOCKHEED MARTIN, acting in concert with and on behalf of BOEING, and which are described herein. Such damages are ongoing and include, but are not limited to, the following:

A. Significant damages, direct, indirect, collateral, consequential, and incidental, to LOCKHEED MARTIN's business and operations resulting from the theft, conversion and wrongful use of LOCKHEED MARTIN's highly confidential, proprietary and trade secret information for the benefit of the Defendants and detriment of LOCKHEED MARTIN, which affected its ability to fairly compete in the Air Force EELV competition;

B. Significant damages, direct, indirect, collateral, consequential, and incidental, to LOCKHEED MARTIN's business and operations resulting from its inability to actively and/or effectively compete in the medium-, intermediate- and heavy- lift space launch market, which has caused it to receive fewer Air Force space launches than it otherwise would have received and which will cause it to lose future space launches that it would have been awarded;

C. Significant damages, direct, indirect, collateral, consequential, and incidental, to LOCKHEED MARTIN's business and operations resulting from lost sales and revenues due to the fact that LOCKHEED MARTIN had to forfeit its West Coast launches as a cost savings plan, which was a result of the Defendants' wrongful actions;

D. Significant damages, direct, indirect, collateral, consequential, and incidental, to LOCKHEED MARTIN's business and operations resulting from the impairment of its investment in the Air Force EELV Program, which investment was adversely affected as a direct and proximate result of the wrongful actions of the Defendants;

E. Significant damages, direct, indirect, collateral, consequential, and incidental, to LOCKHEED MARTIN's business and operations resulting from its inability to actively and/or effectively compete in the civil, national and international commercial space launch market, which has caused it to receive fewer space launches than it otherwise would have received and which will cause it to lose future space launches that it would have been awarded;

F. Significant damages, direct, indirect, collateral, consequential, and incidental, to LOCKHEED MARTIN's business and operations resulting

from the substantial costs incurred by LOCKHEED MARTIN to investigate the Defendants' wrongful actions described herein, and to take action necessary to mitigate its damages as a result thereof; and

G. Significant damages, direct, indirect, collateral, consequential, and incidental, in regard to the unlawful misappropriation of LOCKHEED MARTIN's considerable investment in the research, development, planning, systems design, and pricing of its EELV launch vehicle bid proposal.

168. LOCKHEED MARTIN has retained the law firms of Lowndes, Drosdick, Doster, Kantor & Reed, P.A. and Hogan & Hartson, LLP to represent it in this matter, and LOCKHEED MARTIN is obligated to pay said attorneys a reasonable fee for their services and the costs necessitated by this action.

COUNT I
(Racketeer Influenced And Corrupt Organizations Act – 18 U.S.C. § 1962(c))

169. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 as if set forth fully herein.

170. This is an action against BOEING, ERSKINE, SATCHELL and BRANCH for their collective and systematic violation of the Racketeer Influenced and Corrupt Organizations Act – 18 U.S.C. § 1962(c), ("**RICO**").

171. At all times material hereto, BOEING was a corporation capable of holding a legal or beneficial interest in property and is therefore a "person" within the meaning of 18 U.S.C. § 1961(3).

172. At all times material hereto, ERSKINE was a person capable of holding a legal or beneficial interest in property and is therefore a "person" within the meaning of 18 U.S.C. § 1961(3).

173. At all times material hereto, SATCHELL was a person capable of holding a legal or beneficial interest in property and is therefore a "person" within the meaning of 18 U.S.C. § 1961(3).

174. At all times material hereto, BRANCH was a person capable of holding a legal or beneficial interest in property and is therefore a "person" within the meaning of 18 U.S.C. § 1961(3).

The RICO Enterprise

175. At all times material hereto, BOEING, ERSKINE, SATCHELL, BRANCH, together with Alexiou, Black, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, have unlawfully, knowingly, and intentionally conducted and are continuing to conduct an enterprise referred to herein as the "**BOEING Trade Secrets Theft Enterprise**," an association-in-fact. This same enterprise includes, and may not be limited to, the "**BOEING EKV Proposal Team**" and, more recently, the "**BOEING EELV Proposal Team**." While one ostensible purpose of this enterprise was to submit BOEING's proposal to the Air Force on the EELV Program, the defendants conducted and participated in the conduct of this enterprise by unlawfully procuring, analyzing, and using the highly sensitive, proprietary and trade secret information of its competitors, including, without limitation, LOCKHEED MARTIN.

176. The continuing unit formed by these parties constitutes a RICO enterprise within the meaning of 18 U.S.C. § 1961(4) that is engaged in, or the activities of which affect, interstate and foreign commerce.

177. At all times material hereto, BOEING, ERSKINE, SATCHELL, BRANCH, together with others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING are each employed or were employed by and associated with the BOEING Trade Secrets Theft Enterprise, and have continuously, and in an ongoing manner, knowingly and intentionally conducted the activities of the BOEING Trade Secrets Theft Enterprise, directly or indirectly, through a continued pattern of racketeering activity, and through the repeated and continuous use of the U.S. mails, private or commercial interstate carriers, the interstate use of wires, and the interstate transportation of property obtained by theft, conversion, or fraud and having a value of more than $5,000, in furtherance of their ongoing scheme to fraudulently obtain the award of launches from the Air Force for the EELV Program and to obtain illegally and wrongfully the payment of money through the continued use and exploitation of LOCKHEED MARTIN's proprietary and trade secret information obtained through fraud, theft, or conversion and other illegal and inequitable conduct, in violation of federal and state laws.

The Unlawful Conduct

178. At all times material hereto, BOEING, ERSKINE, SATCHELL, and BRANCH, together with Alexiou, Black, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, were each employed by and associated with the BOEING Trade Secrets Theft Enterprise, and knowingly and intentionally conducted, and participated, directly and indirectly, in the

conduct of the affairs of the BOEING Trade Secrets Theft Enterprise through a pattern of racketeering activity.

Pattern Of Racketeering Activity

179. At all times material hereto, BOEING, ERSKINE, SATCHELL, BRANCH, together with Alexiou, Black, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, have unlawfully, knowingly, and intentionally conducted and participated, and continue to conduct and participate, in the affairs of the BOEING Trade Secrets Theft Enterprise, directly or indirectly, through a pattern of racketeering activity that includes through the use of the U.S. mails, private and commercial interstate carriers, and the interstate use of wires, to devise and execute a scheme to defraud and to obtain money or property by means of false and fraudulent pretenses, representations, and promises, and the interstate transportation of property obtained by theft, conversion, or fraud having a value of more than $5,000.

180. This racketeering activity was performed by the Defendants and others in furtherance of their scheme to fraudulently and unlawfully obtain for BOEING the award of U.S. Government contracts, including contracts for launch services from the Air Force pursuant to the EELV Program; to obtain illegally and wrongfully the highly sensitive, proprietary and trade secret information of LOCKHEED MARTIN and other competitors; to wrongfully and unlawfully use and exploit the proprietary and trade secret information of LOCKHEED MARTIN and other competitors in preparing bid proposals to be submitted to U.S. Government agencies; to deprive LOCKHEED

MARTIN and other competitors of the use and enjoyment of their proprietary and trade secret information; and to deprive LOCKHEED MARTIN and other competitors of the contract awards they would have otherwise obtained, including the Air Force's award of satellite launches; by unfair and unlawful use of stolen trade secret information.

181. Defendants' pattern of racketeering activity also included their false and fraudulent representations to LOCKHEED MARTIN in an attempt to cover up the extent of BOEING's unlawful conduct, in order to ensure that BOEING continues to receive the benefits of the U.S. Government contracts, including launch services awards it has received and continues to receive from the Air Force, to deprive LOCKHEED MARTIN of its fair share of the launch awards made by the Air Force, and to deprive LOCKHEED MARTIN of its right to protest the launch awards to BOEING and to obtain those awards for LOCKHEED MARTIN, based on BOEING's unlawful conduct in using LOCKHEED MARTIN's proprietary and trade secret information to make its competitive proposal on the EELV Program.

Use Of The U.S. Mails, Private Or Commercial Interstate Carriers, And Interstate Wires

182. At all times material hereto, BOEING, ERSKINE, SATCHELL, and BRANCH, together with Alexiou, Black and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, unlawfully, willfully and knowingly used the U.S. mails, private or commercial interstate carriers, and interstate wires, in furtherance of their scheme and artifice to defraud LOCKHEED MARTIN and

other competitors of BOEING, and to deprive them of their property rights in proprietary and trade secret information, including, but not limited to, the following:

(i) In late December 1996 or early January 1997, BRANCH sent by U.S. mail and other interstate communication methods his "formal" application requesting a position on BOEING's EELV program.

(ii) Shortly after BRANCH began working for BOEING, and at least through early to mid-1998, SATCHELL and BRANCH had several interstate telephonic conversations concerning LOCKHEED MARTIN information, during which BRANCH conveyed LOCKHEED MARTIN trade secrets to SATCHELL.

(iii) In early 1998, BRANCH sent SATCHELL by U.S. mail or commercial or private interstate carrier a manila envelope containing LOCKHEED MARTIN competition-sensitive, proprietary and trade secret information.

(iv) In or about mid to late 1997, BRANCH sent SATCHELL by U.S. mail or commercial or private interstate carrier at least one other document containing LOCKHEED MARTIN trade secrets.

(v) On July 20, 1998, by commercial or private carrier, BOEING submitted its EELV development and launch services proposals to the Air Force. On information and belief, the information contained in the proposals was based in part on LOCKHEED MARTIN's trade secrets.

(vi) On or about June 29, 1999, by use of interstate wires, Black telephoned Smith, faxed him two LOCKHEED MARTIN documents that Black stated were the only two LOCKHEED MARTIN proprietary documents thus far found at

BOEING, and falsely represented to Smith that no one on BOEING's EELV Proposal Team had access to or used the documents.

(vii) On or about June 30, 1999, by use of interstate wires, Black telephoned Kramer, discussed with him the two LOCKHEED MARTIN documents that Black stated were the only ones found at BOEING, and falsely represented to Kramer that no one on BOEING's EELV Proposal Team had access to or used the documents.

(viii) On or about November 1, 1999, in a telephone conversation with Kramer, by use of interstate wires, Black stated that an additional set of documents, about one-inch thick, were the only significant documents found in BRANCH's possession, and falsely represented that no one on BOEING's EELV Proposal Team had had access to the documents. Black further falsely represented that BRANCH had played no role in BOEING's EELV proposal and had worked in ground support as a low-level first line engineer.

(ix) During April and May of 2002, BOEING's in-house counsel made numerous false and misleading statements to LOCKHEED MARTIN, both orally via interstate wires and in writing via the U.S. mails or commercial carrier, concerning the quantity of LOCKHEED MARTIN proprietary and trade secrets information in BOEING's possession, as well as false statements as to the extent to which this information was used in connection with preparation of BOEING's proposal to the Air Force for the EELV Program. These statements were known to be false and were intended to conceal the activities of the enterprise and advance the purpose of the enterprise, that is, to obtain continued benefits from its racketeering activities, including

additional orders from the Air Force under a fraudulently obtained EELV launch services contract.

Interstate Transportation, Receipt and Use Of Property
Obtained By Theft, Conversion, Or Fraud

183. At all times material hereto, BOEING, ERSKINE, BRANCH, and SATCHELL, together with Alexiou, Black, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, unlawfully, knowingly, and intentionally transported and caused to be transported, and received, possessed, concealed, stored, and caused to be received, possessed, concealed, and stored, goods, wares, or merchandise – to wit, the highly sensitive, proprietary and trade secret information of LOCKHEED MARTIN and other competitors -- which had crossed a state boundary after being stolen, unlawfully converted, or taken, knowing the same to have been stolen, unlawfully converted and taken, including, but not limited to, the following:

(i) In August 1996, BRANCH flew from Florida or Denver to Huntington Beach, California to meet with BOEING personnel, including ERSKINE and Alexiou, and carried with him a stack of LOCKHEED MARTIN proprietary documents containing LOCKHEED MARTIN proprietary and trade secret information.

(ii) In August 1996, after meeting with BRANCH, ERSKINE flew from California to his Florida home carrying LOCKHEED MARTIN proprietary documents that he had received from BRANCH during BRANCH's initial job interview.

(iii) On or about January 7, 1997, BOEING offered BRANCH a job as a quid pro quo for handing over to BOEING proprietary information and trade secrets of LOCKHEED MARTIN.

(iv) On or about January 28, 1997, BRANCH started work at BOEING, and was immediately assigned to work on BOEING's EELV Proposal Team.

(v) In January or February 1997, BRANCH again traveled from Florida to Huntington Beach, California and carried with him a binder of LOCKHEED MARTIN proprietary materials that had been provided or presented to the Air Force.

(vi) In or about February 1997, Alexiou introduced BRANCH to members of the capture team of BOEING's EELV Proposal Team, so that BRANCH could supply them with LOCKHEED MARTIN proprietary and trade secret information that had been unlawfully converted and stolen from LOCKHEED MARTIN.

(vii) From 1997 through 1999, high-level personnel on BOEING's EELV Proposal Team pressured BRANCH to disclose LOCKHEED MARTIN proprietary and trade secret information that had been unlawfully converted and stolen from LOCKHEED MARTIN.

(viii) Shortly after BRANCH started work at BOEING, (January 28, 1997), Alexiou introduced BRANCH to the Delta IV Vice President and Program Manager, for the purpose of having BRANCH disclose to members of BOEING's EELV Proposal Team LOCKHEED MARTIN proprietary and trade secret information that had been unlawfully converted and stolen from LOCKHEED MARTIN.

(ix) On or about February 19, 1997, BRANCH met with members of the capture team of BOEING's EELV Proposal Team, and provided them with LOCKHEED MARTIN proprietary and trade secret information that had been unlawfully converted and stolen from LOCKHEED MARTIN.

(x) On or about March 3, 1997, a member of BOEING' s management wrote a memorandum to SATCHELL and other personnel on BOEING's EELV Proposal Team, encouraging them to seek out former LOCKHEED MARTIN personnel in order to obtain their impressions of LOCKHEED MARTIN's likely approach to its EELV proposal.

(xi) Between January 28, 1997 and July 20, 1998, during his employment at BOEING, BRANCH flew from Florida to BOEING's EELV Proposal Team in Huntington Beach, California approximately forty-three (43) times in order to provide LOCKHEED MARTIN proprietary and trade secret information to personnel on BOEING's EELV Proposal Team.

(xii) On July 20, 1998, BOEING submitted its EELV development and launch services proposals to the Air Force. On information and belief, the information contained in the proposals was based in part on LOCKHEED MARTIN proprietary and trade secret information that had been unlawfully converted and stolen from LOCKHEED MARTIN.

(xiii) During the course of the EELV competition, ERSKINE used the knowledge that he had obtained by review of the LOCKHEED MARTIN proprietary and

trade secret information that BRANCH provided to disparage LOCKHEED MARTIN's EELV bid proposal during a presentation to the Air Force.

(xiv) On or about July 17, 1998, unknown BOEING engineers obtained and improperly converted a 68-page software test plan, owned by the Raytheon Corporation and marked "Competition Sensitive". Having converted this document and the trade secrets therein, the enterprise analyzed it for the purpose of improving BOEING's competitive proposal against Raytheon on the EKV program. BOEING's engineers retained a copy of the proprietary document containing Raytheon trade secrets even after BOEING had represented to Raytheon that the document had been "secured," i.e., removed from the possession of the members of BOEING's EKV Proposal Team. When the U.S. Government and Raytheon discovered this misrepresentation, BOEING was forced to withdraw from the EKV program, negating an investment by the U.S. Government of approximately $400 million.

184. At all times material hereto, BOEING, ERSKINE, SATCHELL, BRANCH, together with Alexiou, Black and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, have unlawfully, knowingly, and intentionally engaged in two or more acts indictable under the Federal Mail Fraud Statute, 18 U.S.C. § 1341, the Federal Wire Fraud Statute, 18 U.S.C. § 1343, and the Federal Interstate Transportation of Stolen Property Statutes, 18 U.S.C. §§ 2314 and 2315, and have therefore unlawfully, fraudulently, and intentionally engaged in predicate acts of racketeering within the meaning of 18 U.S.C. § 1961(1)(B).

Continuity And Relatedness Of
The Pattern OF Racketeering

185. At all times material hereto, each of the foregoing acts of racketeering by BOEING, ERSKINE, SATCHELL, BRANCH, together with Alexiou, Black and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, was unlawfully, fraudulently, and intentionally related, continuous, and part of a pattern of conduct related to multiple bid competitions and awards for U.S. Government development contracts and launch services contracts and to multiple contracts for commercial launch services contracts, directed towards multiple victims, including but not limited to LOCKHEED MARTIN, and continuing over a substantial period of time.

186. At all times material hereto, LOCKHEED MARTIN is informed and believes that, in addition to targeting LOCKHEED MARTIN, BOEING unlawfully, fraudulently, and intentionally operated the enterprise through mail and wire fraud and interstate transportation of stolen property in order to obtain illegally and wrongfully money and property through the use and exploitation of trade secrets of other competitors, including, among others, Raytheon Corporation, which was obtained through fraud, theft, or conversion and other illegal and inequitable conduct.

RICO Injury

187. BOEING continues to irreparably harm LOCKHEED MARTIN by such misappropriation of trade secrets due to BOEING's unlawful solicitation, possession, and use, and continued solicitation, possession, and use of LOCKHEED MARTIN's proprietary and trade secret information to win Air Force competitions, and continues to provide space launch services to the Air Force on an on-going and continuous basis.

188. Unless enjoined from doing so, BOEING will continue to knowingly, dishonestly, and intentionally hold, use, market, attempt to market, or otherwise attempt to knowingly, dishonestly, and intentionally continue to capitalize on trade secrets to which it has no rightful claim or license.

189. As a direct and proximate result of BOEING's, ERSKINE's, SATCHELL's, BRANCH's, and other's known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, willful and unlawful participation in and conduct of the BOEING Trade Secrets Theft Enterprise through a pattern of racketeering in violation of 18 U.S.C. § 1962(c), LOCKHEED MARTIN has been injured in its business and property as described in paragraph 167 above. LOCKHEED MARTIN has sustained damage and will continue to accrue and sustain damage in the future on an ongoing and continuing basis as a result thereof.

WHEREFORE, LOCKHEED MARTIN demands judgment against each of the Defendants, jointly and severally, and in its favor for:

A. Compensatory damages for damages actually sustained;

B. The return of all proprietary and trade secret information in each Defendant's possession, care, or control;

C. An accounting of all proprietary and trade secret information that is or has been in BOEING's possession, including, but not limited to, a report with a detailed tracing from where each document originated, and a chain of custody while such documents were in BOEING's possession, custody, or control;

D. Damages contemplated by and available through 18 U.S.C. § 1964(c).

E. Threefold the actual damages sustained;

F. Injunctive relief;

G. The costs of suit and reasonable attorneys fees; and

H. Such other relief as the Court deems just.

COUNT II
(RICO Conspiracy – 18 U.S.C. § 1962(d))

190. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 and paragraphs 170 through 187, as if set forth fully herein.

191. This is an action against BOEING, ERSKINE, SATCHELL and BRANCH for conspiracy to undertake the BOEING Trade Secrets Theft Enterprise in violation of 18 U.S.C. §1962(d).

192. At all times material hereto, BOEING, ERSKINE, SATCHELL, BRANCH, together with Alexiou, Black and others known and unknown to LOCKHEED MARTIN, knowingly, unlawfully, and intentionally acting in concert and on behalf of BOEING, have unlawfully, fraudulently, and intentionally conspired together to plan and perpetrate a fraudulent scheme to carry out the BOEING Trade Secrets Theft Enterprise and the RICO enterprise described above.

193. Specifically, BOEING, ERSKINE, SATCHELL, BRANCH, together with Alexiou, Black and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, have unlawfully and intentionally plotted and conspired to fraudulently (a) obtain and misuse LOCKHEED MARTIN's proprietary and trade secret information to gain an unfair business advantage over LOCKHEED MARTIN and other competitors; (b) misuse such information to monopolize the medium,

intermediate, and heavy- lift U.S. Government launch markets and the national and international commercial space launch markets by driving out competitors; (c) conceal their possession and use of LOCKHEED MARTIN's information, and (d) conduct other illegal activities in furtherance of their furtive scheme to defraud the U.S. Government, LOCKHEED MARTIN, and other competitors.

194. BOEING continues to irreparably harm LOCKHEED MARTIN by such misappropriation of trade secrets due to BOEING's unlawful solicitation, possession, and use, and continued solicitation, possession, and use of LOCKHEED MARTIN's proprietary and trade secret information to win Air Force competitions, and continues to provide space launch services to the Air Force on an on-going and continuous basis.

195. Unless enjoined from doing so, BOEING will continue to knowingly, dishonestly, and intentionally hold, use, market, attempt to market, or otherwise attempt to knowingly, dishonestly, and intentionally continue to capitalize on proprietary and trade secret information to which it has no rightful claim or license.

196. As a direct and proximate result of Defendants' wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against each of the Defendants, jointly and severally, and in its favor for:

A. Compensatory damages for the damages that it actually sustained;

B. The return of all proprietary and trade secret information in each Defendant's possession, care, or control;

C. An accounting of all proprietary and trade secret information that is or has been in BOEING's possession, including, but not limited to, a report with a detailed tracing from where each document originated, and a chain of custody while such documents were in BOEING's possession, custody, or control;

D. Damages contemplated by and available through 18 U.S.C. § 1964(c);

E. Threefold the actual damages sustained;

F. Injunctive relief;

G. The costs of suit and reasonable attorneys fees; and

H. Such other relief as the Court deems just.

COUNT III
(Civil Remedies For Criminal Activities Act – § 772.103 et. seq. , Florida Statutes)

197. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 and paragraphs 170 through 187, as if set forth fully herein.

198. This is an action against BOEING, ERSKINE, SATCHELL and BRANCH, for their independent and joint violation of the Civil Remedies for Criminal Activities Act, §772.103 et. seq., Florida Statutes.

199. At all times material hereto, BOEING, ERSKINE, SATCHELL, BRANCH, together with Alexiou, Black and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, have unlawfully, fraudulently, and intentionally conducted and are continuing to conduct a criminal enterprise consisting of an association-in-fact for the purpose of procuring, analyzing, and wrongfully using

proprietary and trade secret information of its competitors, which includes without limitation the BOEING Trade Secrets Theft Enterprise against LOCKHEED MARTIN.

200. The continuing unit formed by these parties constitutes criminal activity within the meaning of § 772.102, Florida Statutes that is engaged in, or the activities of which affect, and interstate and foreign commerce.

201. At all times material hereto, BOEING, ERSKINE, SATCHELL, BRANCH, together with Alexiou, Black and others known and unknown to LOCKHEED MARTIN, knowingly and intentionally acting in concert and on behalf of BOEING, are each employed or were employed by and associated with the BOEING Trade Secrets Theft Enterprise, and have unlawfully, fraudulently, and intentionally conducted the activities of the BOEING Trade Secrets Theft Enterprise, directly or indirectly through a continued and ongoing pattern of criminal activity, and through the repeated and continuous use of the U.S. mails, private or commercial interstate carriers, the interstate use of wires, and the interstate transportation of property obtained by theft, conversion, or fraud and having a value of more than $5,000, in furtherance of their scheme to fraudulently obtain the award of launches from the Air Force for the EELV Program and to obtain illegally and wrongfully the payment of money through the use and exploitation of LOCKHEED MARTIN's proprietary and trade secret information obtained through fraud, theft or conversion, and other illegal and inequitable conduct.

202. In their association with and employment by the BOEING Trade Secrets Theft Enterprise, BOEING, ERSKINE, SATCHELL, BRANCH, together with Alexiou, Black and others known and unknown to LOCKHEED MARTIN, acting in concert and

on behalf of BOEING, have unlawfully, fraudulently, and intentionally conducted and participated in the affairs of the BOEING Trade Secrets Theft Enterprise, directly or indirectly, through a continuing pattern of racketeering activity through the continuous use of the U.S. mails, private or commercial interstate carriers, the interstate use of wires, and the interstate transportation of property obtained by theft, conversion, or fraud and having a value of more than $5,000, in furtherance of their scheme to fraudulently obtain the award of launches from the Air Force for the EELV Program and to obtain illegally and wrongfully the payment of money through the use and exploitation of LOCKHEED MARTIN's trade secrets obtained through fraud, theft, or conversion and other illegal and inequitable conduct.

203. At all times material hereto, BOEING, ERSKINE, SATCHELL, BRANCH, together with Alexiou, Black and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, have unlawfully, fraudulently, and intentionally engaged in two or more acts indictable under the Federal Mail Fraud Statute, 18 U.S.C. § 1341, the Federal Wire Fraud Statute, 18 U.S.C. § 1343, the Federal Interstate Transportation of Stolen Property Statutes, 18 U.S.C. §§ 2314 and 2315, and Florida's Civil Theft Statute §812.071, Florida Statutes, and have therefore unlawfully, fraudulently, and intentionally engaged in predicate acts of criminal activity within the meaning of § 772.102, Florida Statutes.

204. BOEING, ERSKINE, SATCHELL, BRANCH, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, have

unlawfully, fraudulently, and intentionally engaged in the commission of two or more of the predicate acts within a period permitted under § 772.102, Florida Statutes.

205. At all times material hereto, BOEING, ERSKINE, SATCHELL, BRANCH, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, unlawfully, fraudulently, and intentionally participated in one or more capacities as primary actors and/or agents and representatives of one another and/or aiders and abettors of one another.

206. Each of the foregoing acts of racketeering by BOEING, ERSKINE, SATCHELL, BRANCH, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, is related, continuous, and part of a pattern of conduct related to multiple bid competitions and awards for U.S. Government launch contracts and launch services contracts and to multiple contracts for commercial launch contracts and launch services contracts, directed towards multiple victims, including but not limited to LOCKHEED MARTIN, and continuing over a substantial period of time.

207. BOEING, ERSKINE, SATCHELL, BRANCH, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, unlawfully, fraudulently, and intentionally operated the BOEING Trade Secrets Theft Enterprise through mail and wire fraud and interstate transportation of stolen property and to obtain illegally and wrongfully the payment of money through the use and exploitation of trade secrets obtained through fraud, theft, or conversion and other illegal and inequitable conduct from, among others, Raytheon Company.

208. As a direct and proximate result of BOEING's, ERSKINE's, SATCHELL's, BRANCH's, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, unlawfully participated in and conducted the BOEING Trade Secrets Theft Enterprise through a pattern of criminal activity that violated § 772.103, Florida Statutes.

209. BOEING continues to irreparably harm LOCKHEED MARTIN by such misappropriation of trade secrets due to BOEING's unlawful solicitation, possession, use, and continued solicitation, possession, and use of LOCKHEED MARTIN's proprietary and trade secret information to win Air Force competition, and continues to provide space launch services to the Air Force on an on-going and continuous basis.

210. Unless enjoined from doing so, BOEING will continue to knowingly, dishonestly, and intentionally hold, use, market, attempt to market, or otherwise attempt to knowingly, dishonestly, and intentionally continue to capitalize on trade secrets to which it has no rightful claim or license.

211. As a direct and proximate result of Defendants' wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against each of the Defendants, jointly and severally, and in its favor for:

A. Compensatory damages for the damages that it actually sustained;

B. The return of all proprietary and trade secret information in each Defendant's possession, care, or control;

C. An accounting of all proprietary and trade secret information that is or has been in BOEING's possession, including, but not limited to, a report with a detailed tracing from where each document originated, and a chain of custody while such documents were in BOEING's possession, custody, or control;

D. Damages contemplated by and available through § 772.104, Florida Statutes;

E. Threefold the actual damages sustained;

F. Injunctive relief;

G. The costs of suit and reasonable attorneys fees; and

H. Such other relief as the Court deems just.

COUNT IV
(Florida Criminal Activity Conspiracy)

212. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 and paragraphs 198 through 209, as if set forth fully herein.

213. This is a Count against BOEING, ERSKINE, SATCHELL, BRANCH and others known and unknown to LOCKHEED MARTIN, for their collective participation in BOEING's scheme and conspiracy to violate the Civil Remedies for Criminal Activities Act, §772.103 et. seq., Florida Statutes.

214. At all times material hereto, BOEING, ERSKINE, SATCHELL, BRANCH, together with Alexiou, Black and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, have unlawfully conspired together to knowingly and intentionally plan and perpetrate a fraudulent scheme to

carryout the BOEING Trade Secrets Theft Enterprise and the criminal activity described above in violation of §772.104, Florida Statutes.

215. Specifically, the conspirators have knowingly and intentionally plotted and conspired to fraudulently (a) obtain and misuse LOCKHEED MARTIN's proprietary and trade secret information to gain an unfair business advantage over LOCKHEED MARTIN and other competitors; (b) misuse such information to monopolize the medium, intermediate, and heavy- lift U.S. Government launch markets and the national and international commercial space launch markets by driving out competitors because of such competitor's inability to compete with BOEING on its pricing and other aspects of its EELV operations; (c) conceal their possession and use of LOCKHEED MARTIN's proprietary and trade secret information, and (d) conduct other illegal activities in furtherance of their furtive scheme to defraud the Air Force, LOCKHEED MARTIN, and other competitors.

216. BOEING continues to irreparably harm LOCKHEED MARTIN by such misappropriation of trade secrets due to BOEING's unlawful solicitation, possession, and use, and continued solicitation, possession, and use of LOCKHEED MARTIN's proprietary and trade secret information to win Air Force competitions, and continues to provide space launch services to the Air Force on an on-going and continuous basis.

217. Unless enjoined from doing so, BOEING will continue to knowingly, dishonestly, and intentionally hold, use, market, attempt to market, or otherwise attempt to knowingly, dishonestly, and intentionally continue to capitalize on proprietary and trade secret information to which it has no rightful claim or license.

218. As a direct and proximate result of Defendants' wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against each of the Defendants, jointly and severally, and in its favor for:

A. Compensatory damages for the damages that it actually sustained;

B. The return of all proprietary and trade secret information in each Defendant's possession, care, or control;

C. An accounting of all proprietary and trade secret information that is or has been in BOEING's possession, including, but not limited to, a report with a detailed tracing from where each document originated, and a chain of custody while such documents were in BOEING's possession, custody, or control;

D. Damages contemplated by and available through § 772.104, Florida Statutes;

E. Threefold the actual damages sustained;

F. Injunctive relief;

G. The costs of suit and reasonable attorneys fees; and

H. Such other relief as the Court deems just.

COUNT V
(Attempted Monopolization (15 U.S.C. § 2))

219. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 as if set forth fully herein.

220. This is an action against BOEING, ERSKINE, SATCHELL and BRANCH for their independent and collective participation in BOEING's attempt to monopolize

medium, intermediate, and heavy- lift U.S. Government space launch market, and the national and international commercial space launch market in violation of 15 U.S.C. §2.

221. EELVs for medium, intermediate and heavy lift launches are a highly complex and unique product. EELVs are the only means reasonably available to launch medium, intermediate and heavy lift satellites into space economically and efficiently. There are no economic and technological substitutes. Therefore, EELVs constitute a relevant product market.

222. For purposes of the military and other national security needs of the U.S. Government (including homeland security needs), domestic EELV manufacturers are the only suppliers of EELVs who can supply launch services for medium, intermediate, and heavy lift satellites. Therefore, for purposes of procurement of such services by the U.S. Government, the United States is the relevant geographic market. Furthermore, for the launch of satellites by the U.S. Government orbiting the earth in a polar orbit, launches must take place from a launch facility located on the western coast of the U.S. Therefore, there is also a relevant market or relevant sub-market for launches of EELVs on the West Coast of the United States. For purposes of commercial satellite launches, consumers can use both domestic and foreign suppliers. Therefore, for commercial satellite launches, the relevant geographic market is worldwide.

223. In the U.S. Government EELV market, BOEING is, as a result of the actions alleged herein, the dominant supplier. BOEING currently has a market share of approximately 75%, having 21 of 28 Air Force EELV launches awarded to date. By virtue of the actions alleged herein, BOEING would further entrench its position as the

dominant supplier. Furthermore, in the West Coast of the United States, as a result of the actions alleged herein, BOEING is the only supplier available with a launch facility; thus, BOEING currently has a monopoly for West Coast launches.

224. At all times material hereto, the barriers to entry in the medium, intermediate, and heavy-launch markets are extremely high. The research, development, and manufacture of EELVs for medium, intermediate, and heavy lift satellites is extremely expensive and time-consuming. The technology and expertise required to manufacture EELVs takes many years to develop. In addition to the $500 million in funding provided by the Air Force, LOCKHEED MARTIN invested in excess of $1.0 Billion to develop its EELV system. Entry into the relevant markets described herein is not likely to occur in a timely manner to offset the anti-competitive effects of BOEING'S predatory actions described herein.

225. In August 1996, BOEING employees ERSKINE and Alexiou met with LOCKHEED MARTIN employee BRANCH, who knowingly and intentionally provided to ERSKINE and Alexiou LOCKHEED MARTIN's highly sensitive, proprietary and trade secret information regarding its EELV program, among other things. Defendants' actions were taken with specific intent of monopolizing the market for EELVs for launches of medium, intermediate, and heavy lift satellites in relevant markets described herein.

226. On or about December 6, 1996, the Air Force "down-selected" to two offerors, LOCKHEED MARTIN and BOEING. At that time, the Air Force's acquisition plan was to ultimately choose one contractor to receive at least $1.0 Billion in U.S.

Government funding to develop the contractor's EELV as well as receive and perform all of the Air Force's orders for medium, intermediate, and heavy-lift space launch missions for the foreseeable future.

227. BOEING knowingly and intentionally extended an offer of employment to then-LOCKHEED MARTIN employee BRANCH for the sole purpose of knowingly and intentionally acquiring LOCKHEED MARTIN's sensitive, proprietary and trade secret cost and technical information regarding LOCKHEED MARTIN's EELV program and proposal, and in order to gain an unfair advantage over LOCKHEED MARTIN and others to win the Air Force competition.

228. BOEING, did in fact, knowingly and intentionally solicit and obtain LOCKHEED MARTIN EELV-related sensitive, proprietary and trade secret cost and technical information from BRANCH, and other former known and unknown LOCKHEED MARTIN employees, and knowingly and intentionally used such information to develop BOEING's own EELV proposal, and knowingly and intentionally continues to use such information in furtherance of its fraudulent and anti-competitive scheme.

229. At the time that BOEING knowingly and intentionally solicited and received LOCKHEED MARTIN EELV-related sensitive, proprietary and trade secret cost and technical information from BRANCH and other former LOCKHEED MARTIN employees, BOEING specifically intended to become the Air Force's sole provider for all medium, intermediate and heavy-lift launch missions, and eliminate its competition

through the use of illegally obtained competition sensitive, proprietary and trade secret information of its competitors.

230. In order to maintain competition in the U.S. Government space launch market, the Air Force changed its acquisition strategy in November 1997 from a "winner-take-all" to one of maintaining two launch providers that could provide "assured access to space."

231. Even after the Air Force changed its acquisition strategy to retaining two medium, intermediate and heavy-lift launch providers, ERSKINE, SATCHELL, BRANCH, Alexiou, and other BOEING personnel acting in concert and on behalf of BOEING knowingly and intentionally continued to solicit and obtain LOCKHEED MARTIN EELV-related sensitive, proprietary and trade secret information from BRANCH and other former LOCKHEED MARTIN employees and used that information to underbid LOCKHEED MARTIN's proposed bid prices and otherwise unfairly take advantage from use of such information in its proposal for the purpose of monopolizing the medium, intermediate, and heavy-lift U.S. Government space launch market and eliminating LOCKHEED MARTIN from that market.

232. At all times material hereto, BOEING personnel were aware that BRANCH and the other former LOCKHEED MARTIN employees who passed LOCKHEED MARTIN sensitive, proprietary and trade secret information to BOEING were knowingly and intentionally in breach of their obligations and agreements to hold such information in confidence and not disclose it to third parties.

233. At all times material hereto, those acting on behalf of BOEING knew that the solicitation, use, and continued use of LOCKHEED MARTIN's sensitive, proprietary and trade secret information by ERSKINE, SATCHELL, BRANCH, Alexiou, and other BOEING personnel, known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, were in violation of the Procurement Integrity Act, 42 U.S.C. § 423, prohibition against knowingly obtaining, possessing, and using competitor contractor bid or proposal information.

234. At all times material hereto, the solicitation, use, and continued use of LOCKHEED MARTIN's highly sensitive, proprietary and trade secret information was implemented through an anti-competitive scheme planned and perpetrated by BOEING, ERSKINE, BRANCH, and others known and unknown to LOCKHEED MARTIN, acting in concert with one another to derive a benefit from such wrongful actions to the competitive detriment of LOCKHEED MARTIN. Competition in the relevant markets described herein has been lessened and consumers for launch services have been harmed as a result of Defendants' anti-competitive actions. This lessening of competition has already resulted in higher prices for certain U.S. Government launches on the West Coast of the United States. This lessening of competition will likely lead to higher prices, lower quality and less innovation in these relevant markets in the future.

235. As a result of BOEING's predatory and anti-competitive actions described herein,

(i) LOCKHEED MARTIN was forced to forfeit the only two (2) West Coast launches awarded to it because LOCKHEED MARTIN received an insufficient

number of launches to support investing the hundreds of millions of dollars necessary to construct a West Coast launch facility (the Air Force transferred these two (2) launches to BOEING);

(ii) The Air Force announced an intent to award up to four (4) new West Coast launches to BOEING without any competition because LOCKHEED MARTIN now has no West Coast facility to support West Coast launches, which is a direct result of BOEING receiving a vast majority of the initial launch orders and the launch restructure requested in December 1999 described in paragraph 35 above;

(iii) The U.S. Government and other purchasers of EELV satellite launch services have paid higher prices for some such services than they would have paid had they had the benefit of competition for such services between LOCKHEED MARTIN and BOEING. There is a continuing threat that the U.S. Government and other purchasers of EELV satellite launch services will continue to pay higher prices if BOEING is successful in its scheme to monopolize the relevant markets described herein.

(iv) LOCKHEED MARTIN has an insufficient base of business to compete effectively on a financially viable basis in the medium, intermediate, and heavy-lift launch vehicle market. There are no other firms aside from BOEING that are capable of satisfying the U.S. Government's medium, intermediate, and heavy-lift launch vehicle demands; and

(v) Should BOEING's effort to eliminate LOCKHEED MARTIN from this market succeed, BOEING would be the only U.S. source of the medium,

intermediate, and heavy-lift launch services for U.S. Government and commercial space launches.

236. There is a dangerous probability that as a result of Defendants' predatory and unlawful conduct described herein, BOEING will obtain a monopoly in the relevant markets.

237. The actions of BOEING, ERSKINE, SATCHELL, BRANCH, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, constitute an unlawful attempt to monopolize the market for EELVs for medium, intermediate, and heavy-lift U.S. Government or defense space launches and for national and international commercial space launches.

238. BOEING continues to irreparably harm LOCKHEED MARTIN by such misappropriation of proprietary and trade secret information due to BOEING's unlawful solicitation, possession, use, and continued solicitation, possession, and use of LOCKHEED MARTIN's proprietary and trade secret information to win the Air Force competition, and continues to provide space launch services to the Air Force on an on-going and continuous basis.

239. Unless enjoined from doing so, BOEING will continue to knowingly, dishonestly, and intentionally hold, use, market, attempt to market, or otherwise attempt to knowingly, dishonestly, and intentionally continue to capitalize on proprietary and trade secret information to which it has no rightful claim or license and will continue to use such information in its efforts to monopolize the markets described herein.

240. As a direct and proximate result of Defendants' wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against each of the Defendants, jointly and severally, and in its favor for:

A. Compensatory damages for the damages that it actually sustained;

B. The return of all proprietary and trade secret information in each Defendant's possession, care, or control;

C. Damages contemplated by and available through 15 U.S.C. §2;

D. Threefold the actual damages sustained;

E. Injunctive relief; and

F. Such other relief as the Court deems just.

COUNT VI
(Conspiracy To Monopolize)

241. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 and paragraphs 221 through 236, as if set forth fully herein.

242. This is an action against BOEING, ERSKINE, SATCHELL and BRANCH for their independent and collective participation in BOEING's conspiracy to attempt to monopolize the medium, intermediate, and heavy- lift U.S. Government space launch market, and the national and international commercial space launch market in violation of 15 U.S.C. §2.

243. BOEING, ERSKINE, SATCHELL and BRANCH, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, have knowingly and intentionally conspired together to plan and perpetrate an anti-competitive scheme to carry out the BOEING Trade Secret Theft Enterprise and criminal activity described above, to monopolize the relevant markets.

244. Specifically, the conspirators, acting in concert, have knowingly and intentionally plotted and conspired to fraudulently (a) obtain and misuse LOCKHEED MARTIN's proprietary and trade secret information to gain an unfair business advantage over LOCKHEED MARTIN and other competitors; (b) misuse such information to monopolize the medium, intermediate and heavy- lift U.S. Government launch markets and the national and international commercial space launch markets by driving out competitors; (c) conceal their possession and use of LOCKHEED MARTIN's proprietary and trade secret information, and (d) conduct other illegal activities in furtherance of their furtive scheme to defraud the U.S. Government, LOCKHEED MARTIN, and other competitors, all to monopolize the relevant markets described herein.

245. Defendants' activities were undertaken with specific intent to monopolize and were accompanied by numerous overt acts in support of the conspiracy, including but not limited to those alleged herein.

246. As a result of Defendants anti-competitive conspiracy to monopolize as described herein,

(i) LOCKHEED MARTIN was forced to forfeit the only two (2) West Coast launches awarded to it because LOCKHEED MARTIN received an insufficient

number of launches to support investing the hundreds of millions of dollars necessary to construct a West Coast launch facility (the Air Force transferred these two (2) launches to BOEING);

(ii) The Air Force announced an intent to award up to four (4) new West Coast launches to BOEING without any competition because LOCKHEED MARTIN now has no West Coast facility to support West Coast launches, which is a direct result of BOEING receiving a vast majority of the initial launch orders and the launch restructure requested in December 1999 described in paragraph 35 above;

(iii) The U.S. Government and other purchasers of EELV satellite launch services have paid higher prices for some such services than they would have paid had they had the benefit of competition for such services between LOCKHEED MARTIN and BOEING. There is a continuing threat that the U.S. Government and other purchasers of EELV satellite launch services will continue to pay higher prices if BOEING is successful in its scheme to monopolize the relevant markets described herein.

(iv) LOCKHEED MARTIN has an insufficient base of business to compete effectively on a financially viable basis in the medium, intermediate, and heavy-lift launch vehicle market. There are no other firms aside from BOEING that are capable of satisfying the U.S. Government's medium, intermediate, and heavy-lift launch vehicle demands; and

(v) Should BOEING's effort to eliminate LOCKHEED MARTIN from this market succeed, BOEING would be the only U.S. source of the medium,

intermediate, and heavy-lift launch services for U.S. Government and commercial space launches.

247. BOEING continues to irreparably harm LOCKHEED MARTIN by such misappropriation of proprietary and trade secret information due to BOEING's unlawful solicitation, possession, and use, and continued solicitation, possession, and use of LOCKHEED MARTIN's proprietary and trade secret information to win the Air Force competition, and continues to provide space launch services to the Air Force on an on-going and continuous basis.

248. Unless enjoined from doing so, BOEING will continue to knowingly, dishonestly, and intentionally hold, use, market, attempt to market, or otherwise attempt to knowingly, dishonestly, and intentionally continue to capitalize on proprietary and trade secret information to which it has no rightful claim or license.

249. As a direct and proximate result of Defendants' wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against each of the Defendants, jointly and severally, and in its favor for:

A. Compensatory damages for the damages that it actually sustained;

B. The return of all proprietary and trade secret information in each Defendant's possession, care, or control;

C. Damages contemplated by and available through 15 U.S.C. §2;

D. Threefold the actual damages sustained;

E. Injunctive relief;

F. The costs of suit and reasonable attorneys fees; and

G. Such other relief as the Court deems just.

COUNT VII
(Violation Of Florida Antitrust Act Of 1980)

250. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 as if set forth fully herein.

251. This is an action against BOEING, ERSKINE, SATCHELL and BRANCH for their independent and joint participation in BOEING's attempt to monopolize the medium, intermediate, and heavy- lift U.S. Government space launch market, and the national and international commercial space launch market in violation of Florida's Antitrust Act of 1980, §542.18 et. seq., Florida Statutes.

252. EELVs for medium, intermediate and heavy lift launches are a highly complex and unique product. EELVs are the only means reasonably available to launch medium, intermediate and heavy lift satellites into space economically and efficiently. There are no economic and technological substitutes. Therefore, EELVs constitute a relevant product market.

253. For purposes of the military and other national security needs of the U.S. Government (including homeland security needs), domestic EELV manufacturers are the only suppliers of EELVs who can supply launch services for medium, intermediate, and heavy lift satellites. Therefore, for purposes of procurement of such services by the U.S. Government, the United States is the relevant geographic market. Furthermore, for the

launch of satellites by the U.S. Government orbiting the earth in a polar orbit, launches must take place from a launch facility located on the West Coast of the United States. Therefore, there is also a relevant market or relevant sub-market for launches of EELVs on the West Coast of the United States. For purposes of commercial satellite launches, consumers can use both domestic and foreign suppliers. Therefore, for commercial satellite launches, the relevant geographic market is worldwide.

254. In the U.S. Government EELV market, BOEING is, as a result of the actions alleged herein, the dominant supplier. BOEING currently has a market share of approximately 75%, having 21 of 28 Air Force EELV launches awarded to date. By virtue of the actions alleged herein, BOEING would further entrench its position as the dominant supplier. Furthermore, in the West Coast of the United States, as a result of the actions alleged herein, BOEING is the only supplier available with a launch facility; thus, BOEING currently has a monopoly for West Coast launches.

255. At all times material hereto, the barriers to entry in the medium, intermediate, and heavy-launch markets are extremely high. The research, development, and manufacture of EELVs for medium, intermediate, and heavy lift satellites is extremely expensive and time-consuming. The technology and expertise required to manufacture EELVs takes many years to develop. In addition to the $500 million in funding provided by the Air Force, LOCKHEED MARTIN invested in excess of $1.0 Billion to develop its EELV system. Entry into the relevant markets described herein is not likely to occur in a timely manner to offset the anti-competitive effects of BOEING'S predatory actions described herein.

256. In August 1996, BOEING employees ERSKINE and Alexiou met with LOCKHEED MARTIN employee BRANCH, who knowingly and intentionally provided to ERSKINE and Alexiou LOCKHEED MARTIN's highly sensitive, proprietary and trade secret information regarding its EELV program, among other things. Defendants' actions were taken with specific intent of monopolizing the market for EELVs for launches of medium, intermediate, and heavy lift satellites in relevant markets described herein.

257. On or about December 6, 1996, the Air Force "down-selected" to two offerors, LOCKHEED MARTIN and BOEING. At that time, the Air Force's acquisition plan was to ultimately choose one contractor to receive at least $1.0 Billion in U.S. Government funding to develop the contractor's EELV as well as receive and perform all of the Air Force's orders for medium, intermediate, and heavy-lift space launch missions for the foreseeable future.

258. BOEING knowingly and intentionally extended an offer of employment to then-LOCKHEED MARTIN employee BRANCH for the sole purpose of knowingly and intentionally acquiring LOCKHEED MARTIN's trade secret and competition sensitive cost and technical information regarding LOCKHEED MARTIN's EELV program and proposal, and in order to gain an unfair advantage over LOCKHEED MARTIN and others to win the Air Force competition.

259. BOEING, did in fact, knowingly and intentionally solicit and obtain LOCKHEED MARTIN EELV-related sensitive, proprietary and trade secret cost and technical information from BRANCH, and other former known and unknown

LOCKHEED MARTIN employees, and knowingly and intentionally used such information to develop BOEING's own EELV proposal, and knowingly and intentionally continues to use such information in furtherance of its fraudulent and anti-competitive scheme.

260. At the time that BOEING knowingly and intentionally solicited and received LOCKHEED MARTIN EELV-related sensitive, proprietary and trade secret cost and technical information from BRANCH and other former LOCKHEED MARTIN employees, BOEING specifically intended to become the Air Force's sole provider for all medium, intermediate and heavy-lift launch missions, and eliminate its competition through the use of illegally obtained competition sensitive, proprietary and trade secret information of its competitors.

261. In order to maintain competition in the U.S. Government space launch market, the Air Force changed its acquisition strategy in November 1997 from a "winner-take-all" to one of maintaining two launch providers that could provide "assured access to space."

262. Even after the Air Force changed its acquisition strategy to retaining two medium, intermediate and heavy-lift launch providers, ERSKINE, SATCHELL, BRANCH, Alexiou, and other BOEING personnel acting in concert and on behalf of BOEING knowingly and intentionally continued to solicit and obtain LOCKHEED MARTIN EELV-related sensitive, proprietary and trade secret information from BRANCH and other former LOCKHEED MARTIN employees and used that information to underbid LOCKHEED MARTIN's proposed bid prices and otherwise unfairly take

advantage from use of such information in its proposal for the purpose of monopolizing the medium, intermediate, and heavy-lift U.S. Government space launch market and eliminating LOCKHEED MARTIN from that market.

263. At all times material hereto, BOEING personnel were aware that BRANCH and the other former LOCKHEED MARTIN employees who passed LOCKHEED MARTIN sensitive, proprietary and trade secret information to BOEING were knowingly and intentionally in breach of their obligations and agreements to hold such information in confidence and not disclose it to third parties.

264. At all times material hereto, those acting on behalf of BOEING knew that the solicitation, use, and continued use of LOCKHEED MARTIN's sensitive, proprietary and trade secret information by ERSKINE, SATCHELL, BRANCH, Alexiou, and other BOEING personnel, known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, were in violation of the Procurement Integrity Act, 42 U.S.C. § 423, prohibition against knowingly obtaining, possessing, and using competitor contractor bid or proposal information.

265. At all times material hereto, the solicitation, use, and continued use of LOCKHEED MARTIN's highly sensitive, proprietary and trade secret information was implemented through an anti-competitive scheme planned and perpetrated by BOEING, ERSKINE, BRANCH, and others known and unknown to LOCKHEED MARTIN, acting in concert with one another to derive a benefit from such wrongful actions to the competitive detriment of LOCKHEED MARTIN. Competition in the relevant markets described herein has been lessened and consumers for launch services have been harmed

as a result of Defendants' anti-competitive actions. This lessening of competition has already resulted in higher prices for certain U.S. Government launches on the West Coast of the United States. This lessening of competition will likely lead to higher prices, lower quality and less innovation in these relevant markets in the future.

266. As a result of BOEING's predatory and anti-competitive actions described herein,

(i) LOCKHEED MARTIN was forced to forfeit the only two (2) West Coast launches awarded to it because LOCKHEED MARTIN received an insufficient number of launches to support investing the hundreds of millions of dollars necessary to construct a West Coast launch facility (the Air Force transferred these two (2) launches to BOEING);

(ii) The Air Force announced an intent to award up to four (4) new West Coast launches to BOEING without any competition because LOCKHEED MARTIN now has no West Coast facility to support West Coast launches, which is a direct result of BOEING receiving a vast majority of the initial launch orders and the launch restructure requested in December 1999 described in paragraph 35 above;

(iii) The U.S. Government and other purchasers of EELV satellite launch services have paid higher prices for some such services than they would have paid had they had the benefit of competition for such services between LOCKHEED MARTIN and BOEING. There is a continuing threat that the U.S. Government and other purchasers of EELV satellite launch services will continue to pay higher prices if BOEING is successful in its scheme to monopolize the relevant markets described herein.

(iv) LOCKHEED MARTIN has an insufficient base of business to compete effectively on a financially viable basis in the medium, intermediate, and heavy-lift launch vehicle market. There are no other firms aside from BOEING that are capable of satisfying the U.S. Government's medium, intermediate, and heavy-lift launch vehicle demands; and

(v) Should BOEING's effort to eliminate LOCKHEED MARTIN from this market succeed, BOEING would be the only U.S. source of the medium, intermediate, and heavy-lift launch services for U.S. Government and commercial space launches.

267. There is a dangerous probability that as a result of Defendants' predatory and unlawful conduct described herein, BOEING will obtain a monopoly in the relevant markets.

268. The actions of BOEING, ERSKINE, SATCHELL, BRANCH, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, actions constitute an unlawful attempt to monopolize the market for EELVs for medium, intermediate, and heavy-lift U.S. Government or defense space launches and for national and international commercial space launches.

269. BOEING continues to irreparably harm LOCKHEED MARTIN by such misappropriation of proprietary and trade secret information due to BOEING's unlawful solicitation, possession, and use, and continued solicitation, possession, and use of LOCKHEED MARTIN's proprietary and trade secret information to win the Air Force

competition, and continues to provide space launch services to the Air Force on an on-going and continuous basis.

270. Unless enjoined from doing so, BOEING will continue to knowingly, dishonestly, and intentionally hold, use, market, attempt to market, or otherwise attempt to knowingly, dishonestly, and intentionally continue to capitalize on proprietary and trade secret information to which it has no rightful claim or license.

271. As a direct and proximate result of Defendants' wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against each of the Defendants, jointly and severally, and in its favor for:

A. Compensatory damages for the damages that it actually sustained;

B. The return of all proprietary and trade secret information in each Defendant's possession, care, or control;

C. Damages contemplated by and available through § 542.22, Florida Statutes;

D. Threefold the actual damages sustained;

E. Injunctive relief;

F. The costs of suit and reasonable attorneys fees; and

G. Such other relief as the Court deems just.

COUNT VIII
(Conspiracy to Violate Florida Antitrust Act of 1980)

272. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 and paragraphs 252 through 267, as if set forth fully herein.

273. This is an action against BOEING, ERSKINE, SATCHELL and BRANCH for their independent and joint participation in BOEING's conspiracy attempt to monopolize the medium, intermediate and heavy- lift U.S. Government space launch market, and the national and international commercial space launch market in violation of Florida's Antitrust Act of 1980, §542.18 et. seq., Florida Statutes.

274. BOEING, ERSKINE, SATCHELL and BRANCH, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, have knowingly and intentionally conspired together to plan and perpetrate an anti-competitive scheme to carry out the BOEING Trade Secret Theft Enterprise and criminal activity described above, to monopolize the relevant markets.

275. Specifically, the conspirators, acting in concert, have knowingly and intentionally plotted and conspired to fraudulently (a) obtain and misuse LOCKHEED MARTIN's proprietary and trade secret information to gain an unfair business advantage over LOCKHEED MARTIN and other competitors; (b) misuse such information to monopolize the medium, intermediate and heavy- lift U.S. Government launch markets and the national and international commercial space launch markets by driving out competitors; (c) conceal their possession and use of LOCKHEED MARTIN's proprietary

and trade secret information, and (d) conduct other illegal activities in furtherance of their furtive scheme to defraud the U.S. Government, LOCKHEED MARTIN, and other competitors, all to monopolize the relevant markets described herein.

276. Defendants' activities were undertaken with specific intent to monopolize and were accompanied by numerous overt acts in support of the conspiracy, including but not limited to those alleged herein.

277. As a result of Defendants anti-competitive conspiracy to monopolize as described herein,

(i) LOCKHEED MARTIN was forced to forfeit the only two (2) West Coast launches awarded to it because LOCKHEED MARTIN received an insufficient number of launches to support investing the hundreds of millions of dollars necessary to construct a West Coast launch facility (the Air Force transferred these two (2) launches to BOEING);

(ii) The Air Force announced an intent to award up to four (4) new West Coast launches to BOEING without any competition because LOCKHEED MARTIN now has no West Coast facility to support West Coast launches, which is a direct result of BOEING receiving a vast majority of the initial launch orders and the launch restructure requested in December 1999 described in paragraph 35 above;

(iii) The U.S. Government and other purchasers of EELV satellite launch services have paid higher prices for some such services than they would have paid had they had the benefit of competition for such services between LOCKHEED MARTIN and BOEING. There is a continuing threat that the U.S. Government and other

purchasers of EELV satellite launch services will continue to pay higher prices of BOEING is successful in its scheme to monopolize the relevant markets described herein.

(iv) LOCKHEED MARTIN has an insufficient base of business to compete effectively on a financially viable basis in the medium, intermediate, and heavy-lift launch vehicle market. There are no other firms aside from BOEING that are capable of satisfying the U.S. Government's medium, intermediate, and heavy-lift launch vehicle demands; and

(v) Should BOEING's effort to eliminate LOCKHEED MARTIN from this market succeed, BOEING would be the only U.S. source of the medium, intermediate, and heavy-lift launch services for U.S. Government and commercial space launches.

278. BOEING continues to irreparably harm LOCKHEED MARTIN by such misappropriation of proprietary and trade secret information due to BOEING's unlawful solicitation, possession, use, and continued solicitation, possession, and use of LOCKHEED MARTIN's proprietary and trade secret information to win the Air Force competition, and continues to provide space launch services to the Air Force on an on-going and continuous basis.

279. Unless enjoined from doing so, BOEING will continue to knowingly, dishonestly, and intentionally hold, use, market, attempt to market, or otherwise attempt to knowingly, dishonestly, and intentionally continue to capitalize on proprietary and trade secret information to which it has no rightful claim or license.

280. As a direct and proximate result of Defendants' wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against each of the Defendants, jointly and severally, and in its favor for:

A. Compensatory damages for the damages that it actually sustained;

B. The return of all proprietary and trade secret information in each Defendant's possession, care, or control;

C. All damages contemplated by and available through § 542.22, Florida Statutes;

D. Threefold the actual damages sustained;

E. Injunctive relief;

F. The costs of suit and reasonable attorneys fees; and

G. Such other relief as the Court deems just.

COUNT IX
(Procurement Integrity Act, 41 U.S.C. § 423)

281. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 as if set forth fully herein.

282. This is an action against BOEING, ERSKINE, SATCHELL and BRANCH for their independent and joint violation of the Procurement Integrity Act, 41 U.S.C. § 423.

283. In August 1996, ERSKINE and Alexiou met with BRANCH in Huntington Beach, California, and knowingly and intentionally obtained from BRANCH,

copies of highly sensitive LOCKHEED MARTIN contractor bid and proposal information, as defined in 41 U.S.C. §423(f), and other documents that pertained to the EELV competition. This information was obtained and used before the award of the contracts to which the information relates.

284. Between January 1997 and July 1998 BOEING, ERSKINE, SATCHELL, Alexiou, and other BOEING employees known and unknown to LOCKHEED MARTIN, continued to knowingly, intentionally, and dishonestly obtain from BRANCH copies of LOCKHEED MARTIN proprietary and trade secret contractor bid and proposal information that pertained to the EELV competition, and was knowingly and intentionally obtained and used the information before the award of the contracts to which the information relates. Such proprietary and trade secret information continues to remain in the possession of BOEING, and BOEING continues to use and benefit from LOCKHEED MARTIN's highly sensitive, proprietary and trade secret information in it ongoing operations.

285. The information described above was sought and provided in exchange for value and to give BOEING a competitive advantage in the award of the EELV competitive procurement by the Air Force, a federal agency. Such wrongdoing was actively and fraudulently concealed from LOCKHEED MARTIN until 2002.

286. These intentional, knowing, and willful actions by BOEING, ERSKINE, BRANCH, Alexiou, SATCHELL, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, constitute violations and

continuing violations of the Procurement Integrity Act, 41 U.S.C. § 423, for which damages are recoverable from each of them, joint and severally.

287. BOEING continues to irreparably harm LOCKHEED MARTIN by such misappropriation of trade secrets due to BOEING's unlawful solicitation, possession, and use, and continued solicitation, possession, and use of LOCKHEED MARTIN's proprietary and trade secret information to win the Air Force competition, and continues to provide space launch services to the Air Force on an on-going and continuous basis.

288. Unless enjoined from doing so, BOEING will continue to knowingly, dishonestly, and intentionally hold, use, market, attempt to market, or otherwise attempt to knowingly, dishonestly, and intentionally continue to capitalize on proprietary and trade secret information to which it has no rightful claim or license.

289. As a direct and proximate result of Defendants' wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against each of the Defendants, jointly and severally, and in its favor for:

A. Compensatory damages for the damages that it actually sustained;

B. The return of all proprietary and trade secret information in each Defendant's possession, care, or control;

C. An accounting of all proprietary and trade secret information that is or has been in BOEING's possession, including, but not limited to, a report with a detailed tracing from where each document originated, and a chain of custody while such documents were in BOEING's possession, custody, or control;

D. All damages contemplated by and available through 41 U.S.C. § 423;

E. Punitive damages;

F. The costs of suit and reasonable attorneys fees; and

G. Such other relief as the Court deems just.

COUNT X
(Violation Of Florida's Uniform Trade Secrets Act)

290. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 as if set forth fully herein.

291. This is an action against BOEING, ERSKINE, SATCHELL and BRANCH for their participation in, and fraudulent concealment of, their respective and joint violations of Florida's Uniform Trade Secrets Act, § 688.001, et. seq., Florida Statutes.

292. At all times material hereto, all right title and interest in the trade secrets misappropriated by BOEING, ERSKINE, SATCHELL, BRANCH, and others known and unknown to LOCKHEED MARTIN, resided with and continues to reside with LOCKHEED MARTIN, and LOCKHEED MARTIN is the sole owner of such proprietary and trade secret information.

293. BOEING, ERSKINE, SATCHELL, BRANCH, and other known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, knowingly, dishonestly, and intentionally obtained LOCKHEED MARTIN's proprietary and trade secret information, and have wrongfully obtained, and used, and continued to use and benefit from, LOCKHEED MARTIN's proprietary and trade secret information for the benefit of themselves and unknown others, and such use and their continued use

constitutes misappropriation of LOCKHEED MARTIN's proprietary and trade secret information in violation of Florida's Uniform Trade Secrets Act, § 688.001, et. seq., Florida Statutes.

294. LOCKHEED MARTIN has taken reasonable steps to protect its trade secrets by instituting internal company policies and procedures regulating the access to, designation of, and dissemination of its proprietary and trade secret information, and by other means.

295. At all times material hereto, LOCKHEED MARTIN has had the continued right to exclusive ownership, enjoyment, and use of its proprietary and trade secret information, without interference from BOEING.

296. At all times material hereto, BOEING, ERSKINE, SATCHELL, BRANCH, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, knew that such information was trade secret information, belonged exclusively to LOCKHEED MARTIN, and was highly sensitive and proprietary.

297. BOEING continues to irreparably harm LOCKHEED MARTIN by such misappropriation of trade secrets due to BOEING's unlawful solicitation, possession, use, and continued solicitation, possession, and use of LOCKHEED MARTIN's proprietary and trade secret information to win the Air Force competition, and continues to provide space launch services to the Air Force on an on-going and continuous basis.

298. Unless enjoined from doing so, BOEING will continue to knowingly, dishonestly, and intentionally hold, use, market, attempt to market, or otherwise attempt

to knowingly, dishonestly, and intentionally continue to capitalize on proprietary and trade secret information to which it has no rightful claim or license.

299. As a direct and proximate result of Defendants' wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against each of the Defendants, jointly and severally, and in its favor for:

A. Compensatory damages for the damages that it actually sustained;

B. The return of all proprietary and trade secret information in each Defendant's possession;

C. An accounting of all proprietary and trade secret information that is or has been in BOEING's possession, including, but not limited to, a report with a detailed tracing from where each document originated, and a chain of custody while such documents were in BOEING's possession, custody, or control;

D. All damages contemplated by and available through the Uniform Trade Secrets Act, § 688.001, et. seq., Florida Statutes;

E. Punitive damages;

F. The costs of suit and reasonable attorneys fees; and

G. Such other relief as the Court deems just.

COUNT XI
(Violation Of Florida's Unfair And Deceptive Trade Practices Act)

300. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 as if set forth fully herein.

301. This is an action against BOEING, ERSKINE, SATCHELL, and BRANCH for their participation in, and fraudulent concealment of, their respective and joint violations of Florida's Unfair and Deceptive Trade Practices Act, § 501.201 et. seq., Florida Statutes.

302. In August 1996, BOEING, ERSKINE, SATCHELL, Alexiou, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, knowingly, dishonestly, and intentionally met with BRANCH, who was then working for LOCKHEED MARTIN on its EELV program.

303. During the meeting BOEING, ERSKINE, SATCHELL, Alexiou, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, knowingly, dishonestly, and intentionally solicited, obtained, and used LOCKHEED MARTIN EELV-related and sensitive, proprietary and trade secret information from BRANCH knowing that BRANCH had a contractual duty, a fiduciary duty and duty of loyalty, that prohibited him from disclosing this information and induced BRANCH through an offer of employment with BOEING in Florida to provide such information and breach these duties. All of the foregoing acts constitute violations of various state and federal laws, which such individuals knowingly and willingly violated.

304. Upon hiring BRANCH, BOEING, ERSKINE, SATCHELL and Alexiou continued to solicit, obtain, use, and benefit from the use of LOCKHEED MARTIN EELV-related and sensitive, proprietary and trade secret information from BRANCH and induced BRANCH to again breach his duties to hold this information in confidence, and

in breach of their respective duties not to obtain such proprietary and trade secret information under the Procurement Integrity Act, 41 U.S.C. §423.

305. At all times material hereto, BOEING, ERSKINE, SATCHELL, Alexiou and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, knowingly, dishonestly, and intentionally solicited, obtained and used this proprietary and trade secret information and induced BRANCH to breach his duties, and in breach of their respective duties under the Procurement Integrity Act, 41 U.S.C. §423, not to obtain LOCKHEED MARTIN EELV-related and sensitive, proprietary and trade secret information for the sole purpose of unfairly gaining a competitive advantage over LOCKHEED MARTIN in the EELV competition.

306. At all times material hereto, these acts and practices of BOEING, ERSKINE, SATCHELL, Alexiou and others known and unknown to LOCKHEED MARTIN, acting in concert, unlawfully, knowingly, dishonestly, and intentionally induced BRANCH to breach his duties to hold LOCKHEED MARTIN EELV-related and sensitive, proprietary and trade secret information in confidence and amounted to unfair competition, and constitute a violation of Florida's Unfair and Deceptive Trade Practices Act and breach of their respective duties under the Procurement Integrity Act, 41 U.S.C. §423.

307. The Defendants' wrongful actions described throughout this Complaint, and in paragraphs 156 through 160 in particular, constitute unconscionable, unfair and deceptive trade practices in violation of Florida's Unfair and Deceptive Trade Practices Act, §501.201 et. seq., Florida Statutes. Defendants knew, or reasonably should have

known, that their actions were unconscionable, unfair and deceptive methods of conducting business and that such actions were wrongful and violated state and federal laws.

308. BOEING continues to irreparably harm LOCKHEED MARTIN by such misappropriation of proprietary and trade secret information due to BOEING's unlawful solicitation, possession, and use, and continued solicitation, possession, and use of LOCKHEED MARTIN's proprietary and trade secret information to win the Air Force competition, and continues to provide space launch services to the Air Force on an on-going and continuous basis.

309. Unless enjoined from doing so, BOEING will continue to knowingly, dishonestly, and intentionally hold, use, market, attempt to market, or otherwise attempt to knowingly, dishonestly, and intentionally continue to capitalize on proprietary and trade secret information to which it has no rightful claim or license.

310. As a direct and proximate result of Defendants' wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against each of the Defendants, jointly and severally, and in its favor for:

A. Compensatory damages for damages actually sustained;

B. The return of all proprietary and trade secret information in each Defendant's possession, care, or control;

C. All damages contemplated by and available through the Unfair and Deceptive Trade Practices Act, in §501.201, et. seq., Florida Statutes;

D. Threefold the actual damages suffered;

E. Injunctive relief;

F. The costs of suit and reasonable attorneys fees; and

G. Such other relief as the Court deems just.

COUNT XII
(Conversion Under Florida Law)

311. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 as if set forth fully herein.

312. This is an action against BOEING, ERSKINE, SATCHELL, and BRANCH for their joint, collective and independent actions to convert LOCKHEED MARTIN's proprietary and trade secret information.

313. At all times material hereto, all right title and interest in the proprietary and trade secret information misappropriated by BOEING, ERSKINE, SATCHELL, BRANCH, and others known and unknown to LOCKHEED MARTIN, resided with and continues to reside with LOCKHEED MARTIN, and LOCKHEED MARTIN is the sole owner of such highly sensitive proprietary trade secret information.

314. Despite LOCKHEED MARTIN's ownership of the proprietary and trade secret information, at all times material hereto, BOEING, acting in concert with ERSKINE, SATCHELL, BRANCH, and other person known and unknown to LOCKHEED MARTIN, knowingly, dishonestly, and intentionally procured, and has and continues to knowingly, dishonestly, and intentionally retain, use and attempt to market

and otherwise capitalize on the value of LOCKHEED MARTIN's proprietary and trade secret information without LOCKHEED MARTIN's authorization and without giving value to LOCKHEED MARTIN for such use and continued use.

315. At all times material hereto, BOEING, ERSKINE, SATCHELL, BRANCH, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, knew that such information was trade secret, belonged exclusively to LOCKHEED MARTIN, and was proprietary.

316. BOEING's actions constitute a knowing, unlawful, and intentional conversion of LOCKHEED MARTIN's proprietary and trade secret information for BOEING's economic benefit, and to the economic detriment of LOCKHEED MARTIN.

317. BOEING continues to irreparably harm LOCKHEED MARTIN by such misappropriation of proprietary and trade secret information due to BOEING's unlawful solicitation, possession, use, and continued solicitation, possession, and use of LOCKHEED MARTIN's proprietary and trade secret information to win the Air Force competition, and continues to provide space launch services to the Air Force on an on-going and continuous basis.

318. Unless enjoined from doing so, BOEING will continue to knowingly, dishonestly, and intentionally hold, use, market, attempt to market, or otherwise attempt to knowingly, dishonestly, and intentionally continue to capitalize on proprietary and trade secret information to which it has no rightful claim or license.

319. As a direct and proximate result of Defendants' wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in

paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against each of the Defendants, jointly and severally, and in its favor for:

A. Compensatory damages for damages actually sustained;

B. The return of all proprietary and trade secret information in each Defendant's possession, care, or control;

C. Other damages contemplated by and available through Florida law;

D. Punitive damages; and

E. Such other relief as the Court deems just.

COUNT XIII
(Intentional or Tortious Interference with Lockheed Martin's Business)

320. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 as if set forth fully herein.

321. This is an action against BOEING, ERSKINE, SATCHELL and BRANCH for their joint, collective and independent actions to intentionally and/or tortiously interfere with LOCKHEED MARTIN's business.

322. In August 1996, ERSKINE and Alexiou met with BRANCH, who was then working for LOCKHEED MARTIN on its EELV program. During the meeting ERSKINE and Alexiou, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, knowingly, dishonestly, and intentionally solicited LOCKHEED MARTIN EELV-related and sensitive, proprietary and trade secret

information from BRANCH and other LOCKHEED MARTIN employees. In addition, each of the foregoing had its own independent statutory duty not obtain LOCKHEED MARTIN EELV-related and sensitive, proprietary and trade secret information from BRANCH pursuant to the Procurement Integrity Act, 41 U.S.C. §423.

323. At all times material hereto, BOEING, ERSKINE, SATCHELL, BRANCH, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, knew and intended that these acts would interfere with LOCKHEED MARTIN's opportunities in connection with the EELV competition initially beginning with the launch services and extending to all subsequent EELV competitions and commercial space launch competitions.

324. At all times material hereto, BOEING, ERSKINE, BRANCH, SATCHELL, Alexiou, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, knowingly, dishonestly, and intentionally continued to solicit, obtain and use LOCKHEED MARTIN EELV-related and sensitive, proprietary and trade secret information for the sole purpose of unfairly gaining a competitive advantage in favor of BOEING over LOCKHEED MARTIN in the EELV competition, and directly interfering with LOCKHEED MARTIN's advantageous business relationships and opportunities in relation to the EELV Program.

325. In addition, BOEING, acting in concert with ERSKINE, SATCHELL, BRANCH and others known and unknown to LOCKHEED MARTIN acting on behalf of BOEING, fraudulently concealed these actions from LOCKHEED MARTIN so that it

could utilize the improperly acquired proprietary and trade secret information for a longer period of time to the greater damage and loss of LOCKHEED MARTIN.

326. BOEING continues to irreparably harm LOCKHEED MARTIN by such misappropriation of proprietary and trade secret information due to BOEING's unlawful solicitation, possession, and use, and continued solicitation, possession, and use of LOCKHEED MARTIN's proprietary and trade secret information to win the Air Force competition, and continues to provide space launch services to the Air Force on an on-going and continuous basis.

327. Unless enjoined from doing so, BOEING will continue to knowingly, dishonestly, and intentionally hold, use, market, attempt to market, or otherwise attempt to knowingly, dishonestly, and intentionally continue to capitalize on proprietary and trade secret information to which it has no rightful claim or license.

328. As a direct and proximate result of Defendants' wrongful actions described herein, BOEING was awarded a contract to provide Air Force space launch services and will continue to improperly benefit from its wrongful actions on an ongoing and continuous basis. For that reason, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against each of the Defendants, jointly and severally, and in its favor for:

A. Compensatory damages for damages actually sustained;

B. The return of all proprietary and trade secret information in each Defendant's possession, care, or control;

C. An accounting of all proprietary and trade secret information that is or has been in BOEING's possession, including, but not limited to, a report with a detailed tracing from where each document originated, and a chain of custody while such documents were in BOEING's possession, custody, or control;

D. Other damages contemplated by and available through Florida law;

E. Punitive damages; and

F. Such other relief as the Court deems just.

COUNT XIV
(Fraud Under Florida Law)

329. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 as if set forth fully herein.

330. This is an action against BOEING, ERSKINE, SATCHELL and BRANCH for their participation and independent actions in furtherance of conspiracy to fraudulently obtain, and conceal the possession, and use, and continued misuse, of LOCKHEED MARTIN's proprietary and trade secret information referenced herein.

331. At all times material hereto, BOEING, by and through its officers, employees, agents, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, unlawfully, dishonestly, and intentionally made numerous misrepresentations and material omissions to LOCKHEED MARTIN.

332. As set forth in paragraphs 156 to 160 above, by May, 1999, BOEING was forced to withdraw from a multi-billion dollar EKV program because BOEING engineers came into possession of competitor Raytheon's proprietary software development plan and had, instead of promptly returning that document to Raytheon and reporting the

incident to the U.S. Government, BOEING undertook to analyze it for BOEING's competitive advantage.

333. Even after BOEING was forced to withdraw from the potentially lucrative EKV program, it still was under a cloud insofar as the U.S. Government was actively considering debarment of the implicated BOEING business unit. In addition, the U.S. Government was considering seeking recoupment of the approximately $400 million investment it has made in BOEING's past efforts under the EKV program that were, if effect, undermined by the fact that BOEING had to withdraw from this program.

334. In fact, the decision not to pursue debarment of this BOEING business unit or recoupment of the $400 million U.S. Government investment was not made until sometime in 2002.

335. In was in this context, that Mr. Griffin made his report concerning the misconduct of BRANCH, ERSKINE, and other BOEING personnel concerning misappropriation and use of LOCKHEED MARTIN proprietary and trade secret information.

336. As discussed in paragraphs 337 to 367 below, instead of making a full report of this situation to both the LOCKHEED MARTIN and the Air Force, BOEING undertook to conceal material facts about its misconduct from both the Air Force and from LOCKHEED MARTIN in order to avoid debarment from U.S. Government contracting, disgorgement of $400 million related to the EKV program, as well as disqualification from the EELV competition and return of over $1.0 billion that the Air Force has paid to BOEING's EELV program to that date.

337. Had the Air Force known these facts in June of 1999, BOEING may have been subject to strong corrective actions up to and including a debarment, *i.e.*, disqualification from U.S. Government contracting.

338. In order to avoid these serious consequences in June of 1999, however, BOEING took pains to conceal this situation in order to limit the potential legal and business consequences that naturally would be expected to flow in response to public revelation of the true facts.

339. BRANCH and ERSKINE have testified that Rabe, the attorney that BOEING sent to interview them in connection with this matter, told them not to "turn a pebble into a landslide", and left them with the impression that BOEING's intent was to "contain" this situation and not implicate BOEING's EELV proposal team.

340. Despite the apparent limited nature of Rabe's inquiry into the matter, he nonetheless did learn, and reported to BOEING management, including Black and several other members of BOEING in-house legal team, that: BRANCH and ERSKINE working with BOEING's EELV proposal team and assisted with BOEING's EELV proposal; that BRANCH had made a presentation to BOEING's EELV "capture team" on LOCKHEED MARTIN's EELV proposal; and that ERSKINE had reported the existence of a "special cipher locked room" that had been set up to store information on BOEING's EELV competition. In addition, Rabe informed BOEING management and in-house counsel that he had found, by his own estimate, approximately 3,000 pages of LOCKHEED MARTIN's documents including many documents that were marked with LOCKHEED MARTIN proprietary legends that Rabe himself characterized to BOEING

management as "truly proprietary". Rabe had told Black and other members on the BOEING legal team these facts before June 29, 1999. In addition, through his interview of SATCHELL on June 18, 1999, BOEING's "Black Hat Manager," Black learned that BRANCH had sent SATCHELL at least two (2) documents that were marked as LOCKHEED MARTIN documents and that, in fact, contained LOCKHEED MARTIN's proprietary and trade secret information.

341. On or about June 29, 1999, Black telephoned Smith to discuss this situation and faxed Smith portions of two LOCKHEED MARTIN documents. In an effort to conceal the true facts, and to avoid unleashing a strong reaction from LOCKHEED MARTIN, Black mislead Smith by telling him that the two documents he had faxed to Smith were the only LOCKHEED MARTIN proprietary documents that BOEING had found up to that point. He did not mention to Smith the fact that BOEING had by that point in time found at least 3,000 pages of LOCKHEED MARTIN documents.

342. During the June 29, 1999 telephone conversation, Black further assured Smith that BOEING had made no use of the documents in connection with the EELV program and that no one on BOEING's EELV team had been exposed to any LOCKHEED MARTIN proprietary information. Black did not mention to Smith that BRANCH and ERSKINE were part of BOEING's EELV proposal team, or that BRANCH made a briefing to BOEING's EELV proposal team concerning LOCKHEED MARTIN's EELV proposal, or that SATCHELL, BOEING "Black Hat Manager",

admitted to seeing at least two LOCKHEED MARTIN documents that were truly proprietary and contained LOCKHEED MARTIN trade secret information.

343. This failure of disclosure by Black and BOEING was intentional and intended to mislead LOCKHEED MARTIN so as to avoid a strong reaction that might jeopardize BOEING's EELV contract and other business opportunities with the U.S. Government.

344. Black made nearly identical, and equally misleading, statements to Kramer in June 1999, with the same intent to mislead Kramer. Black promised to call Kramer with additional facts concerning the situation once they became available.

345. In reliance on these misleading statements, LOCKHEED MARTIN waited to hear a more complete report from Black about the situation.

346. In June or July 1999, a representative of BOEING's management called the Air Force and made a similar misleading disclosure, despite the fact that BOEING was well aware of its obligation to provide a full and accurate disclosure to the Air Force under these circumstances. Reading from a "scripted disclosure" document, the BOEING management representative made a statement to the Air Force that was similar to that which Black and BOEING had made to LOCKHEED MARTIN.

347. After this telephone conversation, BOEING made no additional statements to the Air Force concerning this matter until after LOCKHEED MARTIN's March 14, 2002 report to the Air Force disclosing to the Air Force the existence of BOEING's violation of the Procurement Integrity Act.

348. LOCKHEED MARTIN did not hear again from Black or anyone else at BOEING until early November 1999, when Black called Kramer to tell him that BOEING had identified an additional set of documents, about one-inch thick, that were found in BRANCH's possession that it deemed "significant" and Black mailed these documents to Kramer. Although these documents were unquestionably significant insofar as they contained highly proprietary LOCKHEED MARTIN information concerning its EELV family of launch vehicles, this set of fifteen (15) documents was only a small portion of the total amount of LOCKHEED MARTIN highly proprietary documents that BOEING then knew had been in possession of BRANCH, ERSKINE and others on BOEING's EELV proposal team during the EELV competition. BOEING intentionally limited the number of documents it turned over to LOCKHEED MARTIN in November 1999 in order to lull LOCKHEED MARTIN into the belief that this situation was more limited and contained than BOEING knew was the case.

349. Black also gave false assurances to Kramer, repeating his earlier false statements, that no one on BOEING's EELV proposal team had access to the documents or had been exposed to information in the documents. Black falsely stated that BRANCH played no role in BOEING's EELV proposal and worked in ground support as a low-level first line engineer. The "bottom line" according to Black, was that this situation was completely contained in Florida and that it had no connection with BOEING's EELV proposal effort in Huntington Beach, California. At the time that Black made these assurances to Kramer, BOEING knew they were false and the statements were made intentionally in order to conceal damaging facts from LOCKHEED MARTIN

in order to avoid a strong negative reaction and attendant legal and business consequences.

350. After LOCKHEED MARTIN learned as a result of the Florida litigation that Black's earlier statements to LOCKHEED MARTIN were false, it attempted to obtain a complete disclosure of the facts and circumstances from BOEING.

351. On March 14, 2002, Smith wrote to BOEING asking "that BOEING provide a complete accounting of the LOCKHEED MARTIN documents that were, or still are, in BOEING's possession, or in the possession of its outside counsel."

352. On March 19, 2002, BOEING counsel responded by letter stating that it was BOEING's understanding in 1999 that BOEING had provided LOCKHEED MARTIN with all of the LOCKHEED MARTIN documents in BOEING's possession. This letter stated: "I believe it may have been an administrative mistake that they were not all sent. At any rate, all documents have now been transmitted to you and I would like to apologize for the series of errors that have occurred in handling this case."

353. Because it still was not clear to Smith that BOEING had provided to him all of the LOCKHEED MARTIN documents in BOEING's possession, during a March 22, 2002 teleconference Smith again asked BOEING counsel whether BOEING had provided all of the LOCKHEED MARTIN proprietary Atlas/EELV/launch vehicle documents in BOEING's possession, or only those proprietary documents that BRANCH and ERSKINE possessed. BOEING's in-house counsel assured Smith that BOEING already had provided all of the documents through its Florida counsel in the Erskine litigation matter and that there were no other documents responsive to LOCKHEED

MARTIN's request. This assurance was false, and was known to be false by BOEING at the time that it was made.

354. In addition, this statement was intended to conceal material facts from LOCKHEED MARTIN in order to avert legal action on the part of LOCKHEED MARTIN and the U.S. Government against BOEING, as well as adverse business consequences for BOEING's EELV program, including possible termination of BOEING's contract, a debarment action and an Air Force demand for recoupment of amounts previously paid to BOEING by the Air Force in connection with the EELV program.

355. By letter dated April 8, 2002, BOEING provided to LOCKHEED MARTIN a document entitled "Branch/Erskine Investigation Report" dated April 8, 2002 ("**April 8, 2002 Report**"). The April 8, 2002 Report stated "Branch possessed approximately two boxes of LOCKHEED MARTIN documents some of which were EELV-related documents marked with LOCKHEED MARTIN restrictive legends." The report also stated that "Erskine possessed two LOCKHEED MARTIN EELV documents with restrictive legends." It further provided: "Branch had earlier given Larry Satchell two LOCKHEED MARTIN documents. One was marked LOCKHEED MARTIN proprietary and the other was not, but both of these documents had been immediately destroyed and were not shown to anyone else, according to Satchell."

356. Thus, the April 8, 2002 Report, constituted an admission by BOEING that Black's earlier representations to LOCKHEED MARTIN that no one on BOEING's Huntington Beach EELV proposal team had access to the documents were false. The

April 8, 2002 Report also contained, however, material misrepresentations concerning the extent of the LOCKHEED MARTIN documents containing proprietary and trade secret information that BOEING knew to be in its possession. Thus, the April 8, 2002 Report perpetuated earlier misleading representations by BOEING concerning the quantity of documents in BOEING's possession.

357. The transmittal letter from BOEING counsel forwarding the April 8, 2002 Report concluded that BOEING "hope[d] this will suffice to close out this matter." However, the April 8, 2002 Report did not "close out" the matter because it intentionally omitted material facts in order to avert legal action by LOCKHEED MARTIN and the U.S. Government against BOEING. In addition, the Report intentionally omitted material fact in order to avert adverse business consequences for BOEING's EELV program, including possible termination of BOEING's contract, a debarment action and an Air Force demand for recoupment of amounts previously paid to BOEING by the Air Force in connection with the EELV program.

358. On April 25, 2002, Smith requested clarification as to the number of boxes of LOCKHEED MARTIN documents in BOEING's possession insofar as BOEING's April 8, 2002 report referenced two boxes and LOCKHEED MARTIN previously had been aware of only a single box of documents, which it had received in November 2001.

359. By letter dated April 26, 2002, BOEING in-house counsel responded to Smith's April 25 letter, stating that, notwithstanding the BOEING report's reference to two boxes, "Branch possessed LOCKHEED MARTIN documents that partially filled two boxes. I confirmed in my March 19, 2002 letter that we have provided you with copies

of all LOCKHEED MARTIN documents found in the possession of Messrs. Branch and Erskine." This statement was false and known by BOEING to be false at the time that it was made.

360. On May 13, 2002, Smith sent BOEING in-house counsel an email stating "On a couple of occasions, you have stated that BOEING has already provided to [LOCKHEED MARTIN] all [LOCKHEED MARTIN] documents found in Branch and/or Erskine's possession. I would appreciate your confirmation that these represent all LOCKHEED MARTIN expendable launch vehicle proprietary documents in BOEING's possession, whether they . . . were found in Branch or Erskine's possession or elsewhere."

361. On May 17, 2002, BOEING in-house counsel responded: "On your question about documents, I think we've answered that a number of times. We have provided you with all LOCKHEED MARTIN documents of which we are aware." This statement was false and known by BOEING to be false at the time that it was made.

362. BOEING's refusal to admit that it possessed over 37,000 pages of LOCKHEED MARTIN documents was intended to avert legal action on the part of LOCKHEED MARTIN and the U.S. Government against BOEING, as well as adverse business consequences for BOEING's EELV program, including possible termination of BOEING's contract, a debarment action and an Air Force demand for recoupment of amounts previously paid to BOEING by the Air Force in connection with the EELV program.

363. As a result of an on-going criminal investigation and a parallel administrative investigation into this matter by the Air Force, BOEING has been forced to concede additional facts about its misconduct and has produced to the Air Force and LOCKHEED MARTIN thousands of pages of additional documents. These admissions and actions have revealed BOEING's earlier misrepresentations as to the quantity of LOCKHEED MARTIN proprietary and trade secret information, as well as the extent to which BOEING's EELV proposal team was exposed to LOCKHEED MARTIN proprietary and trade secret information.

364. At the time of BOEING's material misrepresentations and omissions, LOCKHEED MARTIN was unaware of the true facts regarding BOEING's misappropriation of LOCKHEED MARTIN's proprietary and trade secret information and the facts regarding which BOEING suppressed and failed to disclose to LOCKHEED MARTIN or to the Air Force.

365. Under the Federal Procurement Integrity Act, 41 U.S.C. §423, Defendants had an ongoing and continuing obligation not to obtain a competitor's sensitive, proprietary and trade secret information. Defendants also had a duty to abstain from using LOCKHEED MARTIN's highly sensitive, proprietary and trade secret information and to disclose any misuse or unlawful use of such information to the Air Force and LOCKHEED MARTIN.

366. As articulated throughout this Complaint, Defendants utterly failed to abstain from the misconduct associated with the wrongful solicitation, possession, use, and continued use of LOCKHEED MARTIN's highly sensitive, proprietary and trade

secret information, and they fraudulently concealed such wrongful actions by failing to disclose material facts, understating the full extent of their misconduct, and by making false and misleading representations about their wrongful actions described herein.

367. If BOEING had not concealed the true circumstances, the Air Force could have taken corrective action to deny BOEING the eight (8) launches ordered thus far under the BOEING's EELV contract. Moreover, the corrective action would have averted the need to restructure LOCKHEED MARTIN's contract to eliminate its West Coast launch facility and capability, and the impact of LOCKHEED MARTIN's losing to BOEING in the EELV competition would have been far less than it was as a result of BOEING's concealment of these facts.

368. The aforementioned actions of Defendants were willful and malicious in that their conduct was intended to cause injury to LOCKHEED MARTIN and was perpetrated with conscious disregard for LOCKHEED MARTIN, thereby warranting an assessment of exemplary and punitive damages in an amount appropriate to punish BOEING.

369. As a direct and proximate result of Defendants' wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against each of the Defendants, jointly and severally, and in its favor for:

A. Compensatory damages for damages actually sustained;

B. The return of all proprietary and trade secret information in each Defendant's possession, care, or control;

C. An accounting of all proprietary and trade secret information that is or has been in BOEING's possession, including, but not limited to, a report with a detailed tracing from where each document originated, and a chain of custody while such documents were in BOEING's possession, custody, or control;

D. Other damages contemplated by and available through Florida law;

E. Punitive Damages; and

F. Such other relief as the Court deems just.

LOCKHEED MARTIN hereby reserves the right to amend this claim to include a request for relief under Florida's Civil Theft Statute, §772.11, Florida Statutes.

COUNT XV
(Intentional Misrepresentation Under Florida Law)

370. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 and 329 through 367, as if set forth fully herein.

371. This is an action against BOEING, ERSKINE, SATCHELL and BRANCH for their participation and independent actions in furtherance of intentional misrepresentations to fraudulently obtain, and conceal the possession, use, and continued misuse of, LOCKHEED MARTIN's proprietary and trade secret information referenced herein.

372. At all times material hereto, BOEING, by and through its officers, employees, agents, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, unlawfully, dishonestly, and intentionally made

numerous misrepresentations and material omissions to LOCKHEED MARTIN, including, but not limited to, the statements referenced in paragraphs 330 through 367 above.

373. At all times material hereto, BOEING, by and through its officers, employees, and agents, knew these representations and omissions to be false and misleading at the time that they were made, and unlawfully, dishonestly, and intentionally made such misrepresentations and material omissions with the specific intent of deceiving and defrauding LOCKHEED MARTIN, inducing LOCKHEED MARTIN from acting as alleged herein.

374. At all times material hereto, LOCKHEED MARTIN reasonably relied on these material misrepresentations and omissions to its detriment. Specifically, LOCKHEED MARTIN was induced into:

(i) Relying on BOEING's fraudulent statements to cease its investigation, and not pursue legal action, with respect to the proprietary and trade secret information that BOEING had in its possession, which affected LOCKHEED MARTIN's EELV bid;

(ii) Altering its plans, and reducing its participation, with respect to medium and heavy lift launch markets; and

(iii) Altering its plans with respect to participation in the national and international commercial launch markets.

375. At the time of these material misrepresentations and omissions, LOCKHEED MARTIN was unaware of the true facts regarding BOEING's

misappropriation of LOCKHEED MARTIN's proprietary and trade secret information and the facts regarding which BOEING suppressed and failed to disclose to LOCKHEED MARTIN.

376. Under the Federal Procurement Integrity Act, 41 U.S.C. §423, the Defendants had an ongoing and continuing obligation not to obtain a competitor's proprietary and trade secret information. Defendants also had a duty to abstain from using LOCKHEED MARTIN's highly sensitive, proprietary and trade secret information and to disclose any misuse or unlawful use of such information to the Air Force and LOCKHEED MARTIN.

377. As articulated throughout this Complaint, Defendants utterly failed to abstain from the misconduct associated with the wrongful solicitation, possession, misappropriation, and use, and continued unlawful, dishonest, and intentional use of, LOCKHEED MARTIN's highly sensitive, proprietary and trade secret information, and they fraudulently concealed such wrongful actions by intentionally failing to disclose certain relevant facts, understating the full extent of their misconduct, and making false and misleading representations about their wrongful actions described herein.

378. The aforementioned actions of the Defendants were willful and malicious in that their conduct was intended to cause injury to LOCKHEED MARTIN and was perpetrated with conscious disregard for LOCKHEED MARTIN, thereby warranting an assessment of exemplary and punitive damages in an amount appropriate to punish each Defendant.

379. As a direct and proximate result of Defendants' wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against each of the Defendants, jointly and severally, and in its favor for:

A. Compensatory damages for damages actually sustained;

B. The return of all proprietary and trade secret information in each Defendant's possession, care, or control;

C. An accounting of all proprietary and trade secret information that is or has been in BOEING's possession, including, but not limited to, a report with a detailed tracing from where each document originated, and a chain of custody while such documents were in BOEING's possession, custody, or control;

D. Other damages contemplated by and available through Florida law;

E. Punitive damages; and

F. Such other relief as the Court deems just.

COUNT XVI
(Negligent Misrepresentation Under Florida Law)

380. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 and 329 through 367, as if set forth fully herein.

381. This is an action against BOEING, ERSKINE, SATCHELL and BRANCH for their collective participation and independent actions in furtherance of negligent misrepresentations made to fraudulently obtain, and conceal the possession, use, and

continued misuse of LOCKHEED MARTIN's proprietary and trade secret information referenced herein.

382. At all times material hereto, BOEING, by and through its officers, employees, agents, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, negligently made numerous misrepresentations and material omissions to LOCKHEED MARTIN, including, but not limited to, the statements referenced in paragraphs 330 through 367 above.

383. At all times material hereto, BOEING, by and through its officers, employees, and agents, knew or should have known that these representations and omissions to be false and misleading at the time that they were made, and unlawfully, dishonestly, and intentionally made such misrepresentations and material omissions with the specific intent of deceiving and defrauding LOCKHEED MARTIN, inducing LOCKHEED MARTIN from acting as alleged herein.

384. At all times material hereto, LOCKHEED MARTIN reasonably relied on these material misrepresentations and omissions to its detriment. Specifically, LOCKHEED MARTIN was induced into:

(i) Relying on BOEING's fraudulent statements to cease its investigation, and not pursue legal action, with respect to the highly sensitive, proprietary and trade secret information that BOEING had in its possession, which affected LOCKHEED MARTIN's EELV bid;

(ii) Altering its plans, and reducing its participation, with respect to medium and heavy lift launch markets; and

(iii) Altering its plans with respect to participation in the national and international commercial launch.

385. At the time of these material misrepresentations and omissions, LOCKHEED MARTIN was unaware of the true facts regarding BOEING's misappropriation of LOCKHEED MARTIN's proprietary and trade secret information and the facts regarding which BOEING suppressed and failed to disclose to LOCKHEED MARTIN.

386. Under the Federal Procurement Integrity Act, 41 U.S.C. §423, the Defendants had an ongoing and continuing obligation not to obtain a competitor's highly sensitive, proprietary and trade secret information. Defendants also had a duty to abstain from using LOCKHEED MARTIN's highly sensitive, proprietary and trade secret information and fully disclose any misuse of such information and to disclose any misuse or unlawful use of such information to the Air Force and LOCKHEED MARTIN.

387. As articulated throughout this Complaint, the Defendants utterly failed to abstain from the misconduct associated with the wrongful solicitation, possession, misappropriation, use, and continued use of LOCKHEED MARTIN's highly sensitive, proprietary and trade secret information, and they fraudulently concealed such wrongful actions by negligently failing to disclose certain relevant facts, understating the full extent of their misconduct, and making false and misleading representations about their wrongful actions described herein.

388. The aforementioned actions of the Defendants were willful and malicious in that their conduct was intended to cause injury to LOCKHEED MARTIN and was

perpetrated with conscious disregard for LOCKHEED MARTIN, thereby warranting an assessment of exemplary and punitive damages in an amount appropriate to punish each Defendant.

389. As a direct and proximate result of Defendants' wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against each of the Defendants, joint and severally, and in its favor for:

A. Compensatory damages for damages actually sustained;

B. The return of all proprietary and trade secret information in each Defendant's possession, care, or control;

C. An accounting of all proprietary and trade secret information that is or has been in BOEING's possession, including, but not limited to, a report with a detailed tracing from where each document originated, and a chain of custody while such documents were in BOEING's possession, custody, or control;

D. Other damages contemplated by and available through Florida law;

E. Punitive damages; and

F. Such other relief as the Court deems just.

COUNT XVII
(Intentional or Tortious Interference with Contract)

390. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 as if set forth fully herein.

391. This is an action against BOEING, SATCHELL and ERSKINE, for to intentionally and/or tortiously interfering with LOCKHEED MARTIN's contractual relationship with BRANCH.

392. In August 1996, ERSKINE and Alexiou met with BRANCH, who was then working for LOCKHEED MARTIN on its EELV program.

393. During the meeting ERSKINE and Alexiou, and other known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, unlawfully, dishonestly, and intentionally solicited LOCKHEED MARTIN EELV-related and sensitive proprietary and trade secret information from BRANCH knowing that BRANCH had a statutory duty, contractual duty, fiduciary duty and a duty of loyalty, that prohibited him from disclosing this information and induced BRANCH through a potential offer of employment with BOEING in Florida to provide such proprietary and trade secret information and breach these duties.

394. In addition, each of the foregoing had its own independent statutory duty not to obtain LOCKHEED MARTIN EELV-related and sensitive, proprietary and trade secret information from BRANCH pursuant to the Procurement Integrity Act, 41 U.S.C. §423.

395. Upon hiring BRANCH, BOEING, ERSKINE, SATCHELL, Alexiou, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, unlawfully, dishonestly, and intentionally continued to solicit LOCKHEED MARTIN EELV-related and sensitive, proprietary and trade secret information from BRANCH, and unlawfully, dishonestly, and intentionally induced BRANCH to breach

his duties to hold this information in confidence on continuing and ongoing basis, through and August 2, 1999, when he was terminated.

396. At all times material hereto, BOEING, ERSKINE, SATCHELL, Alexiou, and others known and unknown to LOCKHEED MARTIN, acting in concert and on behalf of BOEING, unlawfully, dishonestly, and intentionally solicited this information and induced BRANCH to breach his duties to hold the LOCKHEED MARTIN EELV-related and sensitive, proprietary and trade secret information in confidence for the sole purpose of unfairly gaining a competitive advantage over LOCKHEED MARTIN in the EELV competition.

397. At all times material hereto, BOEING unlawfully, fraudulently, and intentionally concealed these actions from LOCKHEED MARTIN so that it could utilize the improperly acquired information for a longer period of time, to the greater damage and loss of LOCKHEED MARTIN.

398. These knowing and willful acts and practices of BOEING, ERSKINE, SATCHELL, Alexiou, and others known and unknown to LOCKHEED MARTIN, while acting in concert and on behalf of BOEING, unlawfully, fraudulently, and intentionally induced BRANCH into breaching his duties to hold LOCKHEED MARTIN EELV-related and sensitive, proprietary and trade secret information in confidence and amounted to unfair and deceptive competition, and a direct violation of each of their statutory duty not to solicit or use such information, and directly interfered with LOCKHEED MARTIN's contractual relationship with BRANCH.

399. As a direct and proximate result of Defendants' wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against each of the Defendants, jointly and severally, and in its favor for:

A. Compensatory damages for damages actually sustained;

B. The return of all proprietary and trade secret information in each Defendant's possession, care, or control;

C. An accounting of all proprietary and trade secret information that is or has been in BOEING's possession, including, but not limited to, a report with a detailed tracing from where each document originated, and a chain of custody while such documents were in BOEING's possession, custody, or control;

D. Other damages contemplated by and available through Florida law;

E. Punitive damages; and

F. Such other relief as the Court deems just.

COUNT XVIII
(Unjust Enrichment)

400. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 as if set forth fully herein.

401. This is an action against BOEING for unjust enrichment in connection with the benefits it received from its wrongful actions described herein.

402. As articulated throughout this Complaint, BOEING unlawfully, fraudulently, and intentionally solicited, obtained and used LOCKHEED MARTIN's

highly sensitive, proprietary and trade secret information in violation of federal and state law.

403. At all times material hereto, BOEING would be unlawfully, fraudulently, and unjustly enriched if it were allowed to enjoy the benefits derived from such proprietary and trade secret information without being required to compensate the party responsible for conferring those benefits.

404. The fair value of the benefits conferred on and obtained by BOEING is the value of the launch contracts that BOEING obtained by using them. Accordingly, BOEING has been unjustly enriched in an amount to be determined at trial, and LOCKHEED MARTIN is entitled to be paid that same amount.

405. As a direct and proximate result of BOEING's wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against BOEING and in its favor for:

A. Compensatory damages for damages actually sustained;

B. The return of all proprietary and trade secret information in BOEING's possession, care, or control;

C. Other damages contemplated by and available through Florida law;

D. Punitive damages; and

E. Such other relief as the Court deems just.

COUNT XIX
(Quantum Meruit)

406. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 as if set forth fully herein.

407. This is an action against BOEING for unjust enrichment in connection with the benefits it received from its wrongful actions described herein.

408. As articulated throughout this Complaint, BOEING unlawfully, fraudulently, and intentionally solicited, obtained and used LOCKHEED MARTIN's highly sensitive, proprietary and trade secret information in violation of federal and state law.

409. At all times material hereto, and as a result of BOEING's wrongful actions alleged herein, the proprietary and trade secret information developed by LOCKHEED MARTIN conferred substantial benefits on BOEING, which BOEING accepted, retained and capitalized on through its misappropriation.

410. At all times material hereto, BOEING would be unlawfully, fraudulently, and unjustly enriched if it were allowed to enjoy the benefits derived from such proprietary and trade secret information without being required to compensate the party responsible for conferring those benefits.

411. The fair value of the benefits conferred on and obtained by BOEING is the investment that LOCKHEED MARTIN made in developing them. Accordingly, BOEING has been unjustly enriched in an amount to be determined at trial, and LOCKHEED MARTIN is entitled to be paid that same amount.

412. As a direct and proximate result of BOEING's wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against BOEING and in its favor for:

A. Compensatory damages for damages actually sustained;

B. The return of all proprietary and trade secret information in BOEING's possession, care, or control;

C. Other damages contemplated by and available through Florida law; and

D. Such other relief as the Court deems just.

COUNT XX
(Breach of Contract - BRANCH)

413. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 as if set forth fully herein.

414. This is an action against BRANCH for his breach of his confidentiality agreements with LOCKHEED MARTIN.

415. BRANCH and LOCKHEED MARTIN entered into two confidentiality agreements pursuant to which BRANCH agreed not to divulge, misuse or otherwise disclose any of LOCKHEED MARTIN's proprietary or trade secret information, copies of which are attached hereto as Composite Exhibit "A."

416. BRANCH had an affirmative contractual duty and obligation that prohibited him from disclosing such information, or taking action against LOCKHEED MARTIN that would adversely affect its business or business prospects.

417. As articulated throughout this Complaint, BRANCH breached the terms of his confidentially agreements with LOCKHEED MARTIN by, among other things, unlawfully, fraudulently, and intentionally providing copies of highly sensitive, proprietary and trade secret information to BOEING, and otherwise unlawfully, fraudulently, and intentionally engaging in BOEING's fraudulent scheme to obtain access to LOCKHEED MARTIN's EELV proprietary and trade secret proposal information and gain an unfair competitive advantage over LOCKHEED MARTIN in the EELV bid competition and to gain entry and unfair advantage in the medium and heavy lift U.S. Government launch markets and the national and international commercial space launch markets.

418. As a direct and proximate result of BRANCH's wrongful actions and breach as described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against BRANCH and in its favor for:

A. Compensatory damages for the damages that it actually sustained;

B. The return of all proprietary and trade secret information;

C. Other damages contemplated by and available through Florida law; and

D. Such other relief as the Court deems just.

COUNT XXI
(Breach of Fiduciary Duty - BRANCH)

419. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 as if set forth fully herein.

420. This is an action against BRANCH for breach of his fiduciary duty to LOCKHEED MARTIN.

421. BRANCH and LOCKHEED MARTIN entered into two confidentiality agreements pursuant to which BRANCH agreed not to divulge, misuse or otherwise disclose any of LOCKHEED MARTIN's proprietary or trade secret information, copies of which are attached hereto as Composite Exhibit "A."

422. BRANCH had a statutory duty, contractual duty, fiduciary duty and a duty of loyalty that prohibited him from disclosing to disclose such information, or take action against LOCKHEED MARTIN that would adversely affect its business or its business prospects.

423. As articulated throughout this Complaint, BRANCH breached his fiduciary duty to LOCKHEED MARTIN by, among other things, unlawfully, fraudulently, and intentionally providing copies of highly proprietary and trade secret information to BOEING, and otherwise unlawfully, fraudulently, and intentionally engaging in BOEING's fraudulent scheme to obtain access to LOCKHEED MARTIN's EELV proposal information and gain an unfair competitive advantage over LOCKHEED MARTIN in the EELV ongoing competition for U.S. Government launch business and to

gain entry and unfair advantage in the medium and heavy lift launch markets for the national and international commercial space launches markets.

424. As a direct and proximate result of BRANCH's wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against BRANCH and in its favor for:

A. Compensatory damages for the damages actually sustained;

B. The return of all proprietary and trade secret information;

C. Other damages contemplated by and available through Florida law;

D. Punitive damages; and

E. Such other relief as the Court deems just.

COUNT XXII
(Breach of Statutory Duty - ERSKINE)

425. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 as if set forth fully herein.

426. This is an action against ERSKINE for breach of his statutory duty to LOCKHEED MARTIN.

427. Pursuant to the Procurement Integrity Act, 41 U.S.C. § 423, ERSKINE had a statutory duty not obtain LOCKHEED MARTIN's proprietary or trade secret information.

428. As articulated throughout this Complaint, ERSKINE breached his statutory duty to LOCKHEED MARTIN by, among other things, unlawfully, fraudulently, and intentionally soliciting proprietary and trade secret information from BRANCH, and unlawfully, fraudulently, and intentionally delivering or facilitating the delivery of such information to BOEING, and otherwise unlawfully, dishonestly, and intentionally engaging in BOEING's fraudulent scheme to obtain access to LOCKHEED MARTIN's EELV proposal information and gain an unfair competitive advantage over LOCKHEED MARTIN in the EELV competition and to gain entry and competitive advantage in the medium and heavy lift launch markets and the national and international commercial space launch markets.

429. As a direct and proximate result of ERSKINE's wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against ERSKINE and in its favor for:

A. Compensatory damages for the damages actually sustained;

B. The return of all proprietary and trade secret information;

C. Other damages contemplated by and available through Florida law;

D. Punitive damages;

E. The costs of suit and reasonable attorney's fees; and

F. Such other relief as the Court deems just.

COUNT XXIII
(Breach of Statutory Duty - SATCHELL)

430. LOCKHEED MARTIN realleges and incorporates herein by reference the allegations in numbered paragraphs 1 through 168 as if set forth fully herein.

431. This is an action against SATCHELL for breach of his statutory duty to LOCKHEED MARTIN.

432. Pursuant to the Procurement Integrity Act, 41 U.S.C. § 423, SATCHELL had a statutory duty not obtain LOCKHEED MARTIN's proprietary or trade secret information.

433. As articulated throughout this Complaint, SATCHELL breached his statutory duty to LOCKHEED MARTIN by, among other things, unlawfully, fraudulently, and intentionally soliciting and obtaining proprietary and trade secret information from BRANCH and other LOCKHEED MARTIN employees, and unlawfully, fraudulently, and intentionally delivering or facilitating the delivery of such information to BOEING, and otherwise unlawfully, dishonestly, and intentionally engaging in BOEING's fraudulent scheme to obtain access to LOCKHEED MARTIN's EELV proposal information and gain an unfair competitive advantage over LOCKHEED MARTIN in the EELV competition and to gain entry and competitive advantage in the medium and heavy lift launch markets and the national and international commercial space launch markets.

434. As a direct and proximate result of SATCHELL's wrongful actions described herein, LOCKHEED MARTIN has sustained actual damages as described in

paragraph 167 above, and will continue to accrue and sustain such damage in the future on an ongoing and continuing basis.

WHEREFORE, LOCKHEED MARTIN demands judgment against SATCHELL and in its favor for:

A. Compensatory damages for the damages actually sustained;

B. The return of all proprietary and trade secret information;

C. Other damages contemplated by and available through Florida law;

D. Punitive damages;

E. The costs of suit and reasonable attorney's fees; and

F. Such other relief as the Court deems just.

DEMAND FOR JURY TRIAL

LOCKHEED MARTIN hereby demands a trial by jury as to all claims triable of right to a jury.

Terry C. Young
Florida Bar No. 222364
MICHAEL V. ELSBERRY
Florida Bar No.: 0191861
Kevin K. Ross
Florida Bar No. 066214
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Lead Trial Counsel for Plaintiff

And

Thomas L. McGovern III
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Peter S. Spivack
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District of Columbia Bar No. 458541
Hogan & Hartson, LLP
Washington, D.C. 20004-1109
(202) 637-5600
Co-Counsel for Plaintiff

Dated: June 10, 2003

Composite Exhibit A

GENERAL DYNAMICS

PROPRIETARY INFORMATION AND INVENTION AGREEMENTS

AGREEMENT entered into by and between GENERAL DYNAMICS CORPORATION, a Delaware corporation, and the undersigned employee, hereinafter called Employee, WITNESSETH:

In consideration of the mutual undertakings hereinafter set forth, the parties hereto do hereby agree as follows:

I. PROPRIETARY INFORMATION AGREEMENT

(a) To preserve in confidence all information pertaining to General Dynamics business developments, products or activities that may be obtained by the Employee from reports, specifications, drawings, reproductions and other sources, and not to use other than in his work, nor publish or disclose either during the term of employment or subsequent thereto, without the written approval of General Dynamics, any information which has been received in confidence by the Employee while in the employment of General Dynamics and to protect in the same manner any information of other parties which General Dynamics has undertaken a contractual obligation to protect.

(b) Upon any termination of employment, promptly to deliver to General Dynamics all drawings, blueprints, manuals, letters, notes, notebooks, reports, models and other materials (including all copies) which are identified as proprietary to General Dynamics or any other party.

II. INVENTION AGREEMENT

1. The Employee agrees:

(a) That all inventions and improvements made, developed, perfected, devised, or conceived by the Employee either solely or in collaboration with others during the Employee's employment by General Dynamics, whether or not during regular working hours, relating to the business, developments, products, or activities of General Dynamics, or its subsidiaries, shall be and are the sole and absolute property of General Dynamics; and to disclose promptly in writing to General Dynamics' Patent Department or to such other person as General Dynamics may designate, such inventions and improvements;

(b) The obligations to report and assign inventions to General Dynamics do not apply to an invention for which no equipment, supplies, facility, or trade secret information of General Dynamics was used and which was developed entirely on the Employee's own time, and (a) which does not relate (1) to the business of General Dynamics or (2) to General Dynamics' actual or demonstrably anticipated research or development, or (b) which does not result from any work performed by the Employee for General Dynamics;

(c) At the request and expense of General Dynamics, to make, execute, and deliver any and all application papers, assignments or instruments, and to perform or cause to be performed such other lawful acts as General Dynamics may deem desirable or necessary in making or prosecuting applications, domestic or foreign, for patents and reissues and extensions thereof, and to assist and cooperate (without expense to him) with General Dynamics or its representatives in any controversy or legal proceedings relating to said inventions and improvements or the patents which may be procured thereon;

2. General Dynamics will investigate each disclosure and agrees:

(a) To pay all expenses in connection with the preparation and prosecution of patent applications in the United States of America and all foreign countries wherein General Dynamics may desire to obtain patents;

(b) To pay the Employee a cash award of Three Hundred Dollars ($300.00) upon execution by Employee of application for United States utility patent upon an invention or improvement, together with an assignment thereto to General Dynamics;

(c) To pay the Employee an additional cash award of One Hundred and Fifty Dollars ($150.00) if and when General Dynamics obtains a United States patent on such invention or improvement;

(d) To pay the Employee a total cash award of Fifty Dollars ($50.00) upon execution by Employee of application for United States design patent upon an appearance invention or improvement, together with an assignment thereto to General Dynamics;

(e) Where a patent application is filed in the United States or a patent is granted on an application filed in the United States in the names of joint inventors, each inventor shall be entitled to a full cash award of the appropriate type;

(f) To pay the Employee for each of the Employee's inventions additional compensation consisting of a percentage of any income derived by General Dynamics from any sale of rights in such invention or part thereof, or from any royalties which General Dynamics may collect from licenses to others, including those, if any, in an award by the Manufacturers Aircraft Association, Inc., for the use of such inventions, except the sale or license of any invention or part thereof, for use outside the United States of America, on a sliding scale, as follows:

Of the first $1,000 or part thereof 30%
Of the next $1,000 or part thereof 25%
Of any further sums in excess of $2,000 ..... 20%

If the patent application or patent is the result of a joint invention, the payments specified in this paragraph 2(f) will be divided equally among the joint inventors.

3. It is understood and agreed that the obligations of General Dynamics to make payments pursuant to paragraph 2 thereof shall continue notwithstanding termination of the Employee's employment with General Dynamics, and that in the event of the Employee's decease, such payments will be made to his executors, administrators, or representatives. The cash awards specified in paragraph 2 (b), 2 (c), and 2 (d) will be paid whether said application is filed by General Dynamics or by another party having a right to file such an application pursuant to a contract with General Dynamics.

4. It is further understood and agreed that General Dynamics may sell such invention or improvements, or license the manufacture thereof for such price or royalty as General Dynamics in its sole judgement and discretion shall determine, or if General Dynamics elects to do so, grant royalty-free licenses for the use of such invention, or waive future royalties for a definite or indefinite period of time on any license theretofore issued by General Dynamics on a royalty basis, and that in any of such events, the Employee shall have no claim or claims against General Dynamics, except to receive under the provisions of paragraph 2 (f) hereof, the percentages above set forth of such amounts as General Dynamics shall collect through the sale of such inventions or improvements or the issuance of licenses to use the same.

5. General Dynamics may, in its discretion, at any time release the disclosed invention or improvement to the Employee upon such terms and conditions as it may deem to be appropriate.

6. The Employee understands that General Dynamics has assumed and will continue to assume certain obligations with respect to inventions and patents under or by virtue of its contracts with the U.S. Government and other customers, and he agrees that any rights he may have under this agreement are subject and subordinate to any obligations General Dynamics has assumed or may assume in the future in its contracts with the U.S. Government and other customers.

7. Neither this agreement nor any benefits hereunder are assignable by the Employee, but the terms and provisions hereof shall inure to the benefit of General Dynamics successors and assigns.

III. AGREEMENT RELATING TO ATOMIC ENERGY WORK: GENERAL DYNAMICS CORPORATION is engaged in activities relating to the production or utilization of special nuclear material or atomic energy, including work under certain contracts as contractor to the United States Government within the purview of the Atomic Energy Acts of 1946 and 1954.

With respect to any invention, improvement or discovery made or conceived by the Employee in the course of the performance of any work in connection with activities of General Dynamics relating to the production or utilization of special nuclear material or atomic energy, the Employee expressly waives any right or claim to any pecuniary award or compensation under the provisions of the Atomic Energy Acts of 1946 and 1954 on account of any inventions, improvements, or discoveries assigned to the United States Government.

IV. PROPERTY RIGHTS IN INVENTIONS FROM CONTRACTS WITH THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION:

Section 305 (a) of the National Aeronautics and Space Act of 1958 sets forth the rights to inventions under NASA contracts as follows: "SEC. 305 (a). Whenever any invention is made in the performance of any work under any contract of the Administration, and the Administration determines that —

(1) The person who made the invention was employed or assigned to perform research, development, or exploration work and the invention is related to the work he was employed or assigned to perform, or that it was within the scope of his employment duties, whether or not it was made during working hours, or with a contribution by the Government of the use of Government facilities, equipment, materials, allocated funds, information proprietary to the Government, or services of Government employees during working hours, or

(2) The person who made the invention was not employed or assigned to perform research, development, or exploration work, but the invention is nevertheless related to the contract, or to the work or duties he was employed or assigned to perform, and was made during working hours, or with a contribution from the Government of the sort referred to in clause (1),

such invention shall be the exclusive property of the United States, and if such invention is patentable, a patent therefor shall be issued to the United States upon application made by the Administrator unless the Administrator waives all or any part of the rights of the United States to such invention in conformity with the provisions of subsection (f) of this section."

I have read and agree to, I. PROPRIETARY INFORMATION AGREEMENT, II. INVENTION AGREEMENT, III. AGREEMENT RELATING TO ATOMIC ENERGY WORK, and IV. PROPERTY RIGHTS IN INVENTIONS UNDER CONTRACTS WITH THE NATIONAL AERONAUTICS AND SPACE AMDINISTRATION.

EMPLOYEE

Kenneth V. Branch
NAME — PRINT OR TYPE

Kenneth V. Branch — 6/21/89
SIGNATURE — DATE (MO/DAY/YR)

GENERAL DYNAMICS CORPORATION REPRESENTATIVE

P. B. Whisenant
NAME

Human Resources Representative
TITLE

P.B. Whisenant — 6/21/89
SIGNATURE — DATE (MO/DAY/YR)

PREPARED IN DUPLICATE

6420 (P — PERSON — EMPLOYEE

CONSULTANT AND EMPLOYEE CERTIFICATION

(Pursuant to Section 6, Procurement Integrity, of the "Office of Federal Procurement Policy Act Amendments of 1988," Public Law 100-679)

The undersigned hereby certifies as follows:

1. That he/she is familiar with and will comply with the following requirements added to section 27(a) of the Office of Federal Procurement Policy Act (OFPP Act) by the above law as implemented in the FAR:

> "During the conduct of any Federal agency procurement of property or services, no competing contractor or any officer, employee, representative, agent, or consultant of any competing contractor shall knowingly--
>
> (1) make, directly or indirectly, any offer or promise of future employment or business opportunity to, or engage, directly or indirectly, in any discussion of future employment or business opportunity with, any procurement official of such agency;
>
> (2) offer, give, or promise to offer or give, directly or indirectly, any money, gratuity, or other thing of value to any procurement official of such agency; or
>
> (3) solicit or obtain, directly or indirectly, from any officer or employee of such agency, prior to the award of a contract any proprietary or source selection information regarding such procurement."

2. That he/she will report immediately to the General Dynamics employee responsible for the offer or bid for any government contract or the modification or extension of such contract, as the case may be, any information concerning a violation or possible violation of the above section of OFPP Act or of those sections attached hereto, as implemented in the FAR. If the identity of the General Dynamics employee responsible for the offer or bid is not known or if that person is believed to be involved in the violation or possible violation, then such report shall be made to the cognizant Ethics Program Director, General Dynamics attorney or Contracts Department management.

Kenneth V. Branch — (Signature)

7/11/89 — (Date)

KENNETH V. BRANCH — (Typed name)

400522

EMPLOYEE AND CONSULTANT CERTIFICATION

(Pursuant to Section 6, Procurement Integrity, of the "Office of Federal Procurement Policy Act Amendments of 1988," Public Law 100-679, as amended)

The undersigned hereby certifies as follows:

1. That he/she is familiar with and will comply with the following requirements added to section 27(a) of the Office of Federal Procurement Policy Act (OFPP Act) by the above law as implemented in the FAR:

   "During the conduct of any Federal agency procurement of property or services, no competing contractor or any officer, employee, representative, agent, or consultant of any competing contractor shall knowingly--

   (1) make, directly or indirectly, any offer or promise of future employment or business opportunity to, or engage, directly or indirectly, in any discussion of future employment or business opportunity with, any procurement official of such agency;

   (2) offer, give, promise to offer or give, directly or indirectly, any money, gratuity, or other thing of value to any procurement official of such agency; or,

   (3) solicit or obtain, directly or indirectly, from any officer or employee of such agency, prior to the award of a contract any proprietary or source selection information regarding such procurement."

2. That he/she will report immediately to the General Dynamics employee responsible for the offer or bid for any government contract or the modification or extension of such contract, as the case may be, any information concerning a violation or possible violation of the above section of OFPP Act or of those sections attached hereto, as implemented in the FAR. If the identity of the General Dynamics employee responsible for the offer or bid is not known or if that person is believed to be involved in the violation or possible violation, then such report shall be made to the cognizant Ethics Program Director, General Dynamics attorney or Contracts Department management.

Kenneth V. Branch
(Signature)

1/15/91
(Date)

KENNETH V. BRANCH
(Printed name)

GDSS/CCAFS
(Plant Number)

979-1
(Department Number)

400522
(Employee Number)

PLEASE TEAR OUT, FOLD IN HALF, STAPLE AND RETURN TO THE ADDRESS ON THE REVERSE SIDE!

To JIM KEARNS | From J.S CORONA

Dept/Agency LM SEC. | Phone 601-257-1290

Fax 407-853-7360 | Fax #

MARTIN MARIETTA

NSN 7540-01-317-7388 5099-101 GENERAL SERVICES ADMINISTRATION

NATION STATEMENT

Name (Last, First, Middle)	Date of Birth	Place of Birth
BRANCH, KENNETH V	4/7/39	BINGHAMTON, N.Y.

Instructions:

Part I of this form shall be executed by an employee after receiving the initial security information briefing. Part II shall be executed by an employee at the time of termination of employment (discharge, resignation, or retirement) and at the beginning of an inactive leave of absence for an indefinite period or for a period of 120 days or more.

I hereby certify that I have received a security information briefing and that I will report to this Security Office, without delay, any incident which I believe to constitute an attempt to solicit classified or proprietary information by any unauthorized person. I shall surrender all property belonging to Martin Marietta (including picture badge, ID card, vehicle passes, parcel passes, and all books, papers, and/or hardware) upon termination of employment. My signature below further indicates that I have received from Martin Marietta Corporation copies of an extract from the Espionage Act and hold myself responsible for conduct in accordance with the provisions thereof.

Name & Signature of Person Conducting Briefing	Date	Signature of Employee
V.L.A.S. Jett	2/20/95	K.V. Branch

I certify that I have returned all Martin Marietta property (including picture badge, ID card, access and alarm cards, credit cards, parcel passes, books, papers, or hardware) that I have had in my possession. (List exceptions below.) I will not at any time, directly or indirectly, disclose any proprietary information of the company which has come into the company's possession or into my possession in the course of my employment, to any person, firm, company competitor of company, or to any others, and I shall not use any such proprietary information for my own personal use or advantage or make it available to others for use. All information, whether written or not, regarding company business, including but not limited to that relating to existing and contemplated products, formulas, compositions, machines, apparatus, systems, processes, methods, manufacturing procedures, research and development programs, inventions, discoveries, business procedures, customers, pricing, and sources of supply shall be presumed to be proprietary. I acknowledge that I have read a copy of the Martin Marietta Corporation Employee Patent and Confidential Information Agreement MM-131, which I have previously executed, and hereby confirm my obligations and undertakings set forth therein.

Exceptions

C 2759

Name & Signature of Witness	Date	Signature of Employee
RONNIE D. MIDDLETON	1 NOV 96	K.V. Branch

DEN 651800 (03-88)

FEB -04-97(TUE) 12:39 HUMAN RESOURCES 03 TEL:8553810 P.002

MARTIN MARIETTA

EMPLOYEE PROPRIETARY INFORMATION AND INVENTION AGREEMENT

Employee: Kenneth U Branch
Print Full Name

Unit: Manned Space Systems
Location: KSC

THIS AGREEMENT made between me, the above named person, and Martin Marietta Corporation, a Maryland corporation, hereinafter referred to as "Martin Marietta" or "the Corporation", WITNESSETH:

Martin Marietta has developed and uses technical and non-technical information vital to the success of the Corporation's business. Generally, Martin Marietta employees become acquainted with this information and, depending on job assignments and responsibilities, may contribute to it either through inventions, discoveries, improvements, or through studies, analyses, proposals, business plans or otherwise. Therefore, it is necessary for Martin Marietta to protect certain of this technical and non-technical information generated by its employees by holding it as proprietary and confidential, or by obtaining statutory protection (patents, trademarks, copyrights) or common law protection (trade secrets) or both.

In consideration of and as part of the terms of my employment or regular employment by Martin Marietta and the salary or wages paid me during such employment, it is hereby agreed:

1. PROPRIETARY INFORMATION

a. I shall not, except as authorized by the Corporation, at any time during or after my employment directly or indirectly disclose to any other person or entity any proprietary technical information of the Corporation or of others (collectively referred to hereinafter as "Proprietary Technical Information"), which has come into the Corporation's or my possession in the course of my employment with the Corporation; nor shall I use any such Proprietary Technical Information for my personal use or advantage or make it available to others. Technical information includes existing and contemplated technical information such as, for example, compositions, formulas, products, processes, methods, systems, designs, specifications, testing or evaluation procedures, machines, manufacturing procedures, production techniques, research and development activities, inventions, discoveries and improvements.

b. I shall not, except as authorized by the Corporation, at any time during or for seven (7) years after my employment directly or indirectly disclose to any other person or entity any proprietary non-technical information of the Corporation or of others (collectively referred to hereinafter as "Proprietary Non-Technical Information"), which has come into the Corporation's or my possession in the course of my employment with the Corporation; nor shall I use any such Proprietary Non-Technical Information for my personal use or advantage or make it available to others. Non-technical information includes existing and contemplated business, marketing and financial information such as, for example, business plans and methods, marketing information, cost estimates, forecasts, financial data, bid and proposal information, customer identification, and sources of supply.

c. All information, both technical and non-technical, regarding the Corporation's businesses in whatever form, including but not limited to text, drawings, or computer software programs, is presumed to be proprietary and confidential until it becomes public information lawfully and without breach of confidential obligation.

2. INVENTIONS, DISCOVERIES AND IMPROVEMENTS

I agree to disclose promptly and fully to the Corporation all inventions, discoveries, and improvements, whether patentable or not, including but not limited to products, processes, methods, systems, designs, techniques, facilities, equipment, and devices that have been or may be conceived or made by me solely or jointly with others during the period of my employment with the Corporation: (a) which are along the lines of or relate to the business, work, or investigations of the Corporation or of any company with which it is affiliated at the time of such inventions, discoveries or improvements; (b) which result from or arise out of any work that I may do for or on behalf of the Corporation; or (c) which result from or arise out of any proprietary or confidential information of the Corporation or of others that may have been disclosed or otherwise made available to me as a result of duties assigned me by the Corporation. All of such inventions, discoveries, and improvements shall be the sole and exclusive property of Martin Marietta and I hereby assign to the Corporation all or my right, title and interest therein.

3. EXECUTION OF DOCUMENTS

I also agree to execute assignments to the Corporation or its assigns, nominees, or successors of all my right, title, or interest in and to: (a) any and all discoveries, inventions, and improvements described in paragraph 2 above; (b) any and all patent applications therefor; (c) all priority rights acquired under the International Convention for Protection of Industrial Property by filing of such applications; and (d) all patents that may be granted therefor throughout the world. I further agree during and after my employment to sign all lawful papers and otherwise assist without charge and in every lawful way the Corporation and its assigns, nominees, or successors at its or their request to obtain and sustain such patents for its benefit in any and all countries.

4. NOTICE OF RIGHTS UNDER STATE STATUTES

No provision in this agreement is intended to require assignment of any of my rights in an invention for which no equipment, supplies, facilities, or trade secret information of the Corporation was used, and which was developed entirely on my own time; and (1) which does not relate to the business of the Corporation or to the actual or demonstrably anticipated research or development of the Corporation; or (2) which does not result from any work performed by me for the Corporation.

5. RECORDS AND DOCUMENTS

All records, documents, and other writings including text, drawings or computer software programs relating to or containing Proprietary Information as defined above, and which are prepared or created by me or which may come into my possession during my employment, are deemed to be the property of the Corporation. Upon termination of my employment, I agree to leave all such records, documents, and writings and all copies thereof with the Corporation.

6. LEGALLY BINDING AGREEMENT

This Agreement shall be binding upon me, my heirs, administrators, assigns, executors, or other legal representatives and shall be binding upon and inure to the benefit of Martin Marietta, its assigns, nominees or successors; however, neither this Agreement nor any provision thereof shall be construed to be an employment agreement. I agree that either during or after my employment the Corporation may advise others of the existence of this Agreement and the provisions of all or any part thereof.

7. PRIOR INVENTIONS

Listed and briefly described on the reverse side are all inventions not previously assigned to my former employers and which I conceived and made prior to my employment with Martin Marietta. Such listed inventions are not included under this Agreement. I agree to notify the Corporation promptly in writing if their actual or projected use comes to my attention.

MARTIN MARIETTA CORPORATION

By: Wendi Daniels

Title: Clerk Stat

EMPLOYEE

Signature of Employee: Kenneth U Branch

Date: 11/4/96

Note: The term "Confidential" as used herein does not refer to official security classification of the United States Government.

MMC FM131A December 1, 1987

7009/41-slt

MARTIN MARIETTA
MANNED SPACE SYSTEMS

MAF/MMA 30-80-003 (12/92)

EMPLOYEE CLEARANCE AND RELEASE

1 ORIGINATING DEPARTMENT

NAME LAST	FIRST	MI	JOB CLASSIFICATION
BRANCH,	KENNETH	V.	Engr., Staff

SOCIAL SECURITY NO	DEPT NO	BADGE NO	SERVICE DATE
056-32-2143	3930	50108	6/21/89

EFFECTIVE DATE	ECN CODE	PAY PERIOD ENDING
1/29/97	89A	2/7/97

☒ TERMINATION ☐ LOA (TYPE LOA _____)
☐ TRANSFER ☐ TDY (TDY LOCATION _____)

THIS EMPLOYEE IS ON MEDICAL RESTRICTION ☐ YES ☒ NO

THE FOLLOWING (WHERE APPLICABLE) HAVE BEEN RETURNED TO ME AND DISPOSED OF IN ACCORDANCE WITH COMPANY REGULATIONS AND PROCEDURES: ☐ COMPANY STAMPS
☐ DESK/CABINET KEYS ☐ TRACING VAULT ORIGINAL DRAWINGS ☐ TIMEKEEPING CARD
☐ DEPT PROPERTY CUSTODIAN ITEMS

N/A
SUPERVISORS SIGNATURE — DATE

2 EMPLOYEE

MAILING ADDRESS: 2305 Rainbow Harbor Dr, Merritt Island, FL 32953
HOME PHONE: 407/452-5568

THE ABOVE MAILING ADDRESS AND PHONE NUMBER ARE CORRECT

EMPLOYEE SIGNATURE

NOTE: IF YOU ARE A MEMBER OF THE MICHOUD CREDIT UNION, IT IS REQUESTED THAT YOU PROCESS THROUGH A CREDIT UNION OFFICE IN CONJUNCTION WITH YOUR TERMINATION/TRANSFER. FOR MORE INFORMATION CALL 7-4205.

3 PRODUCTION TOOL CRIB

QUESTIONS: 7-2837 LOCATION 103 K-17

QUANTITY	ITEM	DATE LOANED
	Lea Cahill	

TOOL CRIB REPRESENTATIVE — DATE

4 FACILITIES EQUIPMENT POOL

QUESTIONS: 7-4160 LOCATION See Instructions on Back

QUANTITY	ITEM	DATE LOANED
	Lea Cahill	

FACILITIES REPRESENTATIVE — DATE

5 MEDICAL

QUESTIONS: 7-2701 LOCATION BLDG 320

PHYSICAL / EVALUATION IS REQUIRED ONLY IF EMPLOYEE IS ON MEDICAL RESTRICTION.

PHYSICAL / EVALUATION: ☐ NOT APPLICABLE ☐ COMPLETED ☐ REFUSED

EMPLOYEE SIGNATURE — DATE

MEDICAL REPRESENTATIVE (IF PHYSICAL REQUIRED) — DATE

6 ENGINEERING LIBRARY

QUESTIONS: 72712 LOCATION 350-2 T-8

QUANTITY	ITEM	DATE LOANED
	Lea Cahill	

LIBRARY REPRESENTATIVE — DATE

7 HUMAN RESOURCES - STAFFING / RELOCATION

QUESTIONS: 7-2162 LOCATION 350-1 D-6

ITEM

STAFFING / RELOCATION REPRESENTATIVE — DATE

8 HUMAN RESOURCES - ORG. DEVELOPMENT

QUESTIONS: 7-2164 LOCATION 350-1 B-7

EXIT INTERVIEW: ☐ HOURLY - NOT REQUIRED ☐ NES - EXIT INTERVIEW FORM COMPLETE
☐ EXEMPT - EXIT INTERVIEW FORM COMPLETE
EDUCATIONAL SUBSIDY: ☐ YES ☐ NO

ORGANIZATIONAL DEVELOPMENT REPRESENTATIVE — DATE

9 HUMAN RESOURCES - INSURANCE / BENEFITS

INSURANCE QUESTIONS: 7-5544 BENEFIT QUESTIONS: 7-2176 LOCATION 350-1 F-7

INSURANCE / BENEFITS REPRESENTATIVE — DATE

10 SECURITY

QUESTIONS: 7-1266 LOCATION 320 PLANT PROTECTION

KEYS RETURNED	☐ YES	☐ NO	☒ N/A
NASA VEHICLE DECAL(S) RETURNED	☐ YES	☐ NO	☒ N/A
NASA BADGE(S) RETURNED	☒ YES	☐ NO	☐ N/A
COMPANY ID CARD RETURNED	☐ YES	☐ NO	☒ N/A
MARTIN MARIETTA OFFSITE BADGE RETURNED	☐ YES	☐ NO	☒ N/A
TERMINATION STATEMENT SIGNED	☒ YES	☐ NO	☐ N/A

MIS ADP PASSWORD COORDINATOR NOTIFIED 1/29/97

ITEM

Lea Cahill — 1/29/97
SECURITY REPRESENTATIVE — DATE

11 FINANCE

QUESTIONS: 7-2017 LOCATION 350-2 H-43

ACCOUNTS RECEIVABLE ITEMS

☐ AMERICAN EXPRESS CARD(S) RETURNED N/A

Frank Teeples 1/29/97
TRAVEL AUDIT 350-2 J-44 — LABOR ACCTNG 350-2 J-43 — PAYROLL CONTROL

CHARGES	
TOOL CRIB	$ 0
EQPT POOL	$ 0
ENG. LIBRARY	$ 0
RELOC.	$ 0
EDUC.	$ 0
SECURITY	$ 0
FINANCE	$ 0
OTHER	$ 0
TOTAL CHARGES	$ 0

I AGREE THE ABOVE CHARGES ARE CORRECT AND MAY BE DEDUCTED FROM MY FINAL PAY

Kenneth V. Branch — 1/29/97
EMPLOYEE SIGNATURE — DATE

Employee Clearance and Release (ECR) Form

The ECR form is originated by the terminating employee's department the day before or on the day of the employee's termination. It must be processed for the following employees: those who are terminating, transferring, on leaves of absence in excess of 30 days, Martin Marietta employees completing temporary assignments to Manned Space Systems and employees of temporary help suppliers (job shoppers).

This form may be completed in any order but Blocks 1-9 must be completed when the ECR is submitted to Security (Block 10).

Block 1 All information in this block must be filled out by the terminating employee's supervisor. If not completed, the employee will be sent back to his/her supervisor for completion of this section. The department must also initiate an Employee Change Notice (ECN) at the same time to ensure the employee receives his/her final check in a timely manner.

Block 2 The employee must complete this section using his/her permanent or new mailing address. Savings plan distributions, tax data and other important information will be sent to this address during the next six to twelve months. Employee should be given an ECR form to mail in if address changes

Block 3 All employees must go to Building 103 to obtain clearance from the Production Tool Crib. This crib maintains tools, shoes, clothing, etc. All items borrowed must be returned. The cost of missing items will be entered on the far left side of this form.

Block 4 All employees must go the Building 103 to be signed clear of the Facilities Equipment Pool. Items borrowed must be returned. (Facilities personnel will obtain this signature at Building 103 South Mezzanine, Column N-15 all others report to 103-1-K-15.)

Block 5 Check the appropriate box, sign and date it. Termination physical is required only if employee is on medical restriction for an industrial injury. If so, a medical representative must sign this block.

Block 6 Classified documents and library materials must be returned. Operations manuals must be returned to the issuing organization or reassigned.

Block 7 All money owed as a result of relocation or staffing subsidies must be accounted for before termination.

Block 8 The Organizational Development department will perform an exit interview for NES and Exempt employees and determine if the employee owes money relating to the educational or relocation policies.

Block 9 Insurance and prescription cards must be returned. The employee will be counselled regarding insurance conversion options and retirement/savings/investment forms must be completed.

Block 10 All previous blocks must be completed before submitting to Security. Security will collect all remaining company property and issue a temporary badge for the employee to complete processing.

Block 11 Finance is the final checkout point. Once Travel Audit and Labor Accounting has signed off, the employee's final check will be initiated. The entire form must be filled out. Allow two (2) hours from submittal of completed paperwork to receipt of final check from Payroll Control.

Distribution: Original - Compensation, Yellow - Timekeeping, Pink - Security, Goldenrod - Employee.

FORM LDET-ES 77 (R 1/91)

SEPARATION NOTICE ALLEGING DISQUALIFICATION

1. NAME Kenneth V Branch

2. SS NO. 056 32 2143

3. DATE OF SEPARATION 1/29/97

4. DATE LAST WORKED 1/29/97

PLEASE PROVIDE DETAILED EXPLANATION for item checked below. Should this individual file a claim for unemployment insurance benefits complete facts will enable this agency to make an equitable decision.

5. REASON FOR LEAVING

- 01 [XX] Voluntary Leaving (Quit)
- 02 [ ] Discharge, (Fired)
- 03 [ ] Lack of Work (R.I.F.)
- 04 [ ] Leave of Absence
- 05 [ ] Not Physically Able to Work
- 06 [ ] School Employee Contract
- 07 [ ] Refused Other Suitable Work
- 08 [ ] Labor Dispute
- 09 [ ] Retirement, Pension
- 10 [ ] Other

Microfilm Reference Number

DO NOT WRITE IN THIS SPACE

6. VACATION/SEVERANCE/DISMISSAL/BONUS/HOLIDAY PAY INFORMATION.The employee received or will receive:

( ) Vacation $ _____ week(s) _____
( ) Severance/Dismissal $ _____ week(s) _____
( ) Bonus $ _____ week pd. _____
( ) Holiday Pay $ _____ week(s) _____

Lump sum ( ) vacation ( ) accrued leave
( ) severance/dismissal pay ( ) bonus
( ) holiday pay ( ) other remuneration
covers a period of _____ week(s)

EXPLANATION:

CODE: 80P Resigned w/notice - personal

I certify that the worker whose name and social security number appear above has been separated from work and that the above information is true and correct. I further certify that the individual named above has been handed or mailed a copy of this notice.

7. Lockheed Martin Manned Space Systems — Employer Name

8. 504-257-2151 — Phone-Area Code & No.

9. 2305 Newfound Harbor Dr. Merritt Island FL 32952 — Employer Acct. No.

10. P.Ox. Box 29304 (Address / Street/Box) New Orleans (City) LA (State)

11. 70189 — Zip Code

12. [signature] — Signature

13. Employee & Labor Relations — Title

14. 2/5/97 — Date

FILL OUT IN TRIPLICATE. MAIL ORIGINAL TO - Administrator, Office of Employment Security, Post Office Box 94094, Baton Rouge, La., 70804-9094, WITHIN 72 HOURS after separation. Give the employee copy to the worker within 72 hours and retain the employer copy for your files.

Failure to submit this notice within the specified time limits may forfeit your right to appeal. It must be submitted within 72 hours after the worker's separation from employ.

TRIPLICATE