



## 2011-12 CASE MATERIALS

Indiana Mock Trial extends its sincere appreciation to Penn High School student Laura Mason for creating our new logo!

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## INTRODUCTION

On behalf of the Indiana Mock Trial Association, Inc., we welcome your participation in the 2011-2012 Mock Trial competition. This year's mock trial case involves a murder – or maybe it was an accident? The story goes like this - - a family of four chartered a schooner to travel on Lake Michigan for ten days. The family trip, however, had a tragic ending when three family members died. The boat's captain claims they perished in a storm. The captain also claims the boat sank when an explosion and fire on board occurred. The surviving member, a child at the time, has come forth eight years later, having recovered from a memory lapse, and now claims that the captain murdered the family as a result of a blackmail scheme over smuggling illegal drugs from Canada.

**Students** – Through participation you will experience what it is like to prepare for and present a case before a judge. Working with your team and coaches, you will learn to evaluate information and respond quickly. As you prepare, you will sharpen public speaking and presentation skills. The greatest benefit is the opportunity to learn how the legal system works. By studying and understanding courtroom procedure, you should become more comfortable with federal and state laws as part of the legal system. Your interaction with some of Indiana's finest attorneys and judges will give you a glimpse of the different interpretations of trial procedure and different approaches of individuals in the legal arena.

**Teacher Coach, Attorney Coach, or Judge** – We strongly encourage you to focus on the goal of participation by students rather than stressing competition while preparing for the competition. Your contributions of time and talent are making many experiential educational opportunities available annually to many Indiana students. Your participation is an essential key element to the success of this program. You can be proud of the impact you have made on the lives of these students.

***Good Luck and Have Fun!***

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## CASE BACKGROUND

In the summer of 2003, Archie Way, a prominent veterinarian in Indiana, planned a family adventure aboard a schooner to sail across Lake Michigan and Lake Huron to Canada. Archie made arrangements with Captain Gayle/Gail Storm, owner and operator of the two-masted schooner, the *Bounty*. The family trip ended tragically with the death of Archie, his wife, Annie, and daughter Skye on July 4, 2003.

Gayle/Gail Storm, the defendant, claimed that the Way family perished as a result of a perfect storm of events. Storm claimed that the Ways had brought fireworks on board the boat, to celebrate the 4<sup>th</sup> of July. Before the fireworks celebration started, however, Captain Storm put a stop to it. Out of frustration or anger, one of the Way children threw a burning sparkler in a heap of fireworks causing an explosion and fire on board the boat. No sooner than the fire began, a record-high seiche, without warning, struck the lakeshore where the *Bounty* had been docked. The boat, not having been secured properly to the dock, was pulled into the depths of Lake Michigan. Captain Storm battled to gain control of the boat and contain the fire, but it was useless. Nature prevailed. Days later, Captain Storm was found hanging on to a dilapidated dinghy. Captain Storm reported that the Way family had perished in the storm.

Unbeknownst to Captain Storm, eleven year old, Lee Way, had also survived. Near death from dehydration and exposure, Lee was rescued by a passing ship days later. Lee was rushed by helicopter to LaPorte Hospital. Before Lee sank into a two-day coma, Lee was able to say his/her name. Lee's memory of that tragic night, however, was limited, and the deaths were ruled an accident.

Eight years later, the investigation into the deaths of the Ways was reopened. Former partner of Archie Way, veterinarian Beau/Bo Vine, was arrested and charged with conspiracy to sell Clenbuterol that had been smuggled into the United States from Canada. Vine claimed that Archie had been smuggling the Clenbuterol from Canada prior to his death. The Clenbuterol was allegedly sold to Archie's veterinarian customers so they could use it to illegally enhance the muscle mass of their lambs and cattle entered in various livestock shows and county and state fairs. Vine denied being a participant in the smuggling of the Clenbuterol. Vine claimed that he/she recently discovered the supplies that were 8-9 years old, and due to a downturn in the economy sold some of the dated drugs. Vine found Archie's hand-scribbled note regarding Archie's arrangements with Captain Storm located with the Clenbuterol. Vine has a plea agreement with the prosecution in exchange for testimony against Captain Storm.

The reopening of the case and the link between Archie and the Clenbuterol was enough to trigger recovery of Lee's memory of the tragic night. Lee claims he/she has recovered from the memory lapse and now tells a very different story than that of Captain Storm. Lee is adamant that Captain Storm murdered his/her father, mother and sister. Lee now recalls that Archie and Captain Storm began arguing over money in the evening of July 4th. Lee claims that Captain Storm was blackmailing Archie. A fight ensued and Lee says Storm struck Archie in the head with a wrench causing him to collapse. When Annie and Skye attempted to attack Storm to keep him/her from hitting Archie again, Lee claims Storm swung the wrench at both of their heads knocking them down to the ground. Lee, terrified, hid below the deck.

According to Lee, Storm searched for Lee, and not having found him/her set the boat on fire by igniting the fireworks, and then went about searching for Lee. Storm jumped overboard

and escaped the sinking ship on a 10-foot dinghy. Lee was left behind to become the final victim, but miraculously survived. Gayle/Gail Storm was arrested and charged with the murders of Archie Way, Annie Way, and Skye Way.

**Prosecution Witnesses:**

Lee Way - Survivor  
Percy Veer - Coast Guard Investigator  
Beau/Bo Vine - Former Veterinarian Partner of Archie Way

**Defense Witnesses:**

Gayle/Gail Storm - Defendant and Captain of the *Bounty*  
Tai/Ty Knotts - Crew Member of the *Bounty*  
Sage Leigh - Professor of Psychology

**Exhibits:**

1. Lee Way's Facebook excerpts
2. Coast Guard Search & Rescue Report for July 6, 2003
3. Coast Guard Search & Rescue Report for July 9, 2003
4. Handwritten note of Archie Way
5. Phone call records from Way to Storm
6. Phone call records from Storm to Way
7. Photograph of Archie Way's Watch
8. Fully-Rigged Charters brochure
9. Charter Agreement
10. Cancelled check from Archie Way
11. Curriculum Vitae of Sage Leigh

*The Case Background is not to be used as evidence in the case, but rather is provided for background purposes only. This case is a work of fiction. The names and events described herein are intended to be fictional. Any similarity or resemblance of any character to an actual person or entity should be regarded as only fictional for purposes of this mock trial exercise.*

THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

UNITED STATES OF AMERICA )  
 )  
 v. ) Case No.: 3:11-CR-208  
 )  
 GAYLE/GAIL STORM )  
 )  
 Defendant. )

**INDICTMENT**

**COUNT I**

The Grand Jury charges that:

On or about July 4, 2003, within the special maritime and territorial jurisdiction of the United States Northern District of Indiana,

GAYLE/GAIL STORM

willfully, deliberately, maliciously and with malice aforethought and with premeditation, and by means of battery and drowning and committed in the perpetration of arson and escape, did murder ARCHIE WAY.

in violation of Title 18, United States Code, Section 1111.

**COUNT II**

The Grand Jury further charges that:

On or about July 4, 2003, within the special maritime and territorial jurisdiction of the United States Northern District of Indiana,

GAYLE/GAIL STORM

willfully, deliberately, maliciously and with malice aforethought and with premeditation, and by means of battery and drowning, and committed in the perpetration of arson and escape, did murder ANNIE WAY.

in violation of Title 18, United States Code, Section 1111.

COUNT III

The Grand Jury further charges that:

On or about July 4, 2003, within the special maritime and territorial jurisdiction of the United States Northern District of Indiana,

GAYLE/GAIL STORM

willfully, deliberately, maliciously and with malice aforethought and with premeditation, and by means of battery and drowning, and committed in the perpetration of arson and escape, did murder SKYE WAY.

in violation of Title 18, United States Code, Section 1111.

/s/ Foreperson

/s/ United States Attorney

## APPLICABLE LAW

Title 18, United States Code, Section 1111

§1111. Murder

(a) Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, escape, murder, kidnapping, treason, espionage, sabotage, . . . burglary, or robbery; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first degree.

Any other murder is murder in the second degree.

(b) Within the special maritime and territorial jurisdiction of the United States,

Whoever is guilty of murder in the first degree shall suffer death unless the jury qualifies its verdict by adding thereto without “capital punishment” in which event he shall be sentenced to imprisonment for life.

Whoever is guilty of murder in the second degree, shall be imprisoned for any term of years or for life.

Title 18, United States Code, Section 1112

§1112. Manslaughter

(a) Manslaughter is the unlawful killing of a human being without malice. It is of two kinds:

Voluntary - Upon a sudden quarrel or heat of passion.

Involuntary - In the commission of an unlawful act not amounting to felony, or in the commission manner, or without due caution and circumspection, of a lawful act which might produce death.

(b) Within the special maritime and territorial jurisdiction of the United States,

Whoever is guilty of manslaughter, shall be fined under this title or imprisoned not more than 15 years, or both.

Whoever is guilty of involuntary manslaughter, shall be fined under this title or imprisoned not more than 8 years, or both.

Title 18, United States Code, Section 1115  
§1115. Misconduct or neglect of ship officers.

Every captain . . . or other person employed on any . . . vessel, by whose misconduct, negligence, or inattention to his duties on such vessel the life of any person is destroyed, and every owner, charterer . . . whose fraud, neglect,, connivance, misconduct, or violation of law the life of any person is destroyed, shall be fined under this title or imprisoned not more than ten years, or both.

*Beck v. Alabama*, 447 U.S. 625 (1980)

In murder cases, where a convicted defendant may face capital punishment, the Supreme Court has held that the court must instruct the jury that they may find the defendant guilty of a lesser included offense such as voluntary manslaughter. The reasoning for this ruling is that jurors given the options of convicting a less culpable killer or letting him go free might opt to convict of a more serious crime than the facts warrant. Therefore, they must have at least one option that falls in between these extremes.

The Food and Drug Act prohibits the distribution of a new animal drug in interstate commerce without FDA approval. Obtaining approval from the FDA requires the submission of a "new animal drug application" containing extensive scientific data and other information about the drug. Under the Food and Drug Act, a new animal drug that is not covered by a new animal drug application, approved by the FDA, is "adulterated." 21 U.S.C. §§ 331, 351(a)(5).

The Food and Drug Act prohibits the distribution of animal drugs in interstate commerce unless they are manufactured, processed, packed, and held according to good manufacturing practice. Under the Food and Drug Act, a drug that is not manufactured, processed, packed, or held according to good manufacturing practice is "adulterated." 21 U.S.C. §§ 331, 351(a)(2).

The Food and Drug Act prohibits the distribution of an animal drug in interstate commerce unless the label on that drug bears the name and place of business of the manufacturer, packer, or distributor. Under the Food and Drug Act, a drug that does not bear this information on its label is "misbranded." 21 U.S.C. §§ 331, 352(b)(1).

The Food and Drug Act prohibits the importation of a drug intended for use by man which because of its toxicity or other potentiality for harmful effect, . . . is not safe for use except under the supervision of a practitioner licensed by law to administer such drug . 21 U.S.C. §§ 331 (t), 353(b)(1); 381(d)(1).

Title 21, United States Code, Section 333

(a) Violation of 21 USC § 331; intent to defraud or mislead.

(1) Any person who violates a provision of section 331 shall be imprisoned for not more than one year or fined not more than \$1,000, or both.

(2) Notwithstanding the provisions of paragraph (1) of this section, if any person . . . commits such a violation with the intent to defraud or mislead, such person shall be imprisoned for not more than three years or fined not more than \$10,000 or both.

(b) Prescription drug market violations

(1) Notwithstanding subsection (a), any person who violates section 331(t) . . . by knowingly importing a drug in violation of section 381(d)(1), shall be imprisoned for not more than 10 years or fined not more than \$250,000, or both.

**Ind. Code 35-43-2-1 Theft**

A person who knowingly or intentionally exerts unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use, commits theft, a Class D felony.

**IC 35-50-2-7 Sentencing for a Class D felony**

(a) A person who commits a Class D felony shall be imprisoned for a fixed term of between six (6) months and three (3) years, with the advisory sentence being one and one-half (1 ½) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).

**IC 35-50-3-2 Sentencing for a Class A misdemeanor**

A person who commits a Class A misdemeanor shall be imprisoned for a fixed term of not more than one (1) year; in addition, he may be fined not more than five thousand dollars (\$5,000).

A trial judge may admit the testimony of a witness who has undergone hypnosis so long as the defendant is permitted to raise that issue in attacking the witness' credibility and expert testimony is admitted on the effects of hypnosis on memory in order to aid the jury's credibility assessment. *Biskup v. McCaughtry* 20 F.3d 245, 254 (7th Cir.1994)

Content from a social networking site (SNS) is not shielded from discovery simply because it is “locked,” meaning that the SNS user has decided that only other SNS users who have obtained permission may view the profile, or “private.” A person's expectation and intent that his/her communications be maintained as private is not a legitimate basis for shielding those communications. *EEOC v. Simply Storage*, No. 1:09-cv-01223 (S.D. Ind. May 11, 2010)

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 Defendant. )

STIPULATIONS

*Note: No witness may contradict or deny knowledge of the facts contained in the stipulations.*

1. All exhibits included in these Case Materials are authentic and accurate in all respects; no objection to the authenticity of these exhibits will be entertained. Unless stated otherwise herein, the admissibility of the exhibits on other grounds may be challenged.

Stipulated facts may be offered as evidence, without objection, except relevancy objections may be permitted.

2. All witness statements were signed under oath by each witness.

3. If the defendant is found guilty, a separate sentencing hearing will be conducted at a later date. Thus, sentencing is not an issue for this trial.

4. All standard forensic procedures were followed in this investigation. There are no objections as to the chain of evidence.

5. Exhibit 4 is a true and accurate copy of the original note located with the Clenbuterol stored at Way and Vine Enterprise. Exhibit 4 is admissible.

6. The handwriting contained in Exhibits 4, 9 and 10 have been confirmed to be that of Archie Way, per expert handwriting analysis.

7. Exhibit 10 was made at or about the time of the events by a person with knowledge of the events, and is kept in the course of regularly conducted business activity of WAVE (Way and Vine Enterprise), and it is the regular practice of WAVE to make such records. Exhibit 10 does not need to be introduced through the custodian of the records.

8. Exhibit 7 is the original photograph of Archie Way's watch, which was on his person when his body was recovered on July 6, 2003. Exhibit 7 is admissible.

9. Testimony regarding the alleged recovered memory of Lee Way is admissible but the jury may consider the weight it should be accorded.

10. An expert witness shall be tendered to court prior to introduction of the opinions and conclusions of such expert witness.

1 **STATEMENT OF LEE WAY**

2 My name is Lee Way. I currently live in Albuquerque, New Mexico. As a child I grew  
3 up in Fowler, Indiana. I am currently attending college at the University of New Mexico. I am in  
4 my sophomore year, majoring in English. I plan to attend graduate school at the University of  
5 Iowa to obtain a Masters of Fine Arts degree in Creative Writing. My career plans are to be a  
6 writer. I dabble a little in creative writing now. I'm working on a series of short stories.

7 My father, Archie Way, was a prominent veterinarian of large animals - horse, sheep,  
8 pigs, cows. He graduated at the top of his class in Veterinary Sciences from Purdue University.  
9 He partnered with Veterinarian Bo/Beau Vine and they formed the veterinary clinic, WAVE -  
10 Way and Vine Enterprise. As far as I could tell, the practice was successful. Dad, not only  
11 provided services for large animals in Benton County and contiguous counties, he also provided  
12 services to many of the farms throughout Indiana that raised large animals. In the months leading  
13 up to fair time, he often consulted with many of the prominent farms in Indiana and the  
14 surrounding States. I complained once about him traveling so much and he told me that one  
15 month of consulting was more money than he made in a year in his regular practice. Dad also  
16 always seem to have a bankroll of money in his pocket - hundred dollar bills in a roll as big as  
17 the fist of your hand. At least as a kid, that's how I remember it.

18 I was very close to my father. I looked up to him. When he passed, a part of me died  
19 with him. For a very, very long time, I did not cope well with the death of my family. After the  
20 death of my family in 2003, I went to live with my Aunt Colleen in Santa Fe, New Mexico. I  
21 found it difficult to adjust to a new family in a new home and n a new town. My life had been  
22 uprooted. Yet, it was good to get away from anything too familiar - especially Lake Michigan.  
23 Aunt Colleen has been kind and supportive, even when I was challenging.

24 I was eleven years old when my parents and Skye died. Life after their deaths was often  
25 difficult, especially during my adolescence. I couldn't accept that my father, who I idolized, was  
26 dead. I fantasized that he might have swum to an island and would show up one day. After their

27 deaths, I couldn't remember anything about that night or our trip. Friends and family would tell  
28 me things they heard or that they knew, but it didn't bring my memory back. I was angry that  
29 they died. I was angry that I couldn't remember anything, as hard as I might will it to be so. I  
30 was angry at the world.

31 I acted out my anger. My anger led me into a bit of trouble. I had trouble getting along  
32 with people. I ran away from my Aunt's home several times. I was defiant with authorities, or  
33 adults. When I was 14, I was arrested for shoplifting. I stole a wrench from a hardware store. At  
34 the time, I had no idea why I would take a wrench. It wasn't like I had any use for one. The  
35 therapists explained it away as a cry for help. I was charged with theft as a Class A  
36 misdemeanor. I pled guilty, paid a fine, and did some community service hours.

37 When I went to college, I was without the support system that had been my band-aid  
38 approach to holding it all together. I had a nervous breakdown and was under the care of a  
39 psychologist for a year. My psychologist, Andi Dote used hypnosis, as a way to recover my  
40 memory because my conscious was blocking the subconscious as a protective mechanism.  
41 Opening the door to the subconscious was the key. Flashes of my memory began coming back to  
42 me. Now that I have had a break-through in my memory, I understand why I stole the wrench. I  
43 believe my subconscious was trying to help me remember. As I recovered flashes of memories,  
44 my ability to recover more of the repressed memories came back exponentially, and I was able to  
45 piece the memories together.

46 Sometimes the memories miss some minor facts here and there, like my Facebook page  
47 (Exhibit 1), but the significant events are accurate, and as additional memories were recovered, I  
48 was able to put more pieces together and see the true picture. It's like a painting - - the more  
49 brush strokes you add, the more clear the picture becomes. When I made my comments on  
50 Facebook, I had my first breakthrough in recovering my memory, but the recovery of more  
51 memories has made the picture more clear for me. I am very confident in my recollection of the  
52 events of July 4, 2003.

53           So, here is what I remember . . . Miles and miles of rope, reaching up to the sails and  
54 wrapped around pegs on deck. There's a special way to coil the ropes so that they are "belayed"--  
55 neatly stowed, but ready to go. I heard terms like bosun (the boatswain, responsible for the  
56 rigging) and mainsail (said man-sail). I watched the Captain and Tai/Ty Knotts tie off knots and  
57 climb like monkeys up the rigging and then stand like tight-rope artists on a rope while folding  
58 and unfolding sails. I remember the sheer height of the sails stretching into the blue sky and  
59 catching the sun behind them. I also remember the golden rays touching the wooden deck floor  
60 and the moon rising in the midnight blue sky. When I close my eyes, I can feel the breeze  
61 wisping across my face and an occasional splash of cool water spraying up from the lake as the  
62 magnificent *Bounty* clipped across the gentle waves.

63           I remember Mom, Dad, Skye and I driving from Fowler to Michigan City in mid to late  
64 June on a Saturday morning for a chartered excursion on Lake Michigan and up into Lake Huron.  
65 I remember the *Bounty* - a beautiful vintage schooner. I remember Dad said he planned the trip  
66 so we would experience Canada Day and Independence Day from the *Bounty*. We met Captain  
67 Storm, who always seemed a little scary to me as a child - maybe I had a premonition. When  
68 Dad and Captain Storm met, they acted like they knew each other or had prior dealings. We also  
69 met Tai/Ty Knotts, the First Mate of the *Bounty*. I liked Tai/Ty - he/she told us stories about  
70 some of the shipwrecks in Lake Michigan. He/She taught us how to help with some of the duties  
71 to set sail and about the aquatic life and fauna in the area. There was no television or electronic  
72 games on board. So, in the evening we entertained ourselves with folk songs. Tai/Ty had a guitar  
73 and was a good song leader. Some evenings, we entertained ourselves with story-telling. I  
74 remember that was one of my favorite things to do on board the *Bounty*. Perhaps that's why I'm  
75 pursuing a degree in creative writing.

76           Skye was three years older than me, but we were best friends. During the day on board  
77 the ship, when we weren't taking in the sights or helping with our seamanship duties, Skye and I  
78 played our imaginary games and hide and seek. Before the trip ended, I knew every nook and

79 cranny on board. One of those places was a cabinet in my parents' room. It didn't appear to be  
80 large enough to hide an 11 year old, but it's outward appearance was deceiving. I found that if I  
81 curled up just right, I could easily fit in the cabinet and go undetected by my sister.

82 When we were younger, Skye and I took swimming lessons and obtained our Junior Open  
83 Water Scuba Diver certification. We excelled in both. So, we were ready to explore some of the  
84 shipwrecks in Lake Michigan on this trip. Dad was excited to explore the shipwrecks with us.  
85 There were a couple of dive sites that Dad did not let us go with him. He never explained why.  
86 Usually, Dad used a dive flag to keep boaters away from where he was diving. A couple of times  
87 on this trip he didn't use a dive flag. It stands out in my memory because I thought it was odd.  
88 He always emphasized safety to us.

89 Dad had top-notch scuba gear. He had a fancy divers' watch that provided coordinates  
90 underwater and a top of the line dry suit for the colder waters. Dad also had the best scuba gear  
91 dry bags. It's funny though, and this is where I may be a little fuzzy on my memory, I thought his  
92 bags were black. One time when I was playing hide and seek with Skye, I tried to hide in the  
93 cabinet in my parents' cabin that always had been a good hiding spot. But, on this one particular  
94 occasion, I couldn't fit in the cabinet because navy blue dive bags were stuffed in the cabinet.

95 When we docked in Ontario, Canada, everyone, except for Captain Storm, went onshore  
96 to watch the Canada Day parade and enjoy the street festivals. In the evening, we watched the  
97 Canadians' fireworks display. Mom and Dad thought it would be fun to have our own fireworks  
98 for the 4<sup>th</sup>, so we bought several bags full. I remember I was really looking forward to our very  
99 own fireworks show from the ship.

100 The next part is a very clear memory . . . We arrived near New Buffalo, Michigan in the  
101 late afternoon on the 4<sup>th</sup> of July. I don't remember what I was doing specifically that day until  
102 nightfall. Tai/Ty was not on the boat. I don't remember why. As it was getting dark, my  
103 mother, Skye, and I were in our cabins, gathering the fireworks together for our personal light  
104 show. We had already brought two loads of the fireworks up to the deck and piled them in a

105 corner at the bow of the ship. We were below deck ready to bring up the last load of the  
106 fireworks, when we heard an argument between Captain Storm and my father on the deck above  
107 us. I could hear them clearly. Their voices were loud and we had propped our windows and  
108 skylights open, as we often did, to have the fresh breeze from the lake. They were arguing over  
109 money. The conversation became more heated. My dad yelled that he had already paid Storm a  
110 lot of money. Captain Storm said, "You know, and I know, it's worth a lot more," Storm said if  
111 my Dad didn't pay the money, we would have to leave. Then my Dad said, "I'm not leaving  
112 without my bounty." I am pretty sure he referred to his stash and said he wasn't leaving it  
113 behind. Captain Storm yelled back, "It's MY bounty now." Then he/she added, ". . . unless you  
114 pay more money." My father yelled, "That's blackmail!"

115 I remember that I heard feet shuffling on the deck above, like Dad and the Captain were  
116 in a scuffle. Mom, Skye, and I raced upstairs. I saw Dad and Captain Storm near the foremast.  
117 The navy blue dive bags were next to Captain Storm. My mother started screaming. Dad turned  
118 toward our direction and away from Captain Storm. Then I saw Captain Storm pick up a wrench  
119 and he/she clubbed my Dad from behind. Dad crashed to the deck. Captain Storm was wielding  
120 the wrench above my Dad as if to strike again. My mother and Skye attempted to attack Storm to  
121 keep him/her from hitting Dad again. Then Storm swung the wrench at both of their heads  
122 knocking them down to the ground.

123 I went below deck and hid in the cabinet in my parents' cabin that I had discovered when  
124 playing hide and seek with Skye. Storm searched for me, calling out my name, for what seemed  
125 like an eternity. I'm sure it was 20 or 30 minutes because my legs were starting to cramp. Then  
126 it was quiet, except a howling wind. The boat was rocking and swaying from a storm that had  
127 blown in from the southeast. I didn't hear footsteps, so I crawled from my safe haven and peered  
128 from the top of the steps. Storm had untied the ropes to the dock and the *Bounty* was moving  
129 away from shore. I saw Storm set the boat on fire by igniting the fireworks. The explosion  
130 caused the foremast to come crashing down on Dad, Mom, and Skye, who were still laying on

131 the deck. They were not moving and there was blood all around them. The crash opened a hole  
132 in the boat. The *Bounty* started taking on water. Storm jumped overboard and escaped the  
133 sinking ship on the only dinghy.

134 I was afraid Storm would return and murder me too, so I stayed low and leeway. As the  
135 ship was sinking, I went into survival mode. I don't know how I survived the sinking ship but I  
136 did. I was able to get one of the kayaks off the ship before she sank. The kayak wasn't much  
137 protection from the storm, and the fiberglass partially snapped in two. I stayed afloat, barely,  
138 dipping below the waves and swallowing a lot of water. I had no oar and the waves pushed me  
139 out further and further away from shore. I had no food, no water, and no protection from the  
140 elements. I floated aimlessly, and I had no idea where I was. I slipped in and out of  
141 consciousness, hoping it was all a bad dream.

142 The next thing I remember is a couple of fishermen pulling me out of the water and  
143 taking me to shore, where I was rushed by helicopter to a hospital. I recall very little of anything  
144 that happened at the hospital. I was asked what happened and who I was. All I could say was my  
145 name, Lee Way. I was in a coma for two days. When I came out of the coma, I had no memory  
146 of the past couple of weeks. My Aunt Colleen was at the hospital and when I woke, she told me  
147 that Mom, Dad and Skye had died in a storm. I was devastated. My world was shattered into  
148 pieces.

149 I saw Captain Storm at the hospital as I was recovering. I did not recognize him/her.  
150 He/she introduced himself/herself, but still it didn't jog my memory. He/she stopped by my  
151 room to tell me that he/she was happy I survived. I asked the Captain what happened. He/she  
152 just said "you need to rest and take care of yourself." Seeing Captain Storm at the Hospital  
153 didn't trigger any memories of that night either.

154 For the next 8 years, I tried to remember what happened. My inability to remember the  
155 events of that night or even the trip itself became frustrating. I felt like a failure. I became more  
156 and more desperate to have some explanation. I talked to several therapists, but none were able

157 to help me. I would look at pictures of my family hoping to jog something inside to break  
158 through my mental block. I can't explain it unless you've been where I've been, but when a  
159 piece of your life, a significant piece, is wiped from your memory, you feel lost. It's hard to  
160 move forward not knowing the past. Every now and then I would remember something small  
161 about the trip, like the sails flapping in the wind against the blue sky. But I often questioned  
162 whether it was a real memory or imaginary because I wanted to remember so desperately.

163 When I went off to college, I lost the secure feeling I had living with my aunt. I also  
164 became overly anxious over the pressures from school and all of the sudden changes in my life. I  
165 had a nervous breakdown and was under the care of a psychologist, Dr. Andi Dote. I was still  
166 seeing Dr. Dote routinely when Special Agent Veer called me in September. Special Agent Veer  
167 told me that they were reopening the investigation into my family's deaths. Special Agent Veer  
168 said me that the Coast Guard had reason to believe that my father and Captain Storm were  
169 involved in smuggling of veterinary products from Canada that were illegal in the United States.  
170 Almost immediately, I had a flash memory, an image, that left as quickly as it came, like the snap  
171 of your fingers. I tried to retrieve it, but it went back into the recesses of my mind.

172 I knew I could have a breakthrough. I scheduled an immediate appointment with Dr.  
173 Dote, told her what Special Agent Veer said, and she put me under hypnosis. When I was  
174 through with my session, I had remembered the argument about the stash and the bounty, and the  
175 blackmailing scheme. Over the next couple of weeks, I had nearly fully recovered my memory. I  
176 had finally put together all the pieces of the puzzle that had been repressed for so long because I  
177 had witnessed Captain Storm murder my family. I want Captain Storm to pay for what he/she  
178 did to my family and what he/she did to me. That will be the final piece of the puzzle that will  
179 give me peace.

***I affirm under penalty of perjury that the foregoing is true and correct to the best of my belief and knowledge.***

Dated: September 27, 2011

*Lee Way*

1 **STATEMENT OF PERCY VEER**

2 My name is Percy Veer. I am a Special Agent-in-Charge (SAC) for the Coast Guard  
3 Investigative Services (CGIS). CGIS is the division of the United State Coast Guard that  
4 investigates crimes. CGIS’s mission is to, among other things, conduct professional criminal  
5 investigations, engage in law enforcement information and intelligence collection, and establish  
6 and maintain law enforcement where the Coast Guard might have an interest. 14 USC § 95 grants  
7 law enforcement authority to the CGIS. This authority provides for Coast Guard special agents  
8 to conduct investigations of actual, alleged or suspected criminal activity, execute and serve  
9 warrants, and make arrests. The criminal investigative function of the Coast Guard Investigative  
10 Service is similar to that of a major crimes unit at a large metropolitan police department,  
11 including investigating maritime-related crimes, such as drug smuggling and murder. The CGIS  
12 special agent workforce is composed of active duty military, reserve, and civilian personnel. All  
13 CGIS Special Agents have full arrest powers.

14 My career path to the CGIS started with the sea. I got my sea legs practically from the  
15 day I was born. I was born and raised in Gloucester, Massachusetts. I have lived on and around  
16 boats most of my entire life. My family’s 54-foot commercial fishing boat was home and school  
17 for much of my youth. We regularly fished the George’s Bank and other fishing banks off the  
18 east coast of Nova Scotia and Newfoundland. I learned early on to respect the sea. Seafaring  
19 and fishing have been, and still are, very dangerous undertakings. My family once got caught in  
20 an unexpected squall. As our ship was taking on water, we were rescued by the United States  
21 Coast Guard. And so, I guess, my career path was laid out for me back then.

22 I’ve always been drawn to the sea. In addition to fishing with my parents, I found a love  
23 for scuba diving around age 18. I have Master Scuba Diver and Scuba Rescue Diver  
24 certifications from the National Association of Underwater Instructors (NAUI). I have taken  
25 courses in night diving, search and recovery, ice diving, and deep diving.

26 One of the requirements of becoming a CGIS Special Agent is police academy training

27 and experience in law enforcement. I began my law enforcement career in Hammond. I received  
28 my training through the Indiana Law Enforcement Academy. I accumulated 932 hours of  
29 training in a 24 week period. Upon graduating from the Academy, I participated in the  
30 Hammond Field Training Program. I served as a proud member of the Hammond Police  
31 Department from 1990 to 2004, including three years on the SWAT Team, six years in Narcotics  
32 Investigations, and five years as a detective for burglary, theft, and homicide. I played a key role  
33 in numerous arrests and convictions based upon effective investigations. One of my  
34 accomplishments with the HPD was an undercover investigation that led to 46 arrests for cocaine  
35 trafficking and other illegal drugs. I received the Meritorious Service Medal in 2000.

36 In October, 2001, while I was continuing to serve in my capacity for the HPD, I enlisted  
37 as a reserve for the United States Coast Guard. As a Coast Guard reserve, I was sent to eight  
38 weeks of recruit training at the Coast Guard Training Center in Cape May, New Jersey. After my  
39 training, I was assigned to Station Michigan City.

40 Coast Guard Station Michigan City of the Ninth Coast Guard District is the sole Lake  
41 Michigan unit in Indiana. The Station's responsibility extends to New Buffalo, Michigan.  
42 Station Michigan City is a multi-mission unit with a focus on search and rescue, maritime law  
43 enforcement; ports, waterways, and coastal security; and marine environmental protection. The  
44 crews responds to an average of 125 search and rescue cases a year. The law enforcement  
45 boardings conducted on boats in the area focus primarily on recreational boating safety and  
46 boating while intoxicated enforcement. However, after the terrorist attacks of September 11,  
47 2001, Station Michigan City took on the important mission of ports, waterways, and coastal  
48 security. The mission includes regular security patrols of the critical infrastructure along the  
49 Indiana and Michigan lakeshore to identify, report, prevent, and protect against potential  
50 sabotage by terrorist or insurgent groups.

51 My duties as a reserve required two drill days a month and an additional twelve days of  
52 active duty each year. My active duties included performing as rescue swimmer, boat crewman,

53 and boat driver for search and rescues. On those occasions when we head out on a mission,  
54 we're served well by our motto "*Semper Paratus*," which is Latin for "Always Ready." It's an  
55 appropriate motto given that the Coast Guard is the smallest branch of the United States Armed  
56 Forces, yet its men and women have a gigantic to-do list: search and rescue (SAR), maritime law  
57 enforcement, environmental protection, drug enforcement, maintaining aids to navigation,  
58 educating the public about boating, ice breaking, and Homeland Security. 14 U.S.C. §2  
59 authorizes the Coast Guard to enforce federal law. Unlike the other branches of the United States  
60 Armed Forces, which are prevented from acting in a law enforcement capacity, the Coast Guard  
61 is not subject to the restrictions of the Posse Comitatus Act.

62 In 2004, I was hired by the CGIS. As an investigator for the CGIS, I have investigated  
63 marine casualties, collisions, groundings, sinkings, fires, injuries, and deaths on commercial  
64 vessels and platforms. I have also investigated and initiated violation cases for improper manning  
65 and operation issues, mariner misconduct, negligence, and dangerous law violations against  
66 mariners. As a CGIS Investigator, I process crime scenes by collecting, processing, and  
67 preserving physical evidence. My duties also require me to prepare, submit, and maintain  
68 criminal investigative and operation intelligence reports. I also have testified in civilian and  
69 military court regarding my investigation, as in this case. As the SAC, I also plan, control, and  
70 direct the investigations of the CGIS for any suspected crimes in the district.

71 Lake Michigan is the third largest of the Great Lakes. It is 321 miles long and 188 miles  
72 wide at its greatest point and covers 22,300 square feet. The deepest part of Lake Michigan  
73 descends to 923 feet, or about 154 fathoms. The average, or mean depth, of Lake Michigan is  
74 276 feet. Lake Michigan has the highest number of rip current related drowning deaths and  
75 rescues of all the Great Lakes, with 59 fatalities. The majority of rip current incidents occur  
76 along the eastern and southern shoreline of Lake Michigan.

77 A seiche (pronounced saysh), or mini-tsunami, can cause uneven distributions of water  
78 leading to rip current development. The word comes from the Swiss French and translates as "to

79 sway back and forth." Unlike a tsunami, which is usually caused by submarine earthquakes  
80 shifting the ocean floor, a seiche is caused by air pressure and wind. When storm fronts move  
81 rapidly across a large body of water such as Lake Michigan, air pressure changes and strong  
82 downbursts of wind can form one large wave or a series of large waves. The wave or waves will  
83 travel across the lake until the seiche reaches shore, where it can be reflected and travel to the  
84 opposite shore. The effect is similar to a storm surge like that caused by hurricanes along ocean  
85 coasts. However, a seiche can last for a longer time because of the oscillation effect back and  
86 forth across the lake. The height of the waves depends on the strength of the wind and air  
87 pressure contrasts that form the seiche. Extreme seiches can reach up to 16 feet. The results can  
88 be deadly for boaters or persons along the shores of southern Lake Michigan. Schooners are not  
89 recommended for Lake Michigan because a schooner is particularly susceptible to capsizing due  
90 to the strong wind and potentially significant seiches.

91 There was no warning for the record-high seiche that struck the southeast lakeshore of  
92 Lake Michigan on July 4, 2003. The seiche was caused by a severe squall line that crossed  
93 southern Lake Michigan. The storm generated wind speeds of up to 60 miles per hour and sent a  
94 seiche toward Michigan City, Indiana. A 15.5 foot wave reached shore there at 2110 hours. The  
95 seiche lasted most of the night. That night, many boats capsized or suffered severe damage due  
96 to the weather conditions near the Berrien County shores in Southwest Michigan. Seven people  
97 lost their lives. However, three of the seven that were counted in that total were the Ways. We  
98 now have evidence to show they were murdered.

99 As the newest reserve for the Station Michigan City Coast Guard, I pulled the weekend  
100 duty for the July 4<sup>th</sup>, 2003 holiday. I had fully expected it would be a busy weekend with boater  
101 safety issues and violations. The storm, however, had not been predicted. Our crew began  
102 search and rescue missions after receiving several boater distress calls. We did not receive a  
103 distress call from Captain Storm or anyone on board the *Bounty*.

104

105           A call came into Station Michigan City at 2222 hours reporting a missing schooner, the  
106 *Bounty*, and five missing people in the wake of the storm. The call was made by a person  
107 identifying himself/herself as Tai/Ty Knotts, the First Mate. The call was made using a cellular  
108 phone registered to Gail/Gayle Storm. Knotts provided information as to the last known location  
109 of the ship, New Buffalo, Michigan. The ship docked at the harbor at approximately 1600 hours,  
110 and Knotts departed on an errand run at approximately 1630 hours. We immediately deployed  
111 the Search and Rescue crew, which included me. While en route, I obtained further information  
112 from Knotts.

113           Knotts reported that Storm was the Captain of the two-masted schooner, which ran a  
114 charter service. On board with the Captain were the following passengers: Archie Way, an adult  
115 male, age 42; Annie Way, an adult female, age 40, and two children, Skye and Lee Way, ages 14  
116 and 11 respectively. Knotts said that the schooner had been docked at New Buffalo, Michigan  
117 earlier in the afternoon, and due to an electronic malfunction caused by lightening the prior  
118 evening, the radio, GPS, and other electronic equipment were not operational. Knotts was to  
119 obtain some electrical supplies for the necessary repairs in town and was to report back to the  
120 ship the following morning. Knotts reported that he/she had been tasked to tie the ship to the  
121 dock, but as a novice and in haste, had likely not tied the knots properly. The sails had not been  
122 taken down. At 2110 hours, a violent storm had blown in unexpectedly causing significant  
123 waves from seiches. Other boating casualties were reported that same evening.

124           The Search and Rescue Team searched for Captain Storm and the Ways along with other  
125 reported missing persons and boats. Two days later, Storm was located on a dilapidated dinghy,  
126 holding on to an oar. Storm said the Ways had perished. Storm reported that the storm had  
127 broken the mainmast and landed on the Ways knocking them unconscious, and that he/she could  
128 not save them. Storm also reported that there was a fire on board the ship, and between the fire  
129 and the storm, the *Bounty* sunk. Storm said he/she was barely able to free the dinghy in time to  
130 save himself/herself after waves had pulled the sinking ship back into deep water. Exhibit 2 is a

131 true and accurate copy of the SAR report of the search and rescue mission of Captain Storm and  
132 the Ways. I prepared the report and have personal knowledge of the statements made in the  
133 report. The report was made at or near the time of the events. The SAR report is made pursuant  
134 to my duties imposed by law for matters in which I have a duty to report. I do not recall if Storm  
135 mentioned that fireworks were the cause of the fire, or the cause of the broken mast. I do recall  
136 Storm did not disclose any argument with Archie Way. That would have been relevant to my  
137 report, and my conclusion that the deaths were a result of an accident.

138 On July 9, 2003, Station Michigan City Coast Guard received a call at 1443 hours from a  
139 person identifying herself as Sue Nahmi, captain of the fishing boat, *Ahab*. She reported that the  
140 fishermen aboard her boat had spotted a child floating in Lake Michigan nearly dead from  
141 starvation and exposure, clutching a single oar on a broken kayak. The child, later identified as  
142 Lee Way, was in such an exhausted state that assistance was required to enable him/her to be  
143 removed from the kayak. We immediately arrived at their location and ordered a Medevac to  
144 LaPorte Hospital. At the hospital, the victim identified himself/herself as Lee Way, and said  
145 “storm,” then slipped into a coma for two days. After the coma, Lee Way had no memory of the  
146 events that had unfolded prior, during, or after the storm. The autopsy of the other three Ways  
147 show head trauma consistent with being hit by a broken mast. Based upon the information I had  
148 at the time, I concluded the deaths were accidental. Exhibit 3 is a true and accurate copy of the  
149 SAR report of the search and rescue mission of Lee Way. I prepared the report and have  
150 personal knowledge of the statements made in the report. The report was made at or near the  
151 time of the events. The SAR report is made pursuant to my duties imposed by law for matters in  
152 which I have a duty to report.

153 At the beginning, I had a nagging feeling that we hadn’t uncovered the whole truth. I was  
154 determined to persevere to find the truth. There was no evidence of foul play that I could find.  
155 When Lee was located, I thought we would uncover the truth. But, when I reported to Captain  
156 Storm that Lee Way had been located and had survived, he/she only looked surprised, which did

157 not seem out of the ordinary. Storm did not act nervous or concerned. Storm simply replied,  
158 “That’s good news.” After Lee was out of the coma, Lee certainly didn’t raise any suspicions  
159 that something sinister had occurred. I thought when Lee came out of the coma, there might be  
160 something to confirm my suspicions. I was present in Lee’s hospital room when Storm visited  
161 Lee. Lee did not appear to be frightened or nervous upon seeing Storm. In fact, Lee did not  
162 recognize Storm. Even when Storm introduced himself/herself as the Captain of the *Bounty*, and  
163 expressed his/her condolences for the family deaths, Lee showed no concerning reactions. I  
164 chalked up my suspicions as that of a cynical old cop and closed the case.

165 The case remained closed until eight years later. Beau/Bo Vine, a former veterinarian  
166 partner of Archie Way, was arrested for selling illegal drugs across State lines in a sting operation  
167 involving several law enforcement agencies. CGIS was notified of the arrest and charges against  
168 Vine due to information he/she possessed regarding circumstances surrounding the Ways deaths.  
169 Vine negotiated a plea agreement for information leading to the arrest of Gail/Gayle Storm. I  
170 was not part of the negotiations for that plea agreement as the matter involved other law  
171 enforcement agencies involved in the sting. Sometimes you have to let go of the smaller fish, to  
172 catch the big one. In any event, the plea deal was made and Vine provided evidence that Way  
173 and Storm had arrangements to smuggle Clenbuterol from Canada to the United States.  
174 Clenbuterol is a drug that is not approved in the United States, but is illegally imported from  
175 Canada and used in show livestock to increase muscle mass.

176 Vine produced a hand-written note that he/she had discovered with the boxes of  
177 Clenbuterol in a storage. The fact that the Clenbuterol that Vine attempted to sell was 8 years  
178 old, and has a shelf life of 5-7 years, adds credibility to Vine’s story that the Clenbuterol was  
179 obtained by Way, and that Vine was not an active participant in the smuggling scheme. The  
180 note located with the Clenbuterol is the smoking gun in this murder investigation. The note  
181 shows that Archie Way and Gaily/Gayle Storm had made arrangements for the Clenbuterol to be  
182 picked up in Canada at a specific dive site location and the smuggled goods would be hidden in

183 the extra dive bags. While it is true that no Clenbuterol was located after the wreck, much was  
184 lost to the sea. Also, Storm did have an opportunity to take the smuggled drugs and hide them  
185 elsewhere. There is no evidence, however, that Storm ever sold any Clenbuterol. The note  
186 showed however, that Storm was to be paid more money to be part of the smuggling scheme.  
187 The family trip was a clever ruse to escape suspicion by authorities. Exhibit 4 is a true and  
188 accurate copy of Archie Way's handwritten note.

189 It was reassuring for me that my initial gut reaction in 2003 was correct. Now, I fully  
190 intended and was determined to build the case against Storm. As part of my investigation, I  
191 obtained records of the telephone calls of Way and Storm. The phone records confirm the  
192 telephone call on May 8<sup>th</sup> between Archie Way and Storm as referenced in the note located with  
193 the Clenbuterol supplies. The only communications which I discovered were the three phone  
194 calls and the signed Charter Agreement. I did not find any evidence of any prior contact  
195 between Archie Way and Storm.

196 I was piecing the puzzle together and presumed that the smuggling deal had gone awry,  
197 but I was not able to connect the deaths of the Ways to Storm. As I was reviewing my SAR  
198 reports, I realized that a simple statement by Lee Way, just barely conscious, had been  
199 misinterpreted by everyone, including me. It dawned on me that when Lee uttered the word  
200 "storm" that he/she was trying to identify his/her family's murderer, rather than commenting  
201 upon the weather. The murder of Lee's family would be a traumatic enough event to cause Lee  
202 to repress those memories.

203 So, on September 16, 2011, I contacted Lee Way by telephone. I told him/her that I was  
204 with CGIS and that we were reopening the investigation into the deaths of Archie, Annie, and  
205 Skye. I said that the Coast Guard had reason to believe that Archie and Captain Storm were  
206 involved in smuggling of veterinary products from Canada that were illegal in the United States.  
207 Lee instantly said "Wait a minute, I just had a flash of Captain Storm. Oh, it's gone already. But  
208 it was dark, and sinister." I asked Lee if he/she had ever had any pieces of memory return about

209 the evening when his/her family died. Lee told me that he/she had a nervous breakdown and had  
210 been seeing a therapist who used hypnosis to help recover his/her memories. Lee reported that  
211 he/she had started to have little pieces of his/her memory recovered. He/she could remember  
212 parts of the trip - learning the ropes on the ship with Tai/Ty the First Mate, and scuba diving with  
213 his/her father around the shipwrecks. There were a couple of memories he/she had recalled that  
214 didn't make any sense, but his her/therapist said not to discard them, because the pieces would  
215 fall into place later. I asked what those memories were. Lee mentioned a cabinet in his/her  
216 parents' room that he/she used to play hide and seek from Skye. Lee said the memory was scary,  
217 and not a happy memory of child's play with his/her sister. Lee also said he/she sometimes had  
218 memories flash back of a wrench, but thought it had to do with repairs the boat needed. I  
219 indicated that Archie, Annie, and Skye all had blunt trauma to the head, and maybe there was a  
220 connection with the wrench. I gave Lee my cell number and told him/her to text me or call me if  
221 he/she had any breakthroughs.

222 Lee called me five days later. The information about the smuggling of Clenbuterol was  
223 enough to trigger nearly full recovery Lee's memory of the murder by Gail/Gayle Storm of  
224 Archie, Annie and Skye Way. Lee provided full details of the murder. Storm and Archie had  
225 argued about money on the night of his death, and that Lee had witnessed Storm clubbing Archie  
226 with a wrench, and then clubbing Annie and Skye when they tried to stop Storm. Lee had hidden  
227 in the cabinet. Storm couldn't find Lee so Storm lit the fireworks causing an explosion and  
228 sinking the boat. Lee was relieved to have his/her memory recovered, even if it was horrible.

229 Between September 22 and 28<sup>th</sup>, I took statements from key witnesses. Storm willingly  
230 gave a statement and did not exercise any Miranda rights to counsel. The statements are  
231 provided herein. On September 30, 2011, I arrested Storm on charges of the murders in the first  
232 degree of Archie Way, Annie Way, and Skye Way.

***I affirm under penalty of perjury that the foregoing is true and correct to the best of my belief and knowledge.***

Dated: September 30, 2011

***Percy Veer***\_\_\_\_\_.



27 was significantly less than what Archie had reported to me. All outward signs looked like the  
28 business was strong and profitable. Archie was a prominent figure in the community and  
29 throughout the State. Archie and his family lived an affluent lifestyle - - expensive home,  
30 expensive cars, expensive hobbies, and expensive vacations. I didn't know how he could have  
31 afforded all of those things after I studied the accounting records. I also found several  
32 irregularities. For example, I found a cancelled check for a payment to Fully-Rigged, Storm's  
33 business. If the trip was a family vacation, why did Archie pay for it out of business funds using a  
34 business check? Knowing what I know now about the Clenbuterol, I know that Archie was  
35 supplementing his income by selling illegal drugs.

36           Anyway, I sent some money to Lee for the business. Fortunately, Lee had been well taken  
37 care of through life insurance policies on Archie and Annie, and also through a settlement with  
38 the liability insurance carrier for the *Bounty*. My life was not so easy. We did not have life  
39 insurance as partners in the business, and when Archie died, several of those prominent farmers  
40 vanished. I didn't think anything of it at the time. Veterinary services are relationship based.  
41 Those farmers, I thought, must have had a special relationship with Archie. I just didn't know  
42 until now what "special" relationship they had.

43           I was struggling to keep the business going. Years passed and still things had not  
44 improved. So, in February, 2010, I decided to rent some of the space in the office building. I was  
45 clearing out some old storage space in the WAVE office building when I discovered about a  
46 thousand bottles of injectable form of Clenbuterol. It was so old, it was close to the end of its  
47 shelf life, which is 5-7 years. It made no sense to me that Archie would have all of that  
48 Clenbuterol. Clenbuterol is illegal in the United States, except in a compound formula that's used  
49 to treat respiratory problems in horses. This was pure Clenbuterol, not the compound formula,  
50 and we would never have the need for such a significant quantity. There just aren't that many  
51 horses with respiratory problems. Also, I could not recall even one time when I saw Archie give a  
52 horse Clenbuterol for breathing problems.

53           Clenbuterol, however, is used illegally to gain competitive advantage in some show  
54 animals such as calves, lambs, and swine because it has dramatic effects upon muscle  
55 development and altering the lean to fat ratio. It is illegal in the United States for use in livestock  
56 because of significant public health risks. Administration of Clenbuterol to any animal that could  
57 be used as food for human consumption is strictly banned by the FDA. Animals will break down  
58 the Clenbuterol and other similar chemical compounds into non-toxic products. However,  
59 sometimes the chemical is broken down into a toxic product that is as toxic or even more toxic  
60 than the originally ingested Clenbuterol. Clenbuterol residues can affect lung and heart function  
61 in persons who have eaten liver or meat of animals given the drug.

62           In 1998, the FDA approved a new animal drug application, which contains a small  
63 amount of Clenbuterol, as a restricted use prescription-only drug for treating horses affected with  
64 airway obstruction. However, bulk Clenbuterol is only available for use by the manufacturer of  
65 the end-product. Furthermore, the dosages needed for therapeutic purposes are much lower than  
66 those required to increase muscle mass.

67           The markets had taken a dive and the business was faltering. I convinced myself that if I  
68 sold some of the Clenbuterol that I wasn't doing anything that Archie must have been doing for  
69 years, and I would make sure that I had the assurances from anyone I sold it to that they would not  
70 allow it to be used for animals for human consumption. I also thought I would just get rid of the  
71 current supply and no more, and that would put me back in a position of financial strength. I  
72 justified my way into a life of crime, and I regret ever finding Archie's stash of Clenbuterol.

73           I found a handwritten note from Archie that was stuffed in a box of Clenbuterol. Exhibit 4  
74 is a true and accurate copy of the Archie's handwritten note located with the Clenbuterol. The  
75 reference in the note to Canada made sense, coupled with finding the note by the Clenbuterol,  
76 because Clenbuterol is legal in Canada. The note appeared to be an outline, of sorts, of plans for  
77 Archie to obtain additional supplies of Clenbuterol while traveling to Canada on the boat. The  
78 note also appeared to implicate Storm was part of the smuggling scheme. I returned the note to

79 the box. I'm not sure why. I guess I thought it might be useful one day.

80 For the longest time, I just let the Clenbuterol sit - being tempted, but not being ready to  
81 follow through with doing something illegal. As time passed, the Clenbuterol was getting older  
82 and older. So, in August, 2011, I made contacts to sell the old stash of Clenbuterol . Unwittingly,  
83 I was talking to undercover agents to set up the sale. We made arrangements for the sale for  
84 September 9<sup>th</sup>. And that's when I got busted.

85 I am ashamed of what I did, and there's no excuse for it. I had justified it at the time to  
86 myself, but when I look in a mirror, there's no justification for what I did. I deserved to lose my  
87 D.V.M., as I'm sure I will. I deserved to go to jail.

88 The investigators have asked me about recent trips I made to Canada. I go to Canada  
89 every summer, but I'm not going there to buy illegal drugs. I enjoy fishing, and there's a place I  
90 like to go where they fly you in because it is so remote and you have a cabin on a huge lake all to  
91 yourself. The investigators were relentless. They kept drilling me about who my source was. I  
92 told them over and over again, because it's the truth, that I never purchased the stuff, that I just  
93 found it. Think about it, the stuff was 8 years old. Would I really just sit on something for 8  
94 years, if I had been the one to smuggle it into the States? It's value had decreased because of the  
95 shelf life, and if I were in the business to make money, I wouldn't be sitting on it for 8 years! I  
96 was all set to take my punishment, when I thought about their question as to who was the source.  
97 That's when I remembered Archie's handwritten note. I told them that I had information that  
98 would lead them to one of the smugglers - Storm. It hadn't occurred to me that Storm may have  
99 murdered the Ways over the smuggling deal. In exchange for the information, I get to walk - - no  
100 jail time. I may still lose my license, and that's a hard pill to swallow. However, with a reduction  
101 in the charges under the plea agreement, and no jail time, the licensing board may be more lenient,  
102 particularly since I'm cooperating with the authorities. Regardless, at least I have my freedom. I  
103 would have given anything for that!

104

*I affirm under penalty of perjury that the foregoing is true and correct to the best of my belief and knowledge.*

Dated: September 23, 2011

**Bo/Beau Vine** .



27 could afford to purchase a boat. Better yet, I was able to purchase the schooner at a cheap price.  
28 A classic schooner in her condition at the time had a value of approximately \$600,000. I paid  
29 \$195,000 using the stash of cash I had stockpiled and obtaining a small mortgage. I practically  
30 felt like I was swindling her from her prior owner, but I guess she had her reasons for selling it so  
31 cheap, and that was of no concern to me. I guess I'm a bit of an opportunist. When opportunity  
32 knocks, you open the door. I renamed her the *Bounty*. The *Bounty* was a two-masted schooner.  
33 The *Bounty* originally was gaff rigged, but I modified her to be staysail rigged. She was 32 tons  
34 and 74' in length overall; 61' in deck length. Her interior was Honduran mahogany, graced with  
35 leaded glass cabinetry below decks. The *Bounty* had four private double staterooms or cabins all  
36 with double sized berths. The guest cabins were all located in the separated forward cabin area  
37 accessible by a separate companionway or stairs. There was a galley to prepare meals and  
38 separate captain and crew quarters. The forward cabins were the most spacious because there was  
39 a skylight, opening hatch, above your head. A wood stove was used for cooking and heating  
40 water for showers. With teak decks, sleek racing lines and a rich mahogany interior, she really was  
41 a beautiful boat. At the time of her last voyage, she was Coast Guard certified for 48 day  
42 passengers and 8 overnight passengers.

43 Purchasing her was the beginning of my new life. I worked for a few more years at  
44 Schooner Sooner's, and in the meantime obtained my Captain's license and eventually my 100 ton  
45 Master's license. I spent my free time restoring her for cruising the waters of the Great Lakes.  
46 Owning a schooner, especially as a charter boat, involves more than just sailing. Essentially, I  
47 have several jobs - electrician, carpenter, plumber, janitor, teacher, painter, social director, and  
48 business person. And I'll be totally honest when I admit that I had no idea what I was getting into!  
49 Thankfully, I was surrounded by other charter captains and I could take advantage of their  
50 knowledge.

51 I began my charter boat service, Fully-Rigged Charters, in 1995. Exhibit 8 is a true and  
52 accurate copy of the brochure I used in my charter business in the summer of 2003. I created the

53 brochure myself. It is a regular practice for me to create the brochures for my business. I keep a  
54 copy of this brochure along with all of my brochures for charter trips in a file folder in the course  
55 of my business. My charters are a live-aboard voyaging experience on the exciting and vibrant  
56 Great Lakes. Two types of voyages are offered: seamanship and freshwater science. Most of my  
57 voyages focus on seamanship, which means learning the arts of traditional sailing such as pilotage  
58 and navigation, sail handling, watchkeeping, and ship handling. Freshwater science voyages  
59 combine seamanship with the study of Great Lake habitats, aquatic species and nautical science.

60 Archie Way contacted me in early May, 2003 to charter a ten day adventure for his family  
61 of four aboard the *Bounty* to sail across Lake Michigan and Lake Huron to Canada and back to  
62 Michigan City. I had no prior dealings with Mr. Way. He indicated that he had picked up my  
63 brochure at the Indianapolis Boat Show in February, 2003. I participated at the boat show, but if I  
64 met Mr. Way at that time, I have no specific recollection. When he called, Mr. Way was adamant  
65 that the trip was to be scheduled from June 27<sup>th</sup> to July 6<sup>th</sup> and would include a stop to Canada.  
66 He explained that he wanted to give his family a 4<sup>th</sup> of July holiday that they would remember and  
67 to also have them experience Canada Day on July 1<sup>st</sup>. I had previously booked another charter for  
68 the week of July 4<sup>th</sup>. However, Mr. Way insisted that he get his way and told me he would pay  
69 double the price. I subsequently contacted the other customer who had previously booked the  
70 charter with me for the week of July 4<sup>th</sup>. I “fudged” a bit to cancel the reservation, saying  
71 something about necessary repairs, even though I was perfectly within my rights to cancel under  
72 the terms of the contract.

73 I returned the other customer’s deposit, called Mr. Way to confirm, and promptly prepared  
74 and mailed a confirmation of the booking for Mr. Way. Mr. Way specifically requested that we  
75 spend time at Providence Bay on Manitoulin Island on Lake Huron in Ontario, Canada on July 1<sup>st</sup>  
76 to experience Canada Day. Other than the Providence Bay stop, Mr. Way had no specific  
77 itinerary and left charting our course to me. Shortly thereafter, Mr. Way returned the signed  
78 confirmation along with payment, not only the deposit, but the full cost of the trip. Exhibit 9 is a

79 true and accurate copy of the confirmation of Mr. Way's booking, and it is my regular practice to  
80 make such records. Exhibit 10 is a copy of Mr. Way's cancelled check. Exhibits 9 and 10 are  
81 kept in the course of my business. I don't recall having any other conversations with Mr. or Mrs.  
82 Way prior to the trip. I know that the phone call records show that Mr. Way called me a second  
83 time prior to the trip. I assume that was to confirm that I received the check and the signed  
84 agreement for the trip.

85 We left port in Michigan City on June 27<sup>th</sup>, directly challenging the superstition that it is  
86 bad luck to set sail on a Friday. The *Bounty* was crewed by myself and First Mate Tai/Ty Knotts.  
87 Tai/Ty was a bit on the inexperienced side, a greenhorn, but I like to give college students an  
88 opportunity to learn the ropes. I remember when I was that age and struggling to find someone  
89 who would give you a chance. Plus, honestly, it keeps my costs down. Tai/Ty was eager to gain  
90 the experience for minimum wage, plus food and housing on board. In hindsight, if Tai/Ty had  
91 secured the ropes to the dock better that tragic night, the Ways might still be alive today. Tai/Ty  
92 was good with the customers, though. As Captain of the *Bounty*, I don't often have time or the  
93 patience to socialize with our guests. Tai/Ty is very social and entertaining. Tai/Ty's background  
94 in education also helped in teaching seamanship, and local folklore and history to the Ways.

95 I charted our course for the trip. We made our usual stops along the way - - the Manitou  
96 Islands, Suttons Bay, Traverse City, Beaver Island, Petroskey, the Straits of Mackinac, and finally  
97 to Mr. Way's preferred destination, Providence Bay. I didn't notice anything unusual about Mr.  
98 Way on the trip. Mr. Way and his family were interested in scuba diving and shipwrecks. Lake  
99 Michigan is a wonderful cornucopia for divers interested in shipwrecks. There are approximately  
100 1,250 shipwrecks in Lake Michigan. Two of Michigan's Bottomland Preserves are completely in  
101 Lake Michigan: Manitou Passage near Traverse City and the Southwest Michigan Preserve near  
102 Holland, Michigan. The Ways were all strong swimmers and each had certification to dive.  
103 They did some diving off the Manitou Islands and saw the *Alva Bradley* and *Three Brothers*  
104 shipwrecks. When we docked at Providence Bay, however, he would not let his children dive

105 with him. The area at Providence Bay requires more advanced diving skill as there are hazards of  
106 hypothermia due to the depth of the wrecks and silting. Mr. Way sent the children into town with  
107 Mrs. Way to watch the Canada Day parade and other celebrations, while he went scuba diving  
108 alone. Tai/Ty accompanied the Ways on their trip into town. The Ways returned to the boat  
109 carrying several bags, which I presumed to be souvenirs. I do not believe Mr. Way ever went on  
110 shore at Providence Island, but I wasn't keeping watch. We made no other stops on Canadian  
111 soil. We stayed docked at Providence Bay that evening and watched the fireworks display by the  
112 townsfolk celebrating Canada Day. The following day, July 2<sup>nd</sup>, we began our way back to  
113 Michigan City.

114 On July 3<sup>rd</sup>, we docked near Grand Haven, Michigan. Mr. Way was interested in seeing  
115 the *Ironsides* shipwreck. Diving in that area is only for advanced divers because of the depth,  
116 silting and hypothermia risks. So while Mr. Way was diving, Mrs. Way and her children explored  
117 the area. They returned with more shopping bags. I presumed they had purchased more  
118 souvenirs.

119 On the evening of July 3<sup>rd</sup>, we ran into a small storm. It was the precursor to what was to  
120 follow the next day. Up until the 3<sup>rd</sup>, we had beautiful weather - - sunny with enough wind to  
121 move us along at a good clip. We were not expecting any storms; no storms had been forecast.  
122 Unfortunately, the storm on the 3<sup>rd</sup> knocked out some of our electrical equipment, including the  
123 radio.

124 The storm passed as quickly as it came. The next day, we docked near New Buffalo,  
125 Michigan around 4:00 p.m. I directed Tai/Ty to go into town to find some necessary supplies to  
126 repair our electrical equipment and the radio. I fully expected that Tai/Ty might not find a store  
127 open, and Tai/Ty had friends in the New Buffalo, Michigan area, so I told him/her that he/she  
128 could stay the night and join us in the morning. I had planned to begin work on making the  
129 repairs. Before heading into town to get our supplies, Tai/Ty tied off the *Bounty* to one of the  
130 docks. I was busy with attending to other safety equipment that I didn't check Tai/Ty's knots.

131           The children were frequently interrupting me because Tai/Ty was not around to act as the  
132 social director. I was getting more and more frustrated. There was work to be done and I did not  
133 want to be disturbed. Several hours later, I was continuing my repair work but was missing some  
134 of my tools. I had taken out my toolbox and laid out a few items - - a wrench, screwdriver and  
135 pliers. I noticed that Lee had grabbed my wrench and was playing with it like it was a sword. I  
136 snapped at Lee to not play with my tools.

137           By then, it was getting dark enough for the fireworks to begin in town. So, I encouraged  
138 Mr. Way for his family to get off the ship to enjoy the city's fireworks. Mr. Way became excited  
139 and yelled "I'm not leaving the *Bounty*." I huffed in reply, "it's MY *Bounty*." I'm not sure why  
140 he became agitated so suddenly. Perhaps he heard me snap at Lee, and was defensive. In any  
141 event, the Ways were determined to stay on board.

142           In the initial investigation by the Coast Guard, I never mentioned my argument with  
143 Archie, if you can call it an argument. I didn't think it was relevant. The Ways died because of a  
144 violent storm and the fire that Lee started. I also didn't recall every aspect of the argument when  
145 Special Agent Veer questioned me recently. It's been 8 years since the accident, and that was a  
146 horrible night. What sticks out in my memory is the storm and my efforts to save the Ways lives.  
147 But after Special Agent Veer asked if we argued about money, I recall now that we might have  
148 had a slight argument about money. As I recall, after I told Archie that it was my *Bounty*, Archie  
149 reminded me how much money he had paid me - - for the trip, that is.

150           The City of New Buffalo began their fireworks, and I returned to my work assuming that  
151 the kids would now be occupied. The Ways went below deck for a few minutes and then the next  
152 moment I saw them the kids had sparklers and were waving them all around the ship. Then I saw  
153 that the Ways had brought up on deck a huge pile of fireworks, some pretty powerful stuff that  
154 you can't buy in the US. They apparently thought they would light the explosives from the deck  
155 of MY boat! It was a little after 9:30 pm then. I was furious. Fireworks on a wood boat with the  
156 sails up? What were they thinking? I put a stop to the fireworks immediately. Then, all chaos

157 broke loose.

158 I could tell by Lee's demeanor that he/she was angry. I had snapped at him/her earlier in  
159 the day and now I was not allowing them to have fun with their fireworks. Lee gave em a defiant  
160 look and while glaring me down threw his/her lit sparkler on the pile of fireworks. Immediately  
161 some of the fireworks in the pile exploded. It was like we were in the middle of a war zone.  
162 Bang, bang, bang-bang. One of the fireworks shot up and snapped the foremast in two. As I ran to  
163 get a fire extinguisher, I saw the foremast come down and hit Archie in the heads knocking him to  
164 the ground. Annie and Skye went to Archie to help him. I was trying to put the fire out, but it  
165 was dangerous with the fireworks exploding right and left. The fire grew out of control, and Lee  
166 ran below deck frightened. I didn't mention to Veer that I didn't mention that Lee had started the  
167 fire because I thought Lee was dead and it would be harder on family and friends to know he/she  
168 may have caused the deaths.

169 Within a few minutes after the fire broke out, out of nowhere, and with no warning,  
170 violent gales raged out of the northeast. The tempestuous gales churned the pounding waves.  
171 Almost instantaneously, we experienced a record-high seiche. The knots tied by Tai/Ty slipped  
172 away and the northeasterly winds pushed us away from the shore. I abandoned my efforts to  
173 control the fire and tried to gain control of the *Bounty*. As the strong winds blew, waves were  
174 cresting over the ship's bow. The lake was one sheet of white foam. The waves roared like  
175 Niagra Falls. The ship was taking on water fast. I tried to control the boat, but it was impossible.  
176 We were at the mercy of the 60 mph winds and the roaring waves of the sea, which drove the  
177 schooner out of control to the west, away from shore and further into the depths of Lake  
178 Michigan.

179 I gave the order to abandon ship. I called for Lee and quickly looked below deck but did  
180 not locate him/her. Then a seiche lifted her stern clear up almost perpendicular and broke over  
181 both sides near the forerigging, jamming her nose under water. She struck with force enough to  
182 tear the masts out. I saw the masts come down on Annie knocking her out. Skye was tossed to

183 the leeward side of the boat and hit her head too. I saw it was going to sweep her clean, so I  
184 released the dinghy from its davits and jumped overboard. I hung on to the dinghy expecting my  
185 time was up. All of this happened in less than five minutes. Suddenly, with an eerily creaking  
186 noise and one more rise and dip, like a final gasp for life, she slipped beneath the waves and was  
187 gone. As staunchly built as she was, the *Bounty* could not withstand the record-high seiche and  
188 storm. The Ways perished as a result of the storm and the fire on board the *Bounty*. It was a  
189 tragic accident - a perfect storm of events.

190 Their deaths will always live with me. I have gone over in my head what I could have  
191 done to save their lives. There was nothing I could do to contain the fire and gain control of the  
192 boat. Nature prevailed and we lost. It was a tragic, tragic ending.

193 I admit there was no radio call or signal for help. I could not call for help and I was unable  
194 to transmit an S.O.S. signal. The radio did not work and I had given my cell phone to Tai/Ty. No  
195 one on board had a cell phone. The Ways had dutifully followed my strong recommendation to  
196 leave cell phones and other electronic distractions at home so that they could enjoy the trip more  
197 fully. It happened so quickly that any rescue call would not have helped anyway.

198 I floated for two days in the dinghy using all of the strength I had left. I finally was spotted  
199 by the Coast Guard and was rescued. When the Coast Guard rescued me, I told them that the Way  
200 family had perished due to the storm. I did not realize Lee Way had survived. When I was in the  
201 hospital and was told that Lee had been rescued I was shocked. I couldn't imagine how anyone  
202 could have got out of that alive when the last seiche hit us. I am happy Lee survived, but I am  
203 having a hard time understanding why I'm being wrongly accused by Lee. It was such a traumatic  
204 event that I'm sure the facts have become distorted in his/her mind in order for him/her to deal  
205 with the guilt - either for causing the fire or survivor's guilt.

206 I did collect insurance money on the loss of the *Bounty*, but not as much as she was worth,  
207 or the cost to replace her. Insuring her was expensive and so I played a little roulette and took a  
208 chance on my luck. I insured her for \$600,000. Sure, that was more than three times what I paid

209 for her, but I also put some sweat equity into her. To purchase a schooner of equal magnificence  
210 in 2003, I paid \$900,000.

***I affirm under penalty of perjury that the foregoing is true and correct to the best of my belief and knowledge.***

Dated: September 28, 2011

***Gayle/Gail Storm***



27           The experience I had on the *Bounty* in 2003, although ending in tragedy, and my  
28           experience on Captain Storm's subsequent ship *Hidden Treasure* taught me a lot about  
29           seamanship and boating. The skills I learned opened doors that I otherwise would never have had.  
30           I have sailed in the Chesapeake Bay Schooner Race several times, sailed all throughout the  
31           Caribbean from Trinidad to St. Thomas, through the Panama Canal, and up the west coast as far  
32           as Los Angeles.

33           I recall the trip with the Way family. We left on a Friday, unlucky according to seaman  
34           superstitions, and set course for the eastern banks of Lake Michigan, with an itinerary that  
35           included Canada. Captain Storm always provided me with the tentative itinerary, and this trip was  
36           no exception. It was helpful to have the itinerary so that I could use my teaching skills along the  
37           way and instruct the family about the local culture or significant shipwrecks. The stopover in  
38           Canada was a bit out of the ordinary. We rarely made it up to Canada because most people  
39           chartered the boat for a two or three day adventure. The Ways, however, chartered the *Bounty* for  
40           ten days.

41           We had perfect weather nearly the entire trip - - blue skies, brightened by sunny days, and  
42           just the perfect amount of wind to propel us to our destinations. The Ways enjoyed scuba diving  
43           around the shipwrecks. The children were good swimmers and respected the dangers of the Lake.  
44           We stopped at Traverse City, Suttons Bay, Beaver Island, and the Manitou Islands. When we  
45           went offshore, I taught the children about the local fauna, wildlife and birds. In the evenings, I  
46           played some sea shanties and folk songs on my guitar, and sometimes we would tell stories for  
47           entertainment.

48           Lee was smart as a whip, and could tell some pretty imaginative stories. I'm not surprised  
49           at all that Lee plans to get a Masters in Fine Arts in Creative Writing. The creative or imaginative  
50           gene is in/his her nature. For a ten-year old, Lee's stories were full of details and intricacies. The  
51           characters in the stories were not just one-dimensional, but rather were full of depth. And, Lee's  
52           stories were realistic and very believable. That's what made him/her such a good storyteller. A

53 few times Lee had me believing a made-up tale about something that allegedly happened that day.  
54 I was pretty amazed when Lee would spin a yarn. Telling stories was a way that Lee got some  
55 attention. Lee liked being the center of attention because Skye was older, did better in school, and  
56 was more athletic. Storytelling, however, was Lee's gift.

57 I was with the Ways almost constantly throughout the trip. Captain Storm left it to me to  
58 be social director. The Captain was often busy navigating and taking care of the *Bounty* and  
59 didn't have time for the interruptions that is inherent when dealing with children. Still, we all got  
60 along. Well, there were a couple of times that the Captain was impatient, particularly when they,  
61 mostly Lee, played with his/her tools. Lee, as the baby of the family, was used to getting his/her  
62 way, and sometimes was defiant when being told to do something or not to do something.

63 When we stopped in Providence Bay, Archie indicated that he had planned to do some  
64 scuba-diving. Annie, Skye, Lee and myself took to the shore to enjoy the Canada Day festivities.  
65 As we were leaving, Mr. Way was already in the water. I'm pretty sure that he had set up a diver  
66 flag for that dive; he routinely did so. When we returned to the ship, I didn't notice anything  
67 suspicious or out of the ordinary with Mr. Way. In fact, I can't think of any day on the trip that he  
68 acted suspiciously. I did not see any odd interactions between Mr. Way and the Captain.

69 I never saw any of the Ways purchase fireworks or bring any fireworks on board the ship.  
70 If they had, Captain Storm would have made them march right off the gangplank to be rid of  
71 them! Fireworks had the potential of causing a fire or an explosion. Captain Storm took safety  
72 seriously on board the *Bounty*.

73 The *Bounty* was a magnificent boat. She sailed true to her helm and never listed. On other  
74 charter trips we would occasionally run afoul of bad weather. Lake Michigan can sometimes be  
75 unpredictable, But the *Bounty* was a strong-hearted and endlessly forgiving ship. She put up with  
76 much pounding and endured my awkward skills as a First Mate. Yet she always brought us in,  
77 thanks to her strong hull and seaworthy design, but also thanks to our wise Captain.

78 What happened on the evening of July 4<sup>th</sup>, 2003 was just an accident. Captain Storm is not

79 at fault! Prior to the 4<sup>th</sup> of July, we did experience some problems with the *Bounty*. A storm on  
80 the 3<sup>rd</sup> knocked out the ship's radio, GPS and other electronic components. When we arrived at  
81 the New Buffalo harbor, I was instructed to purchase the equipment necessary to make the repairs.  
82 Captain Storm gave me his/her cell phone, and told me that I could stay in town and visit with  
83 friends, returning to the boat the following morning. I specifically remember the Captain  
84 encouraging the Ways to leave the ship too and enjoy the 4<sup>th</sup> of July celebration in New Buffalo. If  
85 the Captain had intended to murder the Ways, why would he/she encourage them to leave the  
86 boat? Curiously, Mr. Way adamantly refused to leave the ship. The way Mr. Way looked at  
87 Captain Storm was almost like he didn't trust him/her. Before I left the boat for New Buffalo, I  
88 recall that Archie and the Captain were arguing about money. It was getting close to the end of  
89 the ten-day trip, and I think there may have been some settling up that needed to be done.

90 If anyone should be on trial for the deaths of the Way family, it should be me. I was in a  
91 hurry to run the errands for electrical equipment needs for the *Bounty* and meet up with my friends  
92 in town. In my haste, and with my inexperience in tying knots, the *Bounty* did not get securely  
93 tied to the dock. I knew at the time it was a weak knot, but I thought it wouldn't matter. There  
94 was no forecast of bad weather. And certainly, no one ever anticipated the storm of the century.  
95 Yet, had I not rushed to get the boat tied off, she may not have pulled away from the dock that  
96 night. I've had many nightmares about that night, and my responsibility in the deaths of Archie,  
97 Annie, and Skye. I was surprised, of course, that Captain Storm gave me a second chance when it  
98 came time for a summer job the following year, and the year after. But that's the kind of person  
99 Captain Storm is.

100 When the storm had settled, over an hour after it began, I was able to walk back to the  
101 dock to make sure everything was okay. The *Bounty* was nowhere in site. I immediately called  
102 the Coast Guard and reported the *Bounty* was missing along with five of the passengers, including  
103 the Captain. When they found Captain Storm a couple of days later, I visited him/her in the  
104 hospital. He/she just sobbed. I could tell he/she was feeling remorseful. But there was nothing

105 he/she could have done to save the Ways' lives. Captain Storm and I never spoke about that  
106 night again.

107 I also saw Lee in the hospital once he/she came out of his/her coma. I was told before  
108 visiting Lee that he/she had complete memory loss of the trip with his/her family. While Lee  
109 didn't know my name, I saw a look of familiarity and happiness in his/her face upon seeing me. I  
110 gave Lee a hug before I left the room, and Lee held tight, as if I was his/her safety net from falling  
111 deep into despair. Lee may not have remembered much, but he/she knew who he/she could trust.

***I affirm under penalty of perjury that the foregoing is true and correct to the best of my belief and knowledge.***

Dated: September 26, 2011

***Tai/Ty Knotts***\_\_\_\_\_.



27 after the event, most often spontaneously, triggered by something related to the lost memory, or  
28 via suggestion during psychotherapy.

29 Recovered memory is the description given to the resurrection of the memory of events  
30 that had been forgotten or suppressed for a relatively long time. Retrieval of false memories is  
31 common. People may unconsciously distort their thoughts, memories or ideas when something  
32 bad happens, particularly if the person who has repressed the memory has some guilt relating to  
33 the event and thus transfers the blame to another.

34 Hypnosis is often used to aid in the recovery of memories. Hypnosis is designed to allow  
35 the patient to allow withdrawal from the surroundings with progressive relaxation to permit the  
36 patient to focus on the repressed memory. Hypnotism has gained general scientific acceptance as  
37 a beneficial technique for the treatment of various forms of mental illness. Hypnosis also has  
38 been shown effective in clinical studies as a means of increasing the amount of detail recalled  
39 about a past event. However, there may be some doubt as to the accuracy and reliability of such  
40 recall. Hypnosis can produce inaccurate, as well as accurate, additional information. Such  
41 distortion may result from (1) the patient's heightened vulnerability to suggestion or "cues" from  
42 the hypnotist or others present during the session, or from the context and known purpose of the  
43 interview, and (2) the patient's tendency, under pressure, to provide information or fill in memory  
44 gaps with details imagined or drawn from other experiences. Hypnosis also tends to resolve  
45 doubts in the patient's mind as to the completeness and veracity of the recollection, providing the  
46 patient with unfounded confidence in the recovered memory.

47 There is little if any relationship between the confidence of a person in their recollection of  
48 a particular event and the accuracy of that recollection. A person's memory can become  
49 "contaminated" by subsequent events. Contamination is more likely to occur if a long period of  
50 time has passed since the event.

51 I have not treated or examined Lee Way. I have no personal or direct knowledge of the  
52 alleged recovery of Lee Way's memory. I am aware that Lee Way had a mental breakdown upon

53 entering college and was treated by Psychologist Dr. Andi Dote. Dr. Dote is a highly -respected  
54 psychologist at the University of New Mexico. I have reviewed the interview notes of Dr. Andi  
55 Dote's sessions with Lee Way, and the videotapes of Lee Way's hypnosis therapy conducted by  
56 Dr. Dote. I have also reviewed the Statement of Lee Way, his/her Facebook page excerpts  
57 (Exhibit 1), Statement of Tai/Ty Knotts, Statement of Gail/Gayle Storm, and the Statement of  
58 CGIS Special Agent Percy Veer. Based upon my review, and my extensive knowledge and  
59 experience in the study of repressed memory, I have formulated opinions based upon a reasonable  
60 degree of medical certainty.

61 It is my opinion that Lee Way's memory could be contaminated. I do not believe it was  
62 contaminated during the therapy sessions with Dr. Dote, however. I carefully watched the  
63 videotapes throughout the hypnosis therapy sessions to discern whether any suggestions were  
64 made to influence Lee Way's memory of the events of July 4, 2003, and the events surrounding  
65 that evening. There were no inappropriate suggestions during the session that might contaminate  
66 Lee Way's memory. Dr. Dote does implement appropriate procedures to avoid contamination.  
67 Nevertheless, several external influences may have contaminated Lee Way's memory. SAC Veer  
68 provided information regarding the possibility of a wrench being used as a weapon to cause blunt  
69 trauma to the head. Additionally, Lee's friend, Jamie provided information to Lee Way about the  
70 storm and the kayak. It appears that Lee also looked at newspaper accounts and outside sources to  
71 fill-in memory gaps that he/she now claims were recovered memories.

72 The reliability of Lee Way's memory is suspect. It has been eight years since the death of  
73 his/her family. The duration of the memory lapse of eight years creates a strong incentive to  
74 create any memory, even if it is a false memory based upon made-up facts. As noted by Tai/Ty  
75 Knotts, Lee has a very active imagination and is proficient at making up facts to create a story.

76 I would also expect a person who had repressed the memory of a murder to experience  
77 nightmares about the murder or to exhibit behavioral changes. Lee has never mentioned having  
78 nightmares. While there may have been some behavioral changes in Lee Way's early teens, such

79 as the shoplifting charge, the fact that there hasn't been any recent behavioral changes, leads me to  
80 conclude that the shoplifting charge was merely, a teen's defiance of authority.

81 Another relevant factor is Lee Way's shoplifting of the wrench, which he/she now claims  
82 was used by Gail/Gayle Storm to murder the victims . However, clinical research shows that  
83 people with repressed memories also tend to avoid those things that remind them of the repressed  
84 memory.

85 Finally, Lee Way's potential guilt and potential transference of blame raises questions as  
86 to the validity and reliability of the recovered memory. Lee Way, according to Storm, defiantly  
87 threw a sparkler into a pile of fireworks aboard the schooner, causing an explosion and ultimately  
88 sinking the boat. Lee Way was close to his/her family, particularly his/her father. Lee Way may  
89 have repressed his/her memory of that night because he/she may have been the cause of the deaths  
90 of the mom, dad, and sister. It would be difficult, particularly as a child, to accept and live with  
91 that guilt. Lee's memory may be distorted through transference of the blame to the Captain, with  
92 whom Lee already held some animosity toward for scolding him/her.

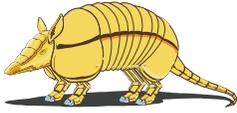
93 In my expert opinion, based upon the aforementioned factors, I conclude that Lee Way's  
94 recovered memory lacks sufficient reliability and credibility.

***I affirm under penalty of perjury that the foregoing is true and correct to the best of my belief and knowledge.***

Dated: November 1, 2011

***Sage Leigh*** \_\_\_\_\_.

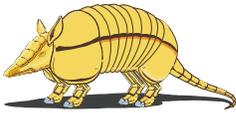
Exhibit 1



Lee: I think I've had a break-through on my memory block.  
*Saturday, September 17<sup>th</sup> 1:35 pm*



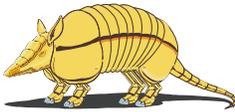
Jamie: Congrats! R u ok?  
*Saturday, 2:14 pm*



Lee: Yep. I've been desperate for so long to come to grips with what happened that night. Now I know - my family was murdered!  
*Saturday, 2:18 pm*



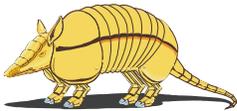
Jamie: What?  
*Saturday, 2:20 pm*



Lee: Yeah, the Captain hit them over the head and then set the boat on fire. I remember now the storm wasn't that bad that night. I just believed it because that's what the Captain said all along.  
*Saturday, 2:25 pm*

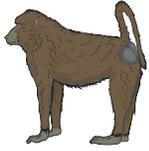


Jamie: R U sure? I just googled the weather for 7.4.03 and the storm was huge.  
*Saturday, 2:25 pm*

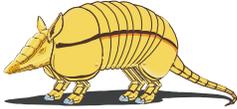


Lee: Hmmmm. Talk to u later. Going to library.  
*Saturday, 2:26 pm*

\* \* \* \* \*



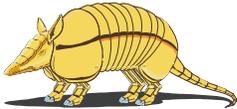
Jamie: Do u remember now how you managed to get off the boat and survive?  
Wednesday, September 21<sup>st</sup> 10:10 pm



Lee: Yeah. That memory came back too. There was a lifeboat at the stern of the ship, and I threw it overboard and then jumped in the water and swam to it. I'm glad I took all of those swimming lessons as a child.  
*Wednesday, 10:42 pm*



Jamie: Yeah, it's a good thing you're a strong swimmer. I thought the newspapers said they found you in a kayak?  
*Wednesday, 10:49 pm*



Lee: Maybe that's right. Not all of the pieces have fallen into place. I think I'll read the newspaper and talk to my Aunt to jog my memory more. Once I hear something about that night, the image in my memory becomes more clear. Just like the storm - after you reminded me about the storm, I remembered how high the waves were that night.  
*Wednesday, 10:52 pm*

Exhibit 2

**SEARCH AND RESCUE MISSION REPORT**

County Identification Number: IN46-007-06

County Name: LaPorte County Location in County: LaPorte County

Incident Contact: Name: T. Knotts Contact Phone #: (574) 209-1911

Date and Time Mission Began: 7/4/03, 2222 hrs (or 10:22 PM)

Mission Type: Search and Rescue

Mission Subject(s) Residence: (Please provide number of each residency)

IN Resident: # 5 Nonresident: # \_\_\_\_\_ Unknown: # \_\_\_\_\_

Number of Subjects: 5

Mission Category: (Check category that applies)

- |  |  |                      |
|--|--|----------------------|
| Bystander                                  | Downed Aircraft                                    | Snowmobiler          |
| <input checked="" type="checkbox"/> Boater | Fisherman  | Swimmer              |
| Criminal/Law Enforce                       | <input checked="" type="checkbox"/> Missing Person | Other                |
|  | Motorist   | Specify Other: _____ |

Date and Time Mission Ended: 7/6/03, 1842 hrs (or 6:42 pm)

Mission Resolution: (Please provide number of subject(s) found safe, injured, deceased, etc.)

- |  |  |
|--|--|
| False Alarm                                      | Self Rescue  |
| <input checked="" type="checkbox"/> (1) Found    | <input checked="" type="checkbox"/> (1) Unresolved |
| <input checked="" type="checkbox"/> (3) Deceased | <input checked="" type="checkbox"/> Injured        |
| Found Safe                                       | <input checked="" type="checkbox"/> Medevac        |

Comments: Knotts reported that Charter Boat, *Bounty*, was missing after storm, and 5 persons were missing. Boaters caught in unexpected, violent storm on 7/4/03 at approximately 2050 hours with 60 mph winds and 10-15 feet seiches. Knotts believed boat had not been tied off properly. Captain of boat was rescued at 1224 hrs on 7/6/03 on a dilapidated dinghy 4 miles west of New Buffalo, MI. Captain Storm said that the Way family had been crushed to death below the deck. Also a fire broke out on board and the ship sunk. 3 bodies washed up on shore near Michiana Shores, Indiana, along with wreckage identified to be burned pieces of the *Bounty*. Victims identified as Archie Way, Annie Way and Skye Way. Child (11 years old), Lee Way, still missing.

Name of person completing/submitting report: USCG Reserve Percy Veer

Dated: 7/6/03

Exhibit 3

**SEARCH AND RESCUE MISSION REPORT**

County Identification Number: IN46-007-09 (related report IN46-007-06)

County Name: LaPorte County Location in County: LaPorte County

Incident Contact: Name: Sue Nahmi Contact Phone #: (312) -6444

Date and Time Mission Began: 7/9/03, 1443 hrs (or 2:43 PM)

Mission Type: Search and Rescue

Mission Subject(s) Residence: (Please provide number of each residency)

IN Resident: # 1 Nonresident: # \_\_\_\_\_ Unknown: # \_\_\_\_\_

Number of Subjects: 1

Mission Category: (Check category that applies)

Bystander	Downed Aircraft	Snowmobiler
<input checked="" type="checkbox"/> Boater	Fisherman	Swimmer
Criminal/Law Enforce	<input checked="" type="checkbox"/> Missing Person	Other
	Motorist	Specify Other: _____

Date and Time Mission Ended: 7/9/03, 1518 hrs (or 3:18 pm)

Mission Resolution: (Please provide number of subject(s) found safe, injured, deceased, etc.)

False Alarm	Self Rescue
<input checked="" type="checkbox"/> Found	Unresolved
Deceased	<input checked="" type="checkbox"/> Injured
Found Safe	<input checked="" type="checkbox"/> Medevac

Comments: Fisherman spotted young child in Lake Michigan 9 miles due north of Michigan City clutching to a broken kayak. Fisherman pulled child to safety. Child unresponsive due to dehydration and exposure. Medevac to LaPorte Hospital. Subject identified himself/herself as Lee Way, and uttered only one other word "storm," before slipping into coma. See related report identified above. Child woke from coma two days later; no memory. Deceased family members had head trauma consistent with boat wreckage. Deaths ruled accidental due to storm. No further investigation. Case closed.

Name of person completing/submitting report: USCG Reserve Percy Veer

Dated: 7/13/03

Exhibit 4

5/08 - Follow-up conversation with Storm

Storm - all set to follow-thru with plans in Canada, wants more \$

Canada - dive site - located at 45°39'51" North and 82°16'32" West

bring dive bags for stuff

Exhibit 5

VERIZON

Date	Time	Place	Number called	Min.	Amount
May 5, 2003	9:39am	Michigan City, IN	219- 210-6888	24	\$2.86
May 8, 2003	7:37 pm	Michigan City, IN	219- 210-6888	28	\$2.17

Exhibit 6

VERIZON

Date	Time	Place	Number called	Min.	Amount
May 6, 2003	10:23 am	Fowler, IN	574-884-9323	12	\$1.08

Exhibit 7



## ***THE BOUNTY***

Join us aboard the *Bounty*! You will discover the beauty of Lake Michigan from this magnificent schooner. Take a break from being wired in constantly. On the *Bounty*, there is no TV, phone (cell phones are discouraged), internet, pager, or email.

As the ship sails between ports, our guests stand watch while learning every aspect of running the ship. The ships anchor most nights in one of the thousands of secluded coves on the lakes, or occasionally visit a small port town.

The itinerary is not pre-set and is based on how the wind is blowing. After a good day of sailing, we'll drop anchor for you to explore, perhaps a historic fishing village such as St. James on Beaver Island, or an old-fashioned general store at Old Mission Harbor. Islands, bays, and coastal villages are all within our reach. Enjoy scuba dives to shipwrecks from long ago or, take our kayak for further exploration.

The *Bounty* is crewed by a licenced captain and an experienced first mate.

One Night (2 Days) - \$800

Two Nights (3 days) - \$1,200

Four days and longer from \$150/person/day (4 pax), more than 4 guests from \$135/person/day

10% surcharge may apply for major US holidays

We include kayaks (tandem 2x), dinghy, snorkel gear, fishing gear and permit

## **FULLY-RIGGED CHARTERS CHARTER AGREEMENT**

*Please fill out and return with your charter application within 7 days*

Fully-Rigged Charters, hereafter referred to as Charter Company, hereby agrees to charter the sailing vessel *Bounty* under the terms and conditions set forth below to: Archie Way (Charterer) and party for the following dates June 27, 2003 to July 6, 2003. The charter party further agrees to all of the following:

Any violation of the law by the Charterer or the Charter group shall constitute a breach of the Charter Contract. The use or possession aboard the vessel of any illegal drug, narcotic or contraband is absolutely and unconditionally prohibited. Any violation under this paragraph constitutes an immediate termination of the contract agreement as well as complete forfeiture of all moneys received by Charter Company. The U.S. law enforcement agencies have plenary power to stop any vessel in territorial and international waters for administrative searches. If contraband is found, even without the master's knowledge, the vessel will be seized and forfeited to the government. It is agreed that the Charter Party will be responsible for any damages to the vessel or loss of equipment during the charter, which was the direct cause of any or all members of the Charter Party. The Charterer and the Charter Group agree to hold harmless and indemnify the yacht owner, captain, or broker, against all claims, damages, loss, legal or other fees, and liability of any kind, no matter how arising or occasioned, whether to property or persons, arising from the Charterers use of the vessel and its equipment, irrespective of comparative or contributory negligence by any other persons.

Furthermore, the Charterer acknowledges that all personal property taken aboard the vessel *is* at the risk of the Charterer. The Charterer further and specifically acknowledges that neither the yacht owner, captain, crew nor broker shall have any liability whatsoever for the loss or damage to any personal property brought on board by any member of the Charter Group. Should the vessel, during the term of the charter, be stranded or disabled by fire, grounding, collision or any other cause, the cause of the problem which has either incapacitated or hindered the vessel from proceeding with the charter, not be attributed to any negligence on the part of the Charterer, the Charter Company agrees to repair or otherwise remedy the situation within 48 hours to the satisfaction of the Charterer, within the bounds of practicality. If the condition has not been rectified at the end of 48 hours, the Charterer may terminate this agreement and receive a pro rata refund. Charter Company is not responsible for Charter Group's transportation costs back to point of origin. Minor breakdowns of equipment, machinery, electronics, rigging, sails, etc., the same not being brought about by any default of the Charterer, which are not disabling to the vessel, do not constitute grounds for termination of this agreement or any portion thereof. In the event the vessel is delayed by such breakdowns or inclement weather or any other reason during the term of the charter or is disabled for any reason away from point of origin causing disabling of the vessel and or termination of the charter..

The Charter Party, individually or collectively, agrees to hold harmless the Charter Company and / or the vessel's owners and crew for any liability resulting from personal injury or death from any mishap while aboard said vessel, tender to said vessel or while ashore. Charterer and party, who pursue any activities in the water, do so at their own risk. The owners and insurance underwriters of the vessel accept no responsibility or liability for accidents, injuries or death due to swimming or the use of snorkels, masks or allied equipment such as SCUBA or hooker equipment whether or not it is provided by the Charter Company.

***A deposit of \$2000.00 is required upon booking your charter dates. It is agreed these dates will be reserved for you based on your agreement for a period of not more than seven days pending receipt of your deposit. Charter Company can not guarantee the dates of your first choice without your deposit received within the seven days.*** The deposit is non-refundable except under the following circumstances. If the vessel becomes unfit for charter and cannot be replaced with an equivalent or upgraded yacht. If Charterer wishes to cancel the booking within 120 days of departure no refund is allowed unless another booking for the same dates can be made to another party. In all circumstances, returned deposits are subject to a \$150 handling charge. Cancellations must be submitted in writing. In the event Charterer prematurely terminates the charter (prior to the agreed term) for any reason, all monies paid are non refundable. Charter Company cannot be held responsible for dockage arrangements or lack of them away from port of origin. Dockage fees and related charges are the sole responsibility of the Charterer. Charterer further acknowledges that certain ports of call require that the vessel dock in a marina and the Charterer is responsible for dockage unless agreed to otherwise by the Charter Company. The captain shall handle clearance and the normal running of the vessel and shall receive orders from the Charterer as to the ports to be called at and the general course of the voyage during the term of the charter. The captain, however, has overriding authority in regards to the above and the safe passage of the vessel, crew and passengers and the charter party shall abide by the captain's judgment in regard to ports of call relative to weather, anchorage, safety and all other pertinent matters. Charter Company cannot be held responsible for inconveniences or delays due to inclement weather or the forecast of the same. In regard to this, the captain has sole authority to dictate a safe sailing itinerary during the term of the charter. In the event of severe inclement weather or the forecast of same, which necessitates the cancellation of the entire booking prior to sailing, Charterer agrees the booking will be rescheduled under the same terms and conditions to next available date (or dates) which are mutually agreed to between Charterer and Charter Company. Deposits already paid will be applied to the alternate booking dates.

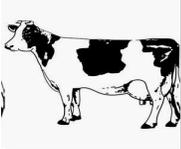
This agreement constitutes the sole and entire agreement between the Charterer and the Charter Company. No waiver or modification of this agreement shall be effective unless agreed to and signed by the parties.

**THE CHARTERER AND CHARTER GROUP ACKNOWLEDGE HAVING READ AND UNDERSTOOD THIS AGREEMENT AND RELATED DOCUMENTS AND HEREBY AGREE TO BE BOUND BY THE TERMS.**

Signed: *Archie Way*

Date: *May 10, 2003*

Exhibit 10



Way and Vine Enterprise  
P.O. Box 52  
Fowler, IN 47944

Mega Bank  
Chicago, IL

2334

Pay to the Order of:         *Fully-Rigged*         \$6600.00  
        *Six Thousand Six Hundred and No/100*         Dollars

Memo:         *Canada business*                 *Archie Way*        

3434568220039950002334

Exhibit 11

## CURRICULUM VITAE

Sage Leigh  
1419 East Runaway Street  
San Jose, CA

### Education:

B.A. Psychology, Michigan State University, East Lansing, Michigan, 1979  
M.A., Psychology, University of Michigan 1980  
PhD, Psychology, Stanford University 1983

### Specialized Education:

Case Western Reserve University School of Law, 1995-97 in  
Criminal Law, Family Law, Torts, Psychiatry and the Law, Evidence

### Current Academic Appointments:

Wittenberg University, Professor of Psychology, 2000 – present

### Publications:

Accuracy of Traumatic Memories, *American Journal of Psychology* (2005)  
Distortion of Memories, *Memory & Cognition* (2006)  
The Blame Game of Memories, *Psychology Today* (2009)  
True or False Memories, *American Journal of Psychology* (2010)  
Legal Implications of Recovered Memories, *Psychology, Crime, and the Law* (2011)

### Professional Memberships:

American Psychological Association  
Association for Psychological Science  
American Psychology & Law Society

### Awards & Recognitions:

Isaac Ray Award for Outstanding Contributions to Forensic Psychology (2002)  
Golden Apple Award for Significant Contributions to Forensic Psychology (2006)  
American Psychological Association, Recognition for Outstanding Teaching (2010)  
American Psychology & Law Society, ACE - Award for Contributions to Education (2011)