

April 19, 2016

DELIVERED VIA EMAIL

The Honorable Marsha Blackburn
Chair, Select Investigative Panel
House Energy & Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20510

The Hon. Jan Schakowsky
Ranking Member, Select Investigative Panel
House Energy & Commerce Committee
2322A Rayburn House Office Building,
Washington, DC 20515

**Re: Call for Withdrawal or Amendment of Proposed Exhibits for April 20, 2016
Hearing on “The Pricing of Fetal Tissue”**

Dear Chairman Blackburn & Ranking Member Schakowsky:

On behalf of our client, StemExpress LLC (“StemExpress”),¹ this letter responds to the exhibits that we understand that the Majority members of the Select Investigative Panel (“Select Panel”) intend to use at the April 20 hearing entitled “The Pricing of Fetal Tissue.”

Our client has reviewed the Majority’s proposed exhibits and confirmed a number of issues that should gravely concern you and the witnesses that are slated to appear at tomorrow’s hearing. These issues raise questions about the authenticity and validity of several of these documents, which we understand have already been circulated to the witnesses and relied upon in their respective opening statements (which are now publicly available on the Select Panel’s website). In light of the issues raised in this letter, we strongly suggest that the Majority consider rescinding or revising its exhibits to avoid reliance on questionable documents that could easily be vetted with StemExpress personnel, several of whom have been offered up for depositions or issued subpoenas by the Select Panel.

¹ StemExpress is a privately held life sciences company that supports leading research institutions in the United States and internationally—including medical schools, pharmaceutical companies, and federal agencies—to provide stem cells and other human tissue critical to medical research. Cells produced by the physicians, scientists, medical technicians and nurses at StemExpress are currently used in research globally aimed at finding cures and treatments for cancer, diabetes, HIV/AIDS, cardiac disease, and other significant medical conditions. StemExpress plays a critical role in helping the global research community as they strive to achieve medical breakthroughs to stamp out global disease and improve quality of life.

Potential Use of Stolen Documents as “Evidence”

While several of the Majority’s exhibits masquerade as redacted StemExpress documents—cited as being sourced from a “procurement business”—it is not clear whether they are derived from the nearly 900 pages of materials that were produced by StemExpress with Bates stamping and conspicuous confidentiality legends. Instead, it appears that the Majority Staff may have repurposed unauthenticated, stolen documents illegally obtained by David Daleiden and the Center for Medical Progress (“CMP”). Mr. Daleiden has admitted under oath that he used the password of Holly O’Donnell, a former StemExpress contractor, to illegally gain unauthorized access to StemExpress’s email system to steal electronic documents. *See Ex. A*, Daleiden Dep. 286:8-288:12, Dec. 30, 2015, *StemExpress LLC, et al. v. Daleiden, et al.*, Case No.BC589145 (Ca. Sup. Ct.). These actions constitute violations of both California and federal law. *See, e.g.*, 10 U.S.C. § 1030.

While some of these illegally obtained documents are posted to the CMP website, some of the Majority’s exhibits have never appeared publicly, suggesting that perhaps the Select Panel may be receiving so-called “evidence” directly from Mr. Daleiden and/or his associates. At least one document, Exhibit C3, appears to be a screenshot taken by some unknown person who nefariously accessed the *administrator* portion of StemExpress’s “WordPress” website builder. Other documents appear to have been created by Mr. Daleiden’s fake tissue procurement company, BioMax, which was established using false identification and falsified documents. Mr. Daleiden and his associate, Susan Merritt, are currently the subject of indictments in Texas and an ongoing investigation in California that will likely result in additional indictments.

- **Ex. C3:** As noted above, this screenshot appears to have been taken by someone who illegally hacked into the administrator access portal of StemExpress’s website or otherwise accessed the administrator site without permission. It was not produced by StemExpress and, therefore, cannot be authenticated by the Select Panel.
- **Exs. C4 through C14:** Nearly all of these documents appear to be versions of StemExpress documents that were stolen by David Daleiden and posted to the Center for Medical Progress website. While some of the materials may also have been produced by StemExpress to the Select Panel, the Majority has inexplicably removed the Bates stamping that would have allowed for immediate validation.

StemExpress has never been asked to verify the authenticity of any of these documents or respond to any questions that the Select Panel might have regarding these materials. Any opinions rendered by the panel of witnesses at tomorrow’s hearing will be built upon a foundation of illegally obtained evidence and exhibits of questionable utility and merit. In light of the forgoing, we respectfully request that exhibits that appear to be derived from stolen materials be withdrawn until the General Counsel of the House of Representatives, Kerry W.

Kircher, authorizes and approves the use of illegally obtained materials by a person currently under indictment.

Failure to Redact Identifying Information

Despite repeated assurances from the Majority Staff that you are not concerned with “naming names,” several of the Majority’s proposed exhibits leave the names of companies and researchers unredacted. For example:

- **Ex. C3:** Includes partial name of StemExpress in top left corner of screenshot.
- **Ex. C4:** Includes the names of both individual researchers and StemExpress customers throughout document.
- **Ex. C13:** Includes the names of StemExpress customers throughout document.

Just a few weeks ago, the Majority failed to redact the name of a StemExpress employee who received a subpoena. Only after being alerted to the issue by counsel for StemExpress and the Minority staff did the Select Panel grudgingly replace the public copy of the subpoena with a redacted version. The gravity of our concerns about safety and security was amplified today when Scott Orton pleaded guilty in California federal district court to transmitting interstate threats to kill an officer of StemExpress last summer. *See Ex. B* (DOJ Press Release). Accordingly, due to the grave safety and security risk posed by the Select Panel’s public scrutiny, we respectfully request that these names be redacted prior to further dissemination or, certainly, before making these documents public.

Failure to Conduct Even Cursory Investigation Regarding Pricing and Cost/Expenses

Through Exhibit B4, the Majority appears to reference publicly reported total revenue numbers for StemExpress. In each instance, any “total revenue” number is inclusive of all StemExpress products, which includes “human blood, tissue products, bone marrow, primary cells, and the clinical specimens they need to perform their research.” *Id.*

In fact, fetal tissue revenue is an exceedingly small fraction of StemExpress’s total revenue in any given year. Any revenue derived from fetal tissue must be offset by reasonable costs and expenses related to the processing, preservation, quality control, transportation, and storage of fetal tissue. For example, StemExpress’s 2014 total revenue consisted of less than \$50,000 from the sale of fetal tissue to researchers (as reflected in the Majority’s own Exhibit F, produced by StemExpress). Despite accounting for only 1% of total revenue, StemExpress incurred approximately \$62,000 in costs and expenses related to the processing, preservation, quality control, transportation, and storage of fetal tissue. *In other words, StemExpress lost roughly \$13,000 in order to provide fetal tissue to researchers in 2014.* Similarly, in 2015, StemExpress had just under \$26,000 in revenue from fetal tissue and incurred approximately \$33,000 in cost and expenses, *resulting in a net loss of roughly \$7,000.*

As reflected in the table below, over a two-year period StemExpress's revenue derived from fetal tissue accounted for just under \$75,000—roughly 1% of the company's total revenue, 99% of which is derived from non-fetal tissue sources—and resulted in \$95,000 in costs and expenses, for a total loss of over \$20,000.

StemExpress Fetal Tissue Revenue v. Estimated Costs/Expenses (2014-2015)

	2014	2015	TOTAL
Fetal Tissue Revenue (Actual)	\$49,280	\$25,675	\$74,955
Fetal Tissue Costs/Expenses (Est.)	\$62,220	\$32,940	\$95,160
Loss Incurred Supporting Fetal Tissue Research (Est.)	(\$12,940)	(\$7,265)	(\$20,205)

In short, StemExpress does not provide fetal tissue to its customers to make money; rather, it is offered to support the needs of the world's best researchers in their efforts to treat and cure diseases. There can be no argument that StemExpress received "valuable consideration" for the sale of fetal tissue, pursuant to 42 U.S.C. § 289 g-2(a) and (e)(3).

Gross Inaccuracies, Manipulation of Evidence, and Misstatements of Facts

Several of the proposed exhibits appear to force the Majority's views into the record in a way we have never seen in any government investigation in the House, Senate, or across dozens of federal and state jurisdictions around the United States. Below is a limited list of issues with several of the exhibits:

- **Ex. A2:** This overly simplistic, Majority-created chart suggests that a for-profit company like StemExpress cannot support not-for-profit charitable projects, including the sale of fetal tissue at a financial loss. The Majority fails to note that StemExpress consistently charges *less* for fetal tissue than its not-for-profit competitors in the marketplace.
- **Ex. B1:** This Majority-created chart asks questions that have *never been posed to StemExpress*. While some of the questions have been answered by prior responses and productions, StemExpress is providing the Select Panel with additional information reflecting the significant losses from the sale of fetal tissue from 2011 through 2015. See Ex. B5, below, for detailed discussion regarding StemExpress's losses related to fetal tissue sales.
- **Ex. B2:** The Majority's use of this brochure is misleading, at best. It was used by StemExpress with hospitals and clinics involved in the broad spectrum of work that

company supports related to adult blood, adult tissue, biopsies, etc. – *not only fetal tissue donation.*

- **Ex. B3:** This StemExpress website screenshot makes *absolutely no reference to fetal tissue.* In fact, it pertains to the overwhelming majority of StemExpress’s work with adult blood and tissue that has *nothing to do with fetal tissue*, which accounted for *less than one percent* of the company’s revenue in 2014, *before losses.*
- **Ex. B4:** This document does not appear to have any basis in evidence or reality. The chart alleges that the “procurement business” in question over 50 clinic partnerships in 2013, nearly 100 in 2014, and over 250 in 2015. In reality, StemExpress has partnered with no more than a dozen clinics for fetal tissue donation at any point between 2010 and 2015, inclusive of relationships with Planned Parenthood and independent clinics.
- **Ex. B6:** This National Abortion Federal agreement appears to have been altered and manipulated to remove references to legal provisions and other terms of the agreements. It is deliberately misleading and incomplete.
- **Ex. C1:** This document, created by the Majority Staff, is factually inaccurate. At the time that StemExpress personnel were working in clinics, they neither reviewed patient medical files nor discussed tissue needs with the clinic prior to meeting with patients to obtain consent for donation. If the Majority had elected to conduct interviews of one or more of the witnesses repeatedly offered by StemExpress, questions such as these could have been answered.
- **Ex. C2:** This document, also created by the Majority Staff, is replete with misstatements and inaccuracies. For example, StemExpress does not obtain approval from an Independent Review Board (“IRB”) after a tissue order is placed. Rather, the role of the IRB is to validate consent forms that are used for donation across a broad range of tissue types, including fetal tissue, before donation occurs. The IRB-approved consent forms are on file and in use when a customer places an order.
- **Exs. D1 through D3:** These invoices reflect charges for maternal blood and products of conception (“POCs”), which includes both placental *and* fetal tissue. The charges for POCs are collapsed into one line item, but the actual number of fetal tissue collections was far smaller than the overall volume of placental (non-fetal) POC collections.

* * * * *

From the outset of this investigation, StemExpress has endeavored to cooperate with the Majority Staff to provide timely and thorough responses to the Select Panel’s myriad inquiries. Within days of receiving your first request for information just before Christmas 2015, StemExpress produced hundreds of pages of materials that were previously produced to the

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House Energy & Commerce Committee, House Oversight & Government Reform Committee, and Senate Judiciary Committee. StemExpress subsequently continued to produce hundreds of pages of additional materials and respond to questions from the Majority Staff via several teleconferences. To date, StemExpress has nearly 900 pages of materials in response to the Select Panel's various inquiries, including the production of accounting reports and other work product that efficiently provided the Select Panel with certain categories of information that would otherwise have required more work for the Majority staff.

Despite StemExpress's consistent desire to cooperate with the Majority's ever-shifting demands, the Select Panel has now issued a total of three subpoenas to StemExpress and its Chief Executive Officer. Additionally, at least one former StemExpress employee has received a deposition subpoena from the Select Panel. StemExpress has repeatedly offered up a current employee with extensive experience with fetal tissue procurement and pricing as a corporate witness pursuant to Fed. R. Civ. P. 30(b)(6). Most recently, StemExpress offered its outside auditor and accountant as a potential witness. Rather than depose *any* of these individuals, the Select Panel appears intent on driving a predetermined narrative that suits its ends. This is incredibly disappointing to our client as the ultimate harm is to research and scientific breakthroughs that StemExpress has supported since its inception in 2010.

In light of the foregoing information, we respectfully request that the Select Panel withdraw or amend the Majority's proposed exhibits. Alternatively, we propose that tomorrow's hearing be held in a closed door executive session.

If you have any questions about this correspondence, please do not hesitate to contact me at 202-756-8380.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Sidhu', written in a cursive style.

Amandeep S. Sidhu

cc (via email w/encl.):

Kerry W. Kircher, General Counsel, U.S. House of Representatives
March Bell, Select Panel Majority Staff Director
Heather Sawyer, Select Panel Minority Chief Counsel

EXHIBIT A

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT

STEMEXPRESS, LLC, et al.,)
Plaintiffs,)
vs.) No. BC 589145

THE CENTER FOR MEDICAL PROGRESS,)
BIOMAX PROCUREMENT SERVICES,)
LLC, DAVID DALEIDEN (aka)
"ROBERT SARKIS"), DOES 1 (aka)
"SUSAN TENNENBAUM"), and DOES)
2 through 100, inclusive,)
Defendants.)

VIDEOTAPED DEPOSITION OF DAVID DALEIDEN
Los Angeles, California
Wednesday, December 30, 2015
Volume 1

Reported by:
WENDY S. SCHREIBER
CSR No. 3558
Job No. 2199490

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<p>1 SUPERIOR COURT OF THE STATE OF CALIFORNIA 2 FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT 3 4 STEMEXPRESS, LLC, et al.,) 5 Plaintiffs,) 6 vs.) No. BC 589145 7 THE CENTER FOR MEDICAL PROGRESS,) 8 BIOMAX PROCUREMENT SERVICES,) 9 LLC, DAVID DALEIDEN (aka) 10 "ROBERT SARKIS"), DOES 1 (aka) 11 "SUSAN TENNENBAUM"), and DOES) 12 2 through 100, inclusive,) 13 Defendants.) 14 _____ 15 16 17 Videotaped Deposition of DAVID DALEIDEN, 18 Volume 1, taken at 2049 Century Park East, 19 Suite 3800, Los Angeles, California, commencing at 20 9:55 A.M., Wednesday, December 30, 2015, and ending 21 at 6:41 P.M., before WENDY S. SCHREIBER, Certified 22 Shorthand Reporter No. 3558. 23 24 25</p> <p style="text-align: right;">Page 2</p>	<p>1 I N D E X 2 VOLUME 1 3 4 WEDNESDAY, DECEMBER 30, 2015 5 WITNESS 6 DAVID DALEIDEN EXAMINATION 7 (By Mr. Weir) 9 8 P. M. Session 113 9 10 11 QUESTIONS NOT ANSWERED ON ADVICE OF COUNSEL 12 PAGE LINE 13 22 7 14 23 5 & 14 15 38 19 16 44 8 17 45 22 18 46 25 19 50 24 20 51 8 21 52 16 & 24 22 72 13 23 75 8 24 25</p> <p style="text-align: right;">Page 4</p>
<p>1 APPEARANCES OF COUNSEL: 2 3 For the Plaintiffs: 4 5 McDERMOTT, WILL & EMERY LLP 6 BY: CHARLES E. WEIR, ESQ. 7 GREGORY R. JONES, ESQ. 8 2049 Century Park East 9 Suite 3800 10 Los Angeles, California 90067 11 (310) 277-4110 12 gjones@mwe.com 13 Cweir@mwe.com 14 15 For the Defendants: 16 17 FREEDOM OF CONSCIENCE DEFENSE FUND 18 BY: CHARLES S. LIMANDRI, ESQ. 19 PAUL M. JONNA, ESQ. 20 16236 San Dieguito Road 21 Building 3 22 Suite 3-15 23 Rancho Santa Fe, California 92091 24 (858) 640-1940 25 cslimandri@ConscienceDefense.org</p> <p style="text-align: right;">Page 3</p>	<p>1 DEPOSITION EXHIBITS 2 DAVID DALEIDEN 3 NUMBER DESCRIPTION PAGE 4 5 Exhibit 4 Executive Summary, CMP 00033 - 33 6 CMP 00043 7 Exhibit 5 Declaration of David Daleiden 41 8 Exhibit 6 Letter dated 8/31/15 to Boehner 55 9 from Daleiden, CMP 00251 - 10 CMP 00265 11 Exhibit 7 California Driver's License 71 12 Exhibit 8 Defendants' Responses to Request 77 13 for Production of Documents 14 Propounded by Plaintiffs 15 StemExpress, LLC 16 Exhibit 9 Defendants' Memorandum of Points 78 17 and Authorities in Support of 18 Special Motion to Strike Plaintiffs' 19 Complaint 20 Exhibit 10 Article titled "Termination of 82 21 pregnancy for fetal anomaly: 22 a population-based study 1995 to 23 2004, CMP 00005 - CMP 00008 24 25</p> <p style="text-align: right;">Page 5</p>

<p>1 DEPOSITION EXHIBITS (CONTINUED)</p> <p>2 DAVID DALEIDEN</p> <p>3 NUMBER DESCRIPTION PAGE</p> <p>4</p> <p>5 Exhibit 11 Article titled "Early Stem Cell 147</p> <p>6 Engraftment Predicts Late Cardiac</p> <p>7 Functional Recovery Preclinical</p> <p>8 Insights from Molecular Imaging,</p> <p>9 CMP 00045 - CMP 00080</p> <p>10 Exhibit 12 Article titled "Safe Genetic 147</p> <p>11 Modification of Cardiac Stem Cells</p> <p>12 Using a Site-Specific Integration</p> <p>13 Technique, CMP 00081 - CMP 00114</p> <p>14 Exhibit 13 Emka Technologies Website, 147</p> <p>15 CMP 00020 - CMP 00022</p> <p>16 Exhibit 14 Declaration of Theresa A. 147</p> <p>17 Deisher, Ph.D.</p> <p>18 Exhibit 15 Transcript by the Center for 166</p> <p>19 Medical Progress dtd. 10/12/14</p> <p>20 Exhibit 16 E-Mail dated 3/20/13 to O'Donnell 177</p> <p>21 from Reboin, CMP 00017 - CMP 00018</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 6</p>	<p>1 LOS ANGELES, CALIFORNIA; DECEMBER 30, 2015</p> <p>2 9:55 A.M. 09:44:51</p> <p>3 09:57:53</p> <p>4 VIDEO OPERATOR: Good morning. We are on 09:54:47</p> <p>5 the record. The time is 9:55 a.m. The date today 09:55:10</p> <p>6 is December 30th, 2015. 09:55:15</p> <p>7 This is the video-recorded deposition of 09:55:18</p> <p>8 David Daleiden. My name is David West, here with 09:55:22</p> <p>9 our court reporter, Wendy Schreiber. We are here 09:55:25</p> <p>10 from Veritext Legal Solutions at the request of 09:55:28</p> <p>11 counsel for Plaintiff. 09:55:30</p> <p>12 The deposition is being held at 2049 Century 09:55:30</p> <p>13 Park East, 38th Floor, Los Angeles, California. 09:55:35</p> <p>14 Case entitled StemExpress, LLC, et al., versus the 09:55:39</p> <p>15 Center for Medical Progress, et al., Case No. 09:55:44</p> <p>16 BC 589145. 09:55:47</p> <p>17 Please note that audio and video recording 09:55:50</p> <p>18 will take place unless all parties agree to go off 09:55:53</p> <p>19 the record. Microphones are sensitive and may pick 09:55:55</p> <p>20 up whispers, private conversations as well as 09:56:00</p> <p>21 cellular interference. 09:56:02</p> <p>22 I'm not authorized to administer an oath. 09:56:02</p> <p>23 I'm not related to any party in this action, nor am 09:56:05</p> <p>24 I financially interested in the outcome in any way. 09:56:07</p> <p>25 If there are any objections to proceeding, 09:56:10</p> <p style="text-align: right;">Page 8</p>
<p>1 PREVIOUSLY-MARKED EXHIBITS</p> <p>2 EXHIBIT PAGE</p> <p>3 Exhibit 1 64</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 7</p>	<p>1 please state them at the time of your appearance. 09:56:12</p> <p>2 Beginning with the noticing attorney, please state 09:56:15</p> <p>3 your appearances. 09:56:17</p> <p>4 MR. WEIR: Charles Weir of McDermott, Will & 09:56:19</p> <p>5 Emery, for Plaintiffs. 09:56:21</p> <p>6 MR. JONES: Gregory Jones, McDermott, Will & 09:56:22</p> <p>7 Emery, for Plaintiffs. 09:56:25</p> <p>8 MR. LIMANDRI: Charles LiMandri with the 09:56:25</p> <p>9 Freedom of Conscience Defense Fund for the 09:56:28</p> <p>10 Defendants. 09:56:28</p> <p>11 MR. JONNA: Paul Jonna with the Freedom of 09:56:31</p> <p>12 Conscience Defense Fund for the Defendants. 09:56:32</p> <p>13 VIDEO OPERATOR: Thank you. The court 09:56:33</p> <p>14 reporter may now swear in the witness and we will 09:56:35</p> <p>15 proceed. 09:56:37</p> <p>16</p> <p>17 DAVID DALEIDEN,</p> <p>18 having been first placed under oath, testified as</p> <p>19 follows:</p> <p>20</p> <p>21 EXAMINATION</p> <p>22 BY MR. WEIR:</p> <p>23 Q. Good morning, Mr. Daleiden. 09:56:48</p> <p>24 A. Good morning. 09:56:49</p> <p>25 Q. How are you? 09:56:49</p> <p style="text-align: right;">Page 9</p>

1 MR. WEIR: Do you have the order handy, 06:12:12
2 Greg? 06:12:14
3 MR. LiMANDRI: I may be in the presence of 06:12:20
4 recordings and then -- 06:12:25
5 BY MR. WEIR: 06:12:25
6 Q. Did Holly O'Donnell ever -- I'll withdraw 06:12:26
7 the question. 06:12:29
8 Did Holly O'Donnell ever tell you that she 06:12:30
9 had a nondisclosure agreement with StemExpress? 06:12:34
10 A. No, she did not. 06:12:37
11 Q. Have you ever in your investigation of 06:12:38
12 companies in the abortion industry seen a situation 06:12:44
13 where they did have a nondisclosure agreement? 06:12:46
14 A. Can you clarify who you mean by "they"? 06:12:50
15 Q. The companies you were investigating in the 06:12:52
16 abortion industry. 06:12:54
17 A. It still seems like a really broad question. 06:12:56
18 Can you make that a little more specific for me? I 06:13:01
19 don't totally understand. 06:13:03
20 Q. Do you know that there are -- that employees 06:13:04
21 of companies in the abortion industry or fetal 06:13:06
22 tissue industry that it is common for them to sign 06:13:12
23 nondisclosure agreements? 06:13:15
24 MR. LiMANDRI: Objection: assumes facts not 06:13:16
25 in evidence and beyond the scope of the discovery 06:13:17
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1 order. 06:13:20
2 If you're comfortable answering, you can but 06:13:21
3 I don't think you're required to. 06:13:24
4 THE WITNESS: Yeah, I don't -- I don't think 06:13:25
5 it's necessarily common. I've encountered it in 06:13:28
6 some situations but I've also not encountered it in 06:13:32
7 some situations. I mean, part of why I asked you to 06:13:35
8 clarify the question is because -- is because while 06:13:38
9 I've seen confidentiality agreements and 06:13:42
10 nondisclosure agreements present in some situations, 06:13:44
11 they're not present in every situation. And so -- 06:13:47
12 and so I've -- you know, so I wasn't sure exactly 06:13:50
13 are you -- if you're just referring to, you know, 06:13:53
14 NDAs between employers and employees or between 06:13:57
15 potential business partners or -- there's lots of 06:14:00
16 different situations. 06:14:03
17 BY MR. WEIR: 06:14:05
18 Q. Well, let's start with the 06:14:05
19 employer/employee. 06:14:08
20 A. I -- I mean, like I said, I don't remember 06:14:09
21 Holly ever telling me that she had a nondisclosure 06:14:15
22 agreement or confidentiality agreement with 06:14:19
23 StemExpress. The first that I ever knew of that was 06:14:23
24 when I was browsing through all of the documents 06:14:26
25 that she had given me after the fact and I saw a -- 06:14:27
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1 I saw what appeared to be some confidentiality 06:14:30
2 portion incorporated into an employment contract. 06:14:33
3 Q. Those were the hard-copy documents? 06:14:36
4 A. I believe so. 06:14:38
5 Q. Okay. All right. So then -- was -- I think 06:14:39
6 you might have said this before but the -- I'm 06:14:51
7 getting tired, too. Was -- you had a log-in for 06:14:54
8 Holly's e-mail? 06:14:58
9 A. Holly gave me her user name and password. 06:15:02
10 Q. That's what I was going to ask. It was 06:15:04
11 password protected, correct? 06:15:07
12 A. I believe that's correct. 06:15:08
13 Q. Okay. All right. Let me check my notes. 06:15:09
14 Let's go off the record. With any luck we will be 06:15:12
15 done. 06:15:16
16 VIDEO OPERATOR: Off the record 6:15. 06:15:17
17 (Recess taken.) 06:18:20
18 VIDEO OPERATOR: On the record 6:18. 06:18:29
19 BY MR. WEIR: 06:18:33
20 Q. How did StemExpress first get on your radar? 06:18:34
21 A. StemExpress first got on my radar in 2011. 06:18:43
22 It was the summer of 2011 and -- and a friend of 06:18:49
23 mine was applying for -- or was looking for jobs in 06:18:55
24 community pregnancy centers on the Internet, on 06:19:01
25 Craig's List in Sacramento, and she -- and she 06:19:06
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1 discovered a Craig's List ad for StemExpress for 06:19:08
2 procurement technicians that talked about needing -- 06:19:11
3 because I think she was doing searches for -- search 06:19:14
4 terms like "abortion," "pregnancy center," "clinic 06:19:17
5 worker," stuff like that and she found this -- this 06:19:20
6 Craig's List ad for StemExpress procurement 06:19:22
7 technicians saying that they were hiring procurement 06:19:25
8 techs to work in Planned Parenthood clinics and work 06:19:28
9 in abortion clinics to harvest pregnancy tissue. 06:19:31
10 And so she took a screen shot of that, forwarded it 06:19:35
11 to me. And at that time I was already aware -- I 06:19:39
12 had been aware for about a year of Advanced 06:19:44
13 Bioscience Resources. I don't think I knew the 06:19:47
14 connection between StemExpress and ABR and between 06:19:49
15 Cate Dyer and ABR at that time but -- you know, but 06:19:52
16 ABR had been interesting to me for about a year at 06:19:56
17 that point since 2010 because -- you know, because I 06:19:59
18 knew that they were one of the -- they were this 06:20:03
19 really interesting, shadowy, reclusive fetal tissue 06:20:04
20 procurement company. But then StemExpress was even 06:20:08
21 more interesting in 2011 because not only, you know, 06:20:10
22 were they in the same business but they were an 06:20:13
23 explicitly for-profit company. 06:20:16
24 Q. Did you start investigating them 06:20:18
25 immediately? 06:20:21
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1 A. I -- in a certain sense, yeah, I began -- I 06:20:24
2 definitely began researching them. 06:20:31
3 Q. All right. I have no further questions. 06:20:37
4 MR. LiMANDRI: Okay. I have no questions. 06:20:45
5 MR. WEIR: You have no questions? 06:20:48
6 MR. LiMANDRI: No. 06:20:49
7 MR. WEIR: Okay. Why don't we go with the 06:20:50
8 same stipulations as yesterday if that's okay with 06:20:56
9 you? 06:20:59
10 MR. LiMANDRI: Fine, that's good. 06:20:59
11 MR. WEIR: And then let's go off the record 06:21:01
12 and talk about -- well, let's go off the record. 06:21:03
13 MR. LiMANDRI: Okay. 06:21:08
14 VIDEO OPERATOR: Off the record 6:21. 06:21:09
15 (Recess taken.) 06:41:01
16 VIDEO OPERATOR: The time is 6:41. We are 06:41:01
17 back on the record. This will conclude today's 06:41:09
18 testimony given by David Daleiden. The total number 06:41:10
19 of media used was four. They will be retained by 06:41:12
20 Veritext Legal Solutions. We are off the record at 06:41:15
21 6:41. 06:41:17
22 (TIME NOTED: 6:41 P.M.)
23
24
25

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1 I, DAVID DALEIDEN, do hereby declare under
2 penalty of perjury that I have read the foregoing
3 transcript; that I have made any corrections as
4 appear noted, in ink, initialed by me, or attached
5 hereto; that my testimony as contained herein, as
6 corrected, is true and correct.
7 EXECUTED this _____,
8 20____, at _____,
9 California.
10
11
12
13 _____
14 DAVID DALEIDEN
15
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22
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24
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1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify:
4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were administered an oath; that
8 a record of the proceedings was made by me using
9 machine shorthand which was thereafter transcribed
10 under my direction; that the foregoing transcript is
11 a true record of the testimony given.
12 Further, that if the foregoing pertains to
13 the original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript [] was [] was not requested.
16 I further certify I am neither financially
17 interested in the action nor a relative or employee
18 of any attorney or any party to this action.
19 IN WITNESS WHEREOF, I have this date
20 subscribed my name.
21
22 Dated: January 4, 2016
23
24
25

Wendy S. Schreiber
WENDY S. SCHREIBER, CSR No. 3558

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California Code of Civil Procedure

Article 5. Transcript or Recording

Section 2025.520

(a) If the deposition testimony is stenographically recorded, the deposition officer shall send written notice to the deponent and to all parties attending the deposition when the Original transcript of the testimony for each session of the deposition is available for reading, correcting, and signing, unless the deponent and the attending parties agree on the record that the reading, correcting, and signing of the transcript of the testimony will be waived or that the reading, correcting, and signing of a transcript of the testimony will take place after the entire deposition has been concluded or at some other specific time.

(b) For 30 days following each notice under subdivision (a), unless the attending parties and the deponent agree on the record or otherwise in writing to a longer or shorter time period, the deponent may change the form or the substance of the answer to a question, and may either approve the transcript of the deposition by signing it, or

refuse to approve the transcript by not signing it.

(c) Alternatively, within this same period, the deponent may change the form or the substance of the answer to any question and may approve or refuse to approve the transcript by means of a letter to the deposition officer signed by the deponent which is mailed by certified or registered mail with return receipt requested. A copy of that letter shall be sent by first-class mail to all parties attending the deposition.

(d) For good cause shown, the court may shorten the 30-day period for making changes, approving, or refusing to approve the transcript.

(e) The deposition officer shall indicate on the original of the transcript, if the deponent has not already done so at the office of the deposition officer, any action taken by the deponent and indicate on the original of the transcript, the deponent's approval of, or failure or refusal to approve, the transcript. The deposition officer shall also notify in writing the parties attending the deposition of any changes which the deponent timely made in person.

(f) If the deponent fails or refuses to approve the transcript within the allotted period, the

deposition shall be given the same effect as though it had been approved, subject to any changes timely made by the deponent.

(g) Notwithstanding subdivision (f), on a reasonable motion to suppress the deposition, accompanied by a meet and confer declaration under Section 2016.040, the court may determine that the reasons given for the failure or refusal to approve the transcript require rejection of the deposition in whole or in part.

(h) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition under this section, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2014. PLEASE REFER TO THE APPLICABLE STATE RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

EXHIBIT B



THE UNITED STATES ATTORNEY'S OFFICE
EASTERN DISTRICT *of* CALIFORNIA

[U.S. Attorneys](#) » [Eastern District of California](#) » [News](#)

Department of Justice

U.S. Attorney's Office

Eastern District of California

FOR IMMEDIATE RELEASE

Tuesday, April 19, 2016

Washington Man Pleads Guilty to Sending Death Threats

SACRAMENTO, Calif. — Scott Anthony Orton, 57, of Puyallup, Washington, pleaded guilty today to transmitting interstate threats, United States Attorney Benjamin B. Wagner announced.

According to court documents, Orton posted several threatening statements on a popular news website in which he expressed his intent to travel to Placerville, California to kill an officer of the Placerville-based company, Stem Express LLC. On July 16, 2015, among other threats, Orton wrote, "The management of StemExpress should be taken by force and killed in the streets today. Kill StemExpress employees. I'll pay you for it." Orton also identified the target of his threats by name, and wrote "I'll pay ten grand to whomever beats me to [the target]."

"Terrorizing others through threats of violence, whether communicated in person or through media websites, is cruel, dangerous and disruptive, and is also a federal crime," said U.S. Attorney Wagner. "As Mr. Orton now knows, those who seek to terrorize others online will be identified and prosecuted."

This case is the product of an investigation by the Federal Bureau of Investigation. Assistant United States Attorney Brian A. Fogerty is prosecuting the case.

Orton is scheduled to be sentenced by United States District Judge John A. Mendez on August 2, 2016. Orton faces a maximum statutory penalty of five years in prison and a \$250,000 fine. The actual sentence, however, will be determined at the discretion of the court after consideration of any applicable statutory factors and the Federal Sentencing Guidelines, which take into account a number of variables.

2:15-cr-233-JAM

[USAO - California, Eastern](#)

Updated April 19, 2016

