DECLARATION OF MARY ANN MERCER

- I, Mary Ann Mercer, declare the following:
- 1. On <u>January 22, 2013</u> at approximately 7P.M., I met Theresa and Dale for the first time at "The Steak House" restaurant located within the Circus-Circus Hotel in Las Vegas, Nevada. Besides me, others present at the dinner meeting were John Blink, Dan Howard, Mary Carson, Chuck Foster, Dale Merkel and Theresa Keeping. The dinner meeting was held in a reserved private area of the restaurant.
- 2. The meeting's purpose was to explain and discuss the WishCruise Pirate Adventures (WCPA) business opportunity and how Theresa and Dale could become involved as investors or partners.
- 3. During dinner, Theresa and Dale also talked about their Canadian property development backgrounds, Theresa's art and painting interests, her daughter Candace's pregnancy; how proud she was of her "Indian heritage," and showed me her "Indian Card" while explaining the card's "privileges" and it's "passport-like value."
- 4. The dinner meeting ended with Theresa and Dale stating they were very impressed with, liked all they heard about the WCPA business opportunity, and were looking forward to learning more when they came to Long Beach. Prior to our leaving, Chuck handed Theresa a spiral-bound document containing what I understood and believed to have been information about the WCPA program, including a business plan, plus information about other events/projects which Chuck had created and/or produced.
- 5. Saturday, January 26, 2013, Long Beach, California: Chuck and I met Dan, Theresa and Dale upon their arrival at the Queen Mary hotel around 7:00 pm. After they checked in, we all met in the Queen Mary Observation Bar for drinks, followed by dinner later that evening at the Queen Mary Promenade Café. At both locations, the conversation was mostly social conversation with only a

brief mention of WCPA business which was stated and understood to be the focus during the remainder of Theresa and Dale's visit.

- 6. Sunday, January 27, 2013, Long Beach, California: I met Dan, Chuck, Dale and Theresa at the Queen Mary hotel, and went to Lucille's restaurant for a BBQ lunch. Next, we sat on the ship's sunny side observation deck to discuss WCPA business. After a short break, we all met at Queen Mary Observation bar around sunset for drinks, snacks and to continue our conversation regarding WCPA. This time the WCPA focus was more upon the pirate ship's revenue generating potential, and comparing WCPA's ship location in Long Beach, California data to the "Black Dragon" ship that was located in South Padre Island, Texas. Chuck and I left shortly after dark as Dan, Theresa and Dale had made prior dinner arrangements with a couple they'd met in Las Vegas.
- 7. Monday, January 28, 2013 Long Beach, California: All five of us met for breakfast in the Queen Mary Promenade Café then went to the Eisenhower Stateroom suite where Theresa and Dale were staying. This meeting was to discuss any remaining WCPA-related matters, determine if and to what degree Theresa and Dale wanted to participate, and if participation was the decision, enter into a written agreement reflective of the agreed upon terms and conditions.
- 8. I recall the conversation initially focused on a recap of the investment vs. partnership opportunities and benefits; reviewing and talking about the construction plans of the pirate ship and its intended uses, and to hopefully enter into the proposed WishCruise Pirate Adventures Limited Liability Company Investment or Partnership Agreement. Theresa's initial focus was on the ship's construction plans and related construction issues, e.g., time to build it, where it would be built, construction costs, materials and equipment costs, etc. With Theresa's attention initially focusing on boating materials and costs, I left the meeting for about an hour, and came back with retail and wholesale marine product/equipment catalogues.

- 9. Upon my return, the mood in the stateroom was noisy and jubilant, and as I entered the room, Chuck loudly proclaimed, "We have new partners!" He went on to explain that a partnership agreement had been signed whereby Theresa was to be WCPA's president and responsible for "financial oversight;" and Dale would be a vice president. Chuck also explained that Theresa would be WCPA's official or commemorative "artist/painter" and Dale would be an official or commemorative WCPA "photographer." Shortly thereafter, Dale and I left the Eisenhower Stateroom, followed shortly thereafter by Chuck and Dan.
- 10. Chuck, Dan and I first went to Dan's stateroom, left our notebooks and brief cases, then joined Theresa and Dale for lunch at the Queen Mary Promenade Café. Much of the lunch conversation was WCPA related with Theresa sharing some of the ideas in which her art/painting talents could be utilized. That evening, we celebrated and continued to discuss the new partnership during dinner with our "Angel Partners" at the Bottle Inn Restaurante' in Hermosa Beach. In addition to WCPA and personal family matters, dinner conversation included Theresa and Dale talking about their upcoming trip to Zurich, a shipping port in Canada that they had recently purchased, and a Canadian airport they intended to buy.
- 11. It was late when Chuck and I returned to Huntington Beach which is when Chuck told me he "still had work to do," explaining that Theresa told him, also Dan, that she wanted a revised agreement that included the additions and changes which had been discussed and made to the agreement document signed earlier that day.
- 12. <u>Tuesday</u>, <u>January 29</u>, <u>2013</u>, Long Beach, California: Chuck, Dan, Theresa, Dale and I met for breakfast at the Queen Mary Promenade Café. The conversation mostly focused on the excitement of our new partnership. Theresa also said she was anxious to get home to start the process of getting done all that she had to do to uphold her end of the agreement. After breakfast, and away from

Dale's presence, I saw Chuck talking privately with Theresa and give her some papers which I concluded was the revised agreement Chuck had mentioned to me the night before.

- 13. A short while later, we all met at the check-out desk, walked to the hotel exit. Chuck, having had little, if any, sleep the night before, exchanged "goodbye" hugs and comments with Theresa and Dale, then returned to Dan's stateroom to rest. I accompanied Dan as he drove Theresa and Dale to the airport. During the drive to the airport, I sat in the back seat with Theresa and our conversation continued to be about the pirate ship, how thankful she was for Dan's introduction, her daughter's pregnancy, the upcoming trip to Switzerland and how cold it would be when she got back to Canada.
- 14. On the return trip to Huntington Beach, I was driving, and until Theresa called, Chuck had been napping. The volume on Chuck's cell phone was loud enough that I could hear Theresa apologizing for not returning the signed copy of the revised agreement, that she had read it, saw it was what she had requested, and signed it. She then explained that given all of the excitement, her being very tired, had a sore throat and was not feeling well, plus thinking about her pregnant daughter and everything that needed to be done when she got back to Canada, she "just forgot" to return it!?
- 15. In the weeks to follow, there were many times when I was included in the phone conversations, or where I just listened to all or some of the phone conversations, between Theresa, Dale, Chuck, and, on several occasions, Dan. I also believe the majority, perhaps all of the emails sent by Chuck to Theresa and/or Dale were proof-read by me before being sent.
- 16. February 10, 2013, Huntington Beach, CA: I also listened to the phone conversation when Theresa called from the Royal Bank of Canada requesting Chuck speak with the bank official to confirm the amount of money (\$1.4 MM as I recall) on deposit. During this conversation the bank official not only confirmed

the account balance, discussed wire-transfer details, she talked about "how amazing and wonderful" it was for Theresa to have "purchased, and was paying for the construction of a pirate ship that would be used to benefit a children's wish charity."

- 17. April 5, 2013, Huntington Beach, CA: Chuck Foster, Dan Howard and I had dinner at my home in Huntington Beach, California, and as Dan Howard was just about to leave for the airport, he received a phone call. Dan put his phone on speaker mode and I listened to Dale and Theresa yelling, cussing and making disparaging comments about Chuck, including she no longer trusted Chuck because "he lied about paying for the pirate ship construction plans" and that she "knew for a fact that Chuck got the boat plans for free, and kept the \$35,000 from the Canadian bank wire transfer for himself." At one point, Theresa yelled she was not going to reimburse Chuck for his \$50,000 and there would be no more wire transfers. Dan asked her if she realized that would probably lead to a lawsuit. Theresa again yelled, "If he sues us fine, because I can delay this for seven years and I'll do whatever it takes until Chuck goes bankrupt or quits." She also emphasized "You know, Danny, that I have the money needed to win and Chuck doesn't!"
- 18. I know and can state as an absolute certainty that Theresa falsely accused Chuck of not paying for the pirate ship's construction plans because I saw the ship's purchase invoice, read related emails, and listened to phone conversations between Chuck and the engineer/architect, Dan Avoures, who had created the pirate ship plans, and payment for Avoures' copy-righted plans was "\$35,000 and non-negotiable." I also saw the documents Chuck emailed to Theresa, which included the plans' price and payment requirements. I also saw a copy of Avoures' invoice, for \$35,000, and the WCPA Nevada bank wire transfer evidencing payment of the required \$35,000 that had been deposited into Dan Avoures and Associates' bank account.

19. As I recall, the above referenced wire transfer to Mr. Avoures was made the day after Chuck received the first wire transfer from WCPA's capitalization funds on deposit in the account Theresa had set up at the Royal Bank of Canada in St. Johns. I also read the acknowledged email document addressed to Theresa and Dale containing information that allowed them to have unrestricted viewing access to the WCPA Nevada bank account which would have confirmed Chuck's timely \$35,000 wire-transfer payment to Mr. Avoures.

I hereby declare, upon information and belief, and would testify as such, that the information I have given is, to my best knowledge and recollection, truthful and so state this under penalty of perjury according to the laws and statutes of the State of California.

MARY ANN MERCER

Dated: October 19, 2014. By: May In Merce