DECLARATION OF SANJAY KUMAR

1. My name is Sanjay Kumar. I am over eighteen years old and fully competent and qualified in all respects to make this declaration. The facts set forth herein are true and correct and, unless otherwise qualified, are within my personal knowledge.

2. With regard to facts stating the revenue figures for revenue recognized for certain customer contracts and for CA's earnings per share ("EPS") estimates, at the time I had general knowledge of the magnitude of the revenue involved in those contracts and the general EPS estimated. The revenue figures and EPS estimates stated herein have been confirmed and refined by review of supplemental information.

3. I am currently incarcerated in Fairton, New Jersey.

A. Background

4. I was formerly the President, Chief Executive Officer and Chairman of the Board of Computer Associates, now known as CA, Inc. ("CA" or the "Company"). Specifically, I was employed by CA beginning in August 1987 when CA acquired my then employer UCCEL. From April 1989 to December 1992, I was CA's Senior Vice President for Planning. From January 1993 to December 1994, I was CA's Executive Vice President for Operations. Effective January 1994, I became CA's President and Chief Operating Officer ("COO"), as well as a member of CA's Board of Directors. In August 2000, I became CA's Chief Executive Officer ("CEO") and relinquished the title of COO. In November 2002, I became the Chairman of CA's Board of Directors. On April 14, 2004, I stepped down as CA's Chairman and CEO and also resigned from CA's Board of Directors.

5. As is more fully laid out in my plea allocution, in *U.S. v. Kumar*, 04 CR 846 E.D.N.Y., I have pled guilty to all counts of the indictment brought against me in that matter (the "Indictment"). Attached hereto as Exhibit A is a true and correct copy of the court

transcript of my plea allocution. Also attached hereto as Exhibit B is a true and correct copy of the Indictment.

6. The crimes alleged in the Indictment relate to obstruction of justice and an accounting fraud at CA. The Indictment alleged, among other things, that CA executives engaged in a practice now known as the 35-Day Month. The 35-Day Month, in reality, was a practice in which CA's fiscal quarters started and ended about five days late. Through this practice, CA included within one quarter's revenue the revenue associated with license agreements finalized in the first few days of the subsequent quarter and did not include revenue recognized in the present quarter's first five days.

7. By the time I first worked at CA in 1987, this practice was firmly entrenched at the Company and was considered to be the way CA did business. Charles Wang ("Wang"), who co-founded and ran CA from before that time, personally directed the implementation of this practice in my presence. I came to understand from conversations with Wang and Peter Schwartz ("Schwartz"), CA's then CFO, that recognition of revenue was of critical importance in order to meet Wall Street's expectations for CA's EPS. Wang told me on many occasions that CA must meet these "consensus estimates" at all costs.

8. I know that CA agreed to a Deferred Prosecution Agreement and related exhibits ("DPA"). The US Department of Justice and CA agreed to the DPA as a result of the investigation by both the Securities Exchange Commission ("SEC") and the US Department of Justice (together, the "Government") into the fraud at the Company. Attached hereto as Exhibit C is a true and correct copy of the DPA.

B. My Communications With The CA Special Litigation Committee

9. My personal knowledge of the general facts averred herein was communicated to CA's Special Litigation Committee (the "SLC") in 2006. The members of the SLC,

themselves, interviewed me on many occasions in 2007. At each interview, copious notes were taken on the information I provided.

10. During those interviews and subsequent communications, I supplied information to the SLC regarding the knowledge possessed by members of the Board of the fraudulent accounting practices that occurred at the Company. I told them, for example, that Lewis Ranieri ("Ranieri") and Alfonse D'Amato ("D'Amato") had knowledge of the late contract issues and that this knowledge dated back to at least early calendar year 2003. I also informed them that these Board members took steps to protect Wang and conceal the facts relating to these accounting practices.

11. At page 347 of the report issued by the SLC (the "SLC Report"), the SLC asserts that, "[t]he majority of the Board understood that [the settlement of the CA class action litigation in 2003 (the "2003 Settlement")] was final when they authorized it in August 2003." While the Board considered the economics of the settlement to be final, David Nachman informed the Board in my presence regarding the economics of any settlement, the process necessary to settle a class action lawsuit and that any settlement would not be final until approved by the Court.

12. After October 2003, I specifically raised to the Board the question of whether the 2003 Settlement would go forward in light of the increased likelihood that information, which called into question the financials of the Company, would eventually be made public. John Savarese, in response, told the Board that any such information wouldn't affect "the deal." I understood that CA would insist that plaintiffs' counsel follow through on its intention to state, in some form during the settlement process, that they were aware of the pending Government investigations and that they would not object to the settlement.

13. I further know that the Board of Directors, including, but not limited to, Ranieri, was specifically concerned about the Settlement and Fairness Hearing scheduled for late 2003 (the "Fairness Hearing"). Ranieri told me to contact him as soon as I heard of the results of the Fairness Hearing. Like many at the Company, all members of the Board understood the potential settlement to be a major event. I further know that when I did contact Ranieri by telephone and informed him that the Court had approved the 2003 Settlement, he expressed relief that the Court approved the agreement.

C. Accounting At CA

14. I know the 35-Day Month practice was well known at CA and, in fact, almost everyone who worked at the Company knew that this was how CA closed its quarters.

15. In addition, I often participated in helping close business at the end of the quarter in order to meet CA's revenue consensus estimates. CA executives sometimes referred to the practice as the quarter-end cut-off practice because revenue was recognized after the end of the month, or quarter-end since the quarter started and ended about five days late. I never heard CA Executives use the phrase "35-Day Month"; I first heard that phrase when it was used by the Government.

16. I know that in each of the four quarters of fiscal year 2000, CA reported revenue associated with numerous license agreements that had been finalized after the quarter close in the previous quarter and did not count revenue from the first few days of the quarter.

17. The first quarter of CA's fiscal year 2000 included the period from April 1, 1999 to June 30, 1999 (the "First Quarter"). At around the time when the First Quarter ended on June 30, 1999, Ira Zar ("Zar"), CA's then CFO, informed me that CA would likely not generate sufficient revenue to meet the consensus estimates for the quarter. As usual, I communicated this to Wang.

18. In response, at Wang's direction, around July 8, 1999, I traveled to Paris, France, where I met with the Chief Information Officer of GIE Informatique AXA for AXA group ("AXA"). During the meeting, AXA agreed to go through with a previously negotiated license agreement by which AXA agreed to pay CA approximately $32 million. The written license agreement, which I had personally signed, was sent to AXA before my meeting in Paris. Based on this license agreement with AXA, CA improperly recognized as revenue in the First Quarter approximately $19 million, which I understand was the value of the agreement CA calculated pursuant to Generally Accepted Accounting Principles (the "GAAP Value").

19. On July 20, 1999, CA filed with the SEC its quarterly report on Form 10-Q and issued a related press release regarding that disclosure. In these public documents, CA reported its quarterly financial results for the First Quarter that included revenue associated with license agreements finalized after June 30, 1999. CA reported EPS of $0.49 exclusive of non-recurring charges.

20. The 35-Day Month was so ingrained in the CA's culture, that it was normal procedure to close business beyond the last day of the month during the five day period afterward sometimes known as the "flash period." However, if we could not close enough business to meet Wall Street consensus estimates, then myself and or Ira Zar would inform Charles Wang that we had failed or were unlikely to meet the consensus estimates and that we needed to extend the close of the quarter beyond the five day period. In each and every instance, when that circumstance occurred, Wang told us to keep CA's books "open," beyond the five days after the end of the fiscal quarter, often stating, "failure is not an option." At this particular time, during the October 1999 flash period, despite our efforts, Zar informed me that CA had not generated sufficient revenue to meet the consensus estimates of $0.59 per share.

21. We informed Wang and he directed us to keep CA's books open beyond the usual five day period. Thereafter, our senior regional sales managers attempted to close additional business.

22. Previously, on or about October 4, 1999, CA finalized an agreement by which First Data Resources agreed to pay CA approximately $176 million. As was CA's practice, the written license agreement was dated to appear as though the agreement had been finalized and signed on September 30, 1999. Based on this license agreement with First Data, CA recognized as revenue in the Second Quarter approximately $97 million, which was the GAAP Value of the agreement.

23. Similarly, on or about October 6, 1999, shortly after Wang spoke to CSC's Chairman and CEO, CA entered into a license agreement by which CSC, a CA customer, agreed to pay CA approximately $102 million. Pursuant to CA's practice, the written license agreement was made to appear as though the agreement had been finalized and signed on September 30, 1999. Based on the license agreement with CSC, CA recognized as revenue in the Second Quarter approximately $65 million, which was the GAAP Value of the agreement.

24. On or about October 19, 1999, CA filed with the SEC its quarterly report on Form 10-Q and issued a related press release. In these public documents, CA reported its quarterly financial results for the Second Quarter that included revenue associated with license agreements finalized after September 30, 1999 and that did not include revenue from contracts closed in the first few days of July. In its filings and statements, CA reported EPS of $0.60 exclusive of non-recurring charges.

25. The third quarter of CA's fiscal year 2000 included the period from October 1, 1999 to December 31, 1999 (the "Third Quarter"). Around the end of the flash period after the

Third Quarter ended on December 31, 1999, Zar informed me that CA had not generated sufficient revenue to meet the consensus estimates.

26. As the Third Quarter came to a close, I specifically informed Wang of our progress toward meeting our Wall Street consensus estimates. Wang was concerned that this quarter would present difficulties because of the change to the new millennium commonly known as "Y2K issues." Wang did not take his usual year end vacation at this time and stayed in New York and monitored our progress. I informed Wang that we would not meet the consensus estimates by the end of the flash period. In response, Wang instructed us to keep the quarter open until we could close enough business to meet the consensus estimates.

27. On January 6, 2000, a senior sales manager informed me that she had completed negotiating a license agreement by which a CA customer, EDS, agreed to pay CA approximately $300 million. I was pleased we closed the deal and informed Wang that day that we were that much closer to achieving our "number" for the quarter, ending December 31, 1999. The written license agreement, which I had personally signed, had an effective date of December 31, 1999, but did not bear an execution date. Due in part to this license agreement with EDS, CA recognized as revenue in the Third Quarter approximately $180 million, which was the GAAP Value of the agreement.

28. On or about January 26, 2000, CA filed with the SEC its quarterly report on Form l0-Q and issued a related press release. In these public documents, CA reported revenue for the Third Quarter that included revenue associated with license agreements finalized after December 31, 1999 but did not include revenue from agreements closed in the first few days of October. CA reported EPS of $0.91 exclusive of non-recurring charges.

29. The fourth quarter of CA's fiscal year 2000 included the period from January 1, 2000 to March 31, 2000 (the "Fourth Quarter"). Around the end of March 2000, Zar informed me and others that CA had not generated sufficient revenue to meet the consensus estimates for the quarter ending March 31, 2000.

30. At this time, CA had scheduled its annual sales "kick-off" events earlier than usual, and sales people were being taken out of their territories to attend the events. Zar advised me that achieving the consensus estimates was going to be "tight." When we informed Wang that we did not think we could make our "number" in light of the sales events, Wang was upset that our sales people were not in their offices when we were so close to missing our numbers. Wang asked whether we had enough deals "in the pipeline" – which I understood to mean he wanted to know if we had enough contracts pending, which, if finalized, would generate enough revenue to meet our consensus estimates. We responded, "yes," we did. After he expressed his displeasure with the state of affairs, Wang instructed us to "keep going," since "pre-announcing [that we failed to generate enough business to meet our consensus estimates] is not an option," and instructed us to keep CA's books "open" until we had closed enough business to meet the consensus estimates.

31. On or about April 7, 2000, a senior CA sales executive, finalized a license agreement by which a CA customer, Cellco Partnership (d/b/a Verizon Wireless) ("Cellco"), agreed to pay CA approximately $16 million.

32. Previously, on or about April 6, 2000, at approximately 11:53 a.m., this sales executive sent an e-mail relating to the negotiations with Cellco, which read, in part: "If we could get someone to ask them to 'do us a favor' and sign the contract, leaving the date block blank (they technically can't backdate the signature block, even though the contract says an

effective date of 3/31/00 . . the new company wasn't technically formed until 4/1/00). I'll take care of fixing any mistakes that they inadvertently leave off the fax contract."

33. Based on this license agreement with Cellco, CA recognized as revenue in the Fourth Quarter approximately $13 million, which was the GAAP Value of the agreement.

34. In the March quarter, I understood that a CA sales executive was trying to finalize a license agreement by which a CA customer, Charles Schwab, agreed to pay CA approximately $30 million. I understood that the written license agreement was signed in April 2000, but backdated to make it appear as though the agreement had been finalized and signed on March 31, 2000. Based on this license agreement with Charles Schwab, CA recognized as revenue in the Fourth Quarter approximately $16 million, which was the GAAP Value of the agreement.

35. On or about May 15, 2000, CA filed with the SEC its annual report on Form 10-K and issued a related press release. In these public documents, CA reported revenue for the Fourth Quarter that included revenue associated with license agreements finalized after March 31, 2000 but not revenue for contracts closed in the first few days of January. CA reported EPS of $1.13 exclusive of non-recurring charges.

D. CA Purchases Sterling Software While Reporting That It Is Meeting Its Consensus Estimates

36. During the time period discussed above, between the end of 1999 and March 2000, I was involved, as President and COO of CA, in the negotiation of the purchase by CA of Sterling Software, Inc. ("Sterling"), a company that had been co-founded by Sam Wyly ("Wyly"). Wang, a few senior CA executives, and I directed the negotiations leading to the final agreement for that purchase, which was consummated in March 2000.

37. The details of the negotiations and purchase of Sterling were disclosed by CA in a Form S-4 and publicly filed with the SEC on February 22, 2000. Attached hereto as Exhibit D is a true and correct copy of the relevant pages of the S-4.

38. In January 2000, I met with representatives of Morgan Stanley during which they advised me that Sterling was for sale. After this meeting, I called Wyly and discussed with him the possibility of a business combination between CA and Sterling.

39. Shortly thereafter, on January 18, 2000, I met with Wyly in Dallas to discuss the potential business combination. As disclosed in the S-4, at that meeting I discussed with Wyly "valuation issues" regarding the potential business combination.

40. On January 23, 2000, I participated in a meeting with Zar, Charles McWade, and representatives from Morgan Stanley and Sterling's Board of Directors. At this meeting and in subsequent meetings with Sterling Williams ("Williams"), the CEO and a co-founder of Sterling Software, various aspects of the combination of Sterling and CA were discussed.

41. On February 6, 2000, I informed Williams that CA was interested in pursuing a business combination with Sterling at a valuation of between $38.25 and $39.25 per share for each share of Sterling common stock. On February 7 and 8, 2000, I continued my discussions with Williams and informed him that CA would increase its valuation of Sterling stock to $39.50 per share. Because CA was using CA stock as the "currency" of the transaction, CA calculated its valuation of Sterling in terms of CA stock. Ultimately, it was agreed that the merger would go forward wherein each Sterling share would be exchanged for 0.5634 shares of CA. That means that in dollar terms, each Sterling share was worth $32.19 compared to CA's closing price of $57.13 on March 30, 2000 – the date of the merger.

42. As is now common knowledge, at the time before, during, and for a limited time after the negotiation of the Sterling merger, CA had a practice of opening and closing its quarters generally five days late.

43. On February 14, 2000, before the opening of the New York Stock Exchange, CA publicly announced its agreement to purchase Sterling.

44. As part of the agreement that CA negotiated, Wyly and other Sterling shareholders would exchange their Sterling stock and stock options for CA stock and stock options.

45. The Sterling purchase was consummated on March 30, 2000, the next to last day of CA's Fourth Quarter of fiscal year 2000. At around the end of the next quarter, around July 2 or July 3 2000, Wang, Zar, the Board, other CA executives and I participated in making the decision to disclose that CA would not meet its earning estimates for that First Quarter of fiscal year 2001. CA made the disclosure in a press release on or about July 3, 2000. By the close of business on July 5th, CA's stock lost more than 40% of its value.

46. I further know, as discussed above, that at the time before and during the negotiation of the Sterling merger, CA reported that it had met Wall Street consensus estimates for CA's Third Quarter ending December 31, 1999 and Fourth Quarter 2000 ending March 30, 2000. CA met those estimates while operating under the "35-Day Month" practice.

E. CA Defends Against Wyly's Proxy Contests

47. In June 2001, I received notice that Wyly and another CA shareholder, Ranger Governance, Ltd. ("Ranger"), had initiated a shareholder proxy contest seeking to replace me and all of the other CA Board members. Subsequently, Wyly and Ranger sought to replace Wang and three other Board members. In August of 2001, I attended the CA shareholder meeting where CA's shareholders voted to retain the entire Board, defeating the proxy bid.

48. In response to Wyly's proxy effort, CA's Board had engaged the law firm of Wachtell, Lipton, Rosen & Katz ("WLRK"). WLRK, on behalf of the Company, brought a suit against Wyly and Ranger. Thereafter, I was named in an individual capacity in a third-party complaint filed by Wyly and Ranger. Wyly and Ranger initiated a second proxy fight in June 2002. We settled the pending proxy litigation, in July 2002. With Wang's and the Board's blessing, CA agreed to a settlement with Wyly to resolve the second proxy contest.

49. During this time, I publicly defended CA's New Business Model and stayed away from discussing the historical accounting practices at CA because I did not want the issue of the 35-Day Month to come up, even though I had ended the 35-Day Month practice in October 2000 after I became the CEO.

50. When the New Business Model was adopted in October 2000, many on the Board, including Artzt, Ranieri, D'Amato and Willem de Vogel ("de Vogel"), knew of our practice of booking revenue for a few days past quarter end.

51. In early 2002, Stephen Perkins of Ranger visited CA's Islandia offices, and shortly after the visit, Ranger wrote to the Board asking for a change in CA's top management. Attached hereto as Exhibit E is a true and correct copy of that letter.

52. The Board discussed how to respond to the Ranger letter.

53. It was suggested by Wang and WLRK that CA's "Independent Directors" ought to respond to Ranger's letter. Thus, in response to Ranger's letter, on April 11, 2002, CA's "Independent Directors" wrote to Ranger stating that Ranger's "attacks on CA's accounting practices are unjustified. We have reviewed CA's accounting practices and have satisfied ourselves—as has KPMG, the Company's auditors—that CA's accounting is appropriate and

transparent." This statement, which CA published in a subsequent SEC filing, I believe related solely to the New Business Model.

54. The Independent Directors did not, themselves, each review CA's accounting. Instead, Walter P. Schuetze ("Schuetze") and a few other Board members reviewed the accounting methodology relating to the New Business Model. Based upon my knowledge, they did not investigate CA's past accounting.

55. Some of the Directors knew that some of CA's historical accounting and public disclosures may not have been fully accurate. CA's disclosure in its 10-K for fiscal year 2001 reported anew CA's past financials for fiscal years 1998, 1999 and 2000 because of a revenue reclassification issue. In this disclosure, CA recalculated its past financials according to the New Business Model's methodology to provide a means of comparison to CA's then current disclosures, which, for the first time, were reported under the New Business Model. To my knowledge, CA did not correct these numbers to account for any effect of the 35-Day Month practice before applying the New Business Model methodology and reporting these numbers in its 10-K.

F. <u>The Class Actions And Government Investigation.</u>

56. In July and August of 1998, numerous class action and derivative lawsuits were filed against me, CA and certain of its executives, officers and directors (the directors, "Board Members"). These lawsuits alleged violations of securities laws and accounting improprieties at CA.

57. In 2002 and 2003, additional class action and derivative lawsuits were filed against me, CA and others (together the class and derivative actions filed in 1998, 2002 and 2003, the "Actions").

58. Similarly, starting in 2002, the United States Attorney's Office for the Eastern District of New York and the Securities Exchange Commission began an investigation of CA.

59. I maintained documents related to my work at CA on my computer and in other locations in my office at CA. I remember that I was asked to collect documents relating to certain topics at the time of the Actions. At the time, I reviewed my files in and around my desk in my office and collected documents. No one else reviewed my office files for documents. I also printed out documents from my computer and put those printouts together with copies of other documents from my office files in a glossy bright yellow file folder. A few weeks later, CA's general counsel, Steven Woghin, picked up the folder from my office. Prior to sometime in 2003, other than the documents I provided in the yellow file folder, I was not personally asked to provide any other documents to defense counsel or to CA's legal department in connection with the Actions.

60. Later, in 2003, I was asked for documents with respect to certain transactions related to specific customers and "quarter end" issues. All of the information that I turned over in response to these requests came from documents in my possession or the CA corporate files.

G. CA Board Members With Knowledge Of CA's Improper Accounting Practices.

61. As discussed below, I know that many of CA's Board Members were aware, to varying degrees, of the 35-Day Month practice at CA.

1. Willem de Vogel

62. I know that de Vogel was aware of the practice that has become known as the 35-Day Month at CA during his tenure on the CA Board. For example, based on my conversations with de Vogel and other CA Board Members and executives, I know de Vogel would call up CA executives three to five days after the quarter's end to inquire, "how are we doing?" or "how do the numbers look?" to determine how CA was progressing in the final days of the

"quarter" (as CA defined its quarters). De Vogel would call at the end of the flash period because it was common knowledge that we often finalized contracts through the fifth day after the end of the month, instead of the last calendar day of the month.

63. I recall that de Vogel twice served as a member of CA's Board, the second tenure beginning in 1991, and continuing until August, 2002, during which time de Vogel served as a member of the Audit Committee. When he was a Board Member, de Vogel understood CA's accounting practices, including the 35-Day Month. De Vogel would often discuss CA's financials at Board meetings and elsewhere in my presence. I often heard de Vogel discussing accounting issues with CA's Chief Financial Officer, Schwartz, and later, Schwartz's successor, Zar.

2. Lewis Ranieri

64. I know Ranieri was aware of the accounting practice known as the 35-Day Month. I know this because Ranieri and I discussed this issue during the Government investigation. In addition, in April 2003, I told Ranieri that a former joint venture partner was attempting to blackmail CA. The former partner was involved in transactions with EMS, a CA customer. I told Ranieri about the fact that the former partner had threatened to go to the media about the EMS transactions. Ranieri advised me that I should put the past "behind me." I understood Ranieri to mean that I should fix the problem at all costs.

65. Earlier, in 2001, D'Amato recommended to me that the Board should invite Ranieri to become a member. At that time, I did not know who Ranieri was but around the time he joined the Board on June 26, 2001, I met him for the very first time in my capacity as CEO. Later, at my suggestion, the Board appointed Ranieri as Lead Independent Director, a position he held from May 14, 2002 until April 20, 2004. Ranieri also served on the Audit Committee

from January 21, 2003, until April 20, 2004. When I stepped down as Chairman of the CA Board, Ranieri replaced me.

66. I also know Ranieri was not totally forthcoming in disclosing what he and the Board knew or learned of the 35-Day Month practice. I know this because Ranieri told me that in order to put CA's past behind the Company, it would be best to keep certain Board members in the dark about some aspects of the 35-Day Month practice. Specifically, Ranieri instructed me not to divulge the full extent of the 35-Day Month practice to Schuetze, the Chair of the Audit Committee. I know that Ranieri also instructed another CA executive not to divulge the full extent of the 35-Day Month practice to Schuetze.

67. Ranieri often joked with me by saying that "Schuetze would have a heart attack" if he knew about the 35-Day Month issue. As discussed below, at that time, Schuetze did not know the full extent of the problems with CA's 35-Day Month practice. Ranieri specifically instructed me that Schuetze, a former SEC accountant, would "turn on us" if he found out about CA's historical 35-Day Month issue.

68. Ranieri was involved in the drafting of the CA press release, issued on October 8, 2003 (the "October 8 Press Release"). I know this because Ranieri, the lawyers, some Board members, CA's Public Relations Department, and I worked together to finalize the October 8 Press Release. Attached hereto as Exhibit F is a true and correct copy of the October 8 Press Release.

69. I received the first draft of the October 8 Press Release sometime after Ranieri and the Audit Committee instructed me to ask Zar for his resignation. After the lawyers circulated the draft, CA's Public Relations Chief called me to tell me that, in his opinion, the

draft could not be published in its then current form because it would cause confusion if it did not clearly indicate that there would be no change in leadership of CA after Zar resigned.

70. The Public Relations Chief asked me if I was to remain in control of the Company. I stated "yes" and told him to confirm that fact with Ranieri. Ranieri told both the Public Relations person and myself, that, yes, I would remain in charge of CA. I then asked the Public Relations Department to work with Ranieri and the lawyers to edit the October 8 Press Release. In addition to Schuetze's portion of the draft release, a new section was added which stated that CA's Corporate Governance was the "gold standard" and that, notwithstanding the disclosure of what appeared to be accounting issues at the Company, CA's Board was independent and that its "decisive action" resulted in the discovery of the disclosed accounting issues.

71. I knew that some Board members and I knew that the release was not complete in its disclosure or the 35-Day Month practice.

72. In fact, Ranieri told me that he regretted having to "spill the blood" of Zar but that it was necessary in order to protect the rest of the CA "family."

3. Alfonse D'Amato

73. I know D'Amato was aware of the practice at CA of starting and ending the quarters late. He was also aware of Wang's participation in those practices. In fact, D'Amato told me on more than one occasion that it was best not to discuss Wang's involvement. Wang told me that he had asked D'Amato to help resolve the Government investigations.

74. In connection with D'Amato's attempt to bring about a resolution of the Government investigations, D'Amato asked me to provide him with a brief written account of why CA was a good company and should not be indicted. When he made this request,

D'Amato warned me, "Don't piss on the past." The phrase "Don't piss on the past" was D'Amato's standard phrase for instructing me not to implicate Wang.

75. Earlier, in 1999, Wang told me that he had asked D'Amato to be on CA's Board.

76. I know that D'Amato and Wang were friends. Sometime in late 2005 or early 2006, I was surprised to learn that, for several years during D'Amato's tenure on the Board and Audit Committee, D'Amato received payments directed by Wang and paid through The Smile Train, a charitable organization, to D'Amato's consulting firm, Park Strategies LLP.

77. In 1998 Wang told me and others that he had engaged D'Amato as a consultant for CA before D'Amato became a Board member. Once D'Amato joined CA's Board in 1999, Schwartz told me that CA could not continue to pay consulting fees to D'Amato. When I informed Wang what Schwartz had said, Wang stated that he would "take care of it." I initially assumed Wang meant that he would tell D'Amato that CA had to discontinue paying D'Amato's fees. After I understood in 2005 or 2006 about the Smile Train payments discussed above, I came to understand that Wang really meant at the time that he would "take care of it" by paying D'Amato indirectly through a charity he co-founded, The Smile Train.

78. I came to understand this as a result of a communication I received in late 2005 or early 2006 from an anonymous source. This source suggested I review public records of companies controlled by or influenced by Wang. Eventually, I came upon the public records of Smile Train and, according to my understanding of papers filed by Smile Train with the Internal Revenue Service, it appears that the charity paid D'Amato approximately $390,000 from 1999 through 2003. Attached hereto as Exhibit G are true and correct copies of Internal Revenue Service filings demonstrating payments from Smile Train to Park Strategies, LLP.

79. I also know that D'Amato and Ranieri were extremely close, so close in fact that Ranieri allowed D'Amato to use office space in Ranieri's offices. D'Amato told me he was close to Ranieri when D'Amato recommended Ranieri to the CA Board. In addition, when I was CEO, I went to Ranieri's office and met with Ranieri. While there, I had to take a phone call. Ranieri's secretary instructed me to use "Al's office" and directed me to an office close to Ranieri's office in which D'Amato worked.

80. I also know that D'Amato was very close to Shirley Strum Kenny ("Kenny").

4. Russell Artzt

81. I know Artzt, a co-founder of CA with Wang in 1976 and a member of the CA Board from 1980 until 2005, knew about the fraud at the Company and actively participated in concealing CA's improper accounting practices from the public, plaintiffs in the Actions, the Government and other Board Members. In reality every Senior Executive and most every employee in sales and finance knew of this 35-Day Month practice.

82. I know this because, over the course of numerous conversations, Artzt and I discussed the Government investigation and the 35-Day Month practice. In one conversation, Artzt told me that he questioned whether I should implicate Wang when asked by the Government about CA's accounting practices. By the end of the conversation, however, Artzt thought it was best not to disclose the 35-Day Month practice or Wang's involvement. Artzt told me to remain silent because he thought that D'Amato would "get this fixed."

83. From early in my career at CA, I understood that Artzt was well aware of the 35-Day Month. I know this because Artzt often assisted CA's Sales teams during post-quarter negotiations and played an instrumental role in persuading a number of CA customers to sign license agreements after the close of the quarter in which the revenue associated with the agreement would be recognized. I know, based on my conversations with Artzt, that Artzt

knew that CA would recognize the revenue associated with these post-quarter license agreements in the previous quarter in order to meet CA's Wall Street estimates.

84. I told the SLC of Artzt's involvement with the 35-Day Month practice and how Ranieri went out of his way to protect Artzt.

5. Charles Wang

85. Wang was not only aware of the accounting improprieties such as the 35-Day Month, he also actively participated in concealing those improper accounting practices from the public, plaintiffs in the Actions, the Government and certain Board Members. Wang knew that CA's quarters were "open" for five days into the next month per his directive and he sometimes instructed CA to keep CA's books "open" after the usual "five days" to execute license agreements and to recognize revenue from those agreements in the previously ended quarters.

86. Wang and I were very close personally and professionally. We discussed virtually every aspect of the business weekly, if not daily. The relationship with Wang went downhill by the end of 2000 because Wang did not like the New Business Model, its success or the accolades that I received for putting it into place, and was regretting giving up the CEO title. It culminated in Wang firing me over breakfast around late November 2001. He told me the Board backed him and supported his decision to fire me. I agreed to leave CA and hand the CEO job back to Wang. A few days later, I learned that Wang had lied to me and the Board knew nothing about any of this. Soon after, an emergency Board Meeting was convened, and in the end I agreed to stay as CEO at the Board's request. Our relationship improved for a time, but by the late summer of 2002 it got bad again. Wang resigned from the Board in November, 2002.

87. I know that Wang participated in or directed two "wash transactions," which had no economic substance: the Consortio and EMS transactions. The revenue associated with

these transactions was recognized in the third and fourth quarters of fiscal year 2000. Attached hereto as Exhibits H and I, are true and correct copies of the Government's Memorandum In Aid of Sentencing and notes from an FBI interview with the founder of Consortio submitted as evidence by the Government during my sentencing.

88. Given the importance of "making our numbers" during that time period, I kept Wang closely apprised of CA's dealings with Consortio. As a matter of fact, it was Wang who first fostered a relationship with Ray Cheng, the CEO of Consortio, at the executive level from CA. The license agreement with Consortio had a face value of approximately $44.5 million dollars. Based on the license agreement with Consortio, CA recognized approximately $34 million dollars, the GAAP value of the transaction.

89. At my sentencing hearing the Government identified the EMS transaction as an improper "wash transaction" with no economic substance. Attached hereto as Exhibit J are true and correct copies of email strings discussing the EMS transactions submitted as evidence by the Government during my sentencing.

90. In calendar year 2002, former EMS employees involved in these transactions contacted CA and attempted to blackmail CA. In essence, these former EMS employees threatened to disclose the transaction between CA and EMS to the news media, entered into purposefully to create an appearance of economic substance when in fact, there was no economic substance to the transaction. Because the original transactions were supervised by Wang, I sought Wang's guidance as to our response to the threats of blackmail. Attached hereto as Exhibit K is a true and correct copy of an email in which Wang, via his executive assistant, directed me not to do anything until I received further instruction from him. Ultimately, Wang suggested that we "resolve" the matter directly with EMS's CEO.

91. Wang participated in obstructing justice during the Government investigations. I know that D'Amato and others gave Wang updates on the Government investigations. In discussions with myself and other CA executives, Wang insisted that CA stonewall the Government, explaining that, if CA did so, the investigation would eventually "go away." Pursuant to these orders, I know that Wang's loyalists, including myself, obstructed the Government investigation, by delaying the disclosure of information, and withheld from the Government information that would have disclosed the improper accounting practices at CA. I also understood from CA's lawyers that like me, Wang was interviewed by the Government. He was also interviewed by the Audit Committee's lawyers. I understood from CA's lawyers that Wang denied knowledge of or any involvement in the 35 Day Month practice to both the Government and to CA's lawyers.

H. CA's Response To The Government Investigations

92. I know that CA's response to the Government investigations was driven by a desire to disclose just enough to reach a settlement. D'Amato and Ranieri each told me that they were pushing to obtain commitments from the Government regarding an acceptable way to resolve the investigation. They each acknowledged to me on many occasions that the Government's investigation, if allowed to continue without a settlement, would potentially destroy CA.

93. At a Board meeting on July 2, 2003, WLRK reported to me and the rest of the Board that the Government had demanded that CA conduct an independent internal investigation. I agreed that an investigation was needed, thinking that such an investigation might expose the historical problems at the Company without me having to point the finger to the past, but would not result in any criminal proceedings. Accordingly, I recommended and the Board authorized the Audit Committee to conduct an "independent" internal investigation.

As discussed above, I knew that two of the three members of the Audit Committee, Ranieri and D'Amato, were already generally aware of the Company's 35-Day Month issue and were committed to assisting the Company in minimizing the damage to the Company.

94. I was nominally involved in the Audit Committee's decision to hire Robert J. Giuffra, Jr. ("Giuffra") of Sullivan & Cromwell ("S&C") to conduct the "independent internal investigation." Schuetze, who lived in Texas, asked me to interview law firms, in New York, to assist the Audit Committee and give Schuetze a recommendation. However, within hours, D'Amato called me and said, "I got your man."

95. D'Amato made it clear that I should recommend Giuffra. I knew of Giuffra through D'Amato because I was told that he represented D'Amato's brother, Armand, in a case in which Armand's criminal conviction was ultimately overturned. D'Amato told me on many occasions that after Giuffra helped Armand, they were like family. D'Amato told me that, "Bob will call you."

96. I have personal knowledge that Giuffra undertook conducting CA's defense against the Government investigation to minimize the investigation's depth and any damage that might be done to D'Amato, Ranieri and Wang. At one point, Giuffra told me that he understood "what the game is" and that he would do whatever he could to arrange a settlement with the Government.

97. From the first of my conversations with Giuffra, he acted like he already had the job. Regardless, I felt it best to make Giuffra go through the motions. When he arrived at our offices, I spoke with him for approximately thirty minutes. After thirty minutes, I asked CA's general counsel, Woghin, to continue and finish the interview with Giuffra.

98. Almost immediately, the lawyers from WLRK complained to me and others that they were upset about the process in which they appeared to be replaced by S&C. Indeed, I watched S&C immediately begin taking the reins of CA's defense away from WLRK. As a result, I witnessed a tremendous amount of infighting between the two law firms.

99. By this time, Marty Lipton and John Savarese ("Savarese") of WLRK had informed me and others, including the Board, that they knew there were some "late" contracts for which revenue had been included in earnings reports possibly incorrectly. Nonetheless, WLRK told me that the SEC would likely treat it as a "books and records" issue.

I. The Misleading October 8 Press Release

100. The October 8 Press Release was issued after the Audit Committee interviewed Zar. Schuetze realized that the 35-Day Month practice was more extensive than he was led to believe. The Board and the lawyers wanted to issue a release but the end result was that the release tried to paint a picture of the problem that could still allow CA to settle with the Government.

101. I know that the October 8 Press Release minimized the magnitude of the 35-Day Month practice at CA and the extent of the involvement by sales, finance and senior management employees, as well as the knowledge by some CA Board Members of those practices at the Company. I know that D'Amato and Ranieri, as well as Wang, Artzt and others at this time, knew that the 35-Day Month practice was part of CA's past and--unless the revenue from contracts excluded from the beginning of the quarter (and included in the previous quarter) was approximately the same amount as the revenue included after the close of that quarter from contracts closed after the quarter end—resulted in CA reporting incorrect revenue figures meeting Wall Street's consensus estimates.

102. I know that the reasons for terminating Zar and other CA employees stated in October 8 Press Release were not complete. I know that the Press Release reported that Zar, CA's CFO, was not considered to have actively participated in any wrongdoing but was merely responsible for overseeing CA's financial reporting during the relevant period. I know this was false because it was clear by that time that Zar had participated in the improper accounting at the Company.

103. For example, I know that the Audit Committee offered to interview Zar and provide a summary of the interview to the Government. After the interview, Ranieri, D'Amato and Giuffra told me that Schuetze had been asking probing questions for which Zar had no answer but that Ranieri and D'Amato had tried on numerous occasions to ask questions that might put Zar in a better light. Ultimately, Ranieri told me that Zar provided inconsistent explanations or no explanations at all for some of the issues raised by Schuetze. As a result, Schuetze was pushing the Audit Committee to fire him. Further, Ranieri told me he felt bad for having to "turn" on Zar. Ranieri told me that Zar had "done the right thing" and as a result, Ranieri would try to help Zar get a new job and ensure that CA would give him a severance package. Accordingly, I know that, as of October 3, 2003, CA's lawyers, management and Board Members knew that Zar, CA's CFO, had participated in the fraud.

104. As discussed above, I know that during the drafting of the Press Release, WLRK, S&C and the Audit Committee already knew of many late contracts, some of which were significant in terms of size, and that CA's CFO was implicated in the fraud.

J. The October 20 Board Dinner

105. On October 20, 2003, a regularly scheduled dinner of the Board and senior management took place at the 21 Club in New York City in a private room upstairs. I attended

the dinner with the then-current Board Members, including, among others, Ranieri and D'Amato.

106. Before the dinner, I stood with Ranieri and others (including D'Amato and Richards) by the bar, that was setup in the room, discussing, among other things, the status of the Government investigation. Ranieri said, as he had to me time and again, that he had been through Government investigations before and, in his opinion, CA had to "play hard-ball" with the Government. From past conversations, I know, and it was obvious to all that by "hard-ball," Ranieri meant for us to stonewall in order to force the Government to conclude its investigation and settle with CA.

107. As the discussion continued, Richards, CA's Head of Worldwide Sales, walked outside of the room into the restaurant's hallway with Ranieri. I caught up with them after and joined in a discussion that was taking place in the hallway outside the room—and outside of the earshot of the others (the "Discussion").

108. In the Discussion, Richards raised the following thoughts to Ranieri in my presence. Richards told Ranieri that:

a) he was concerned because he was required to meet with the SEC in a matter of days;

b) he would have to rely on his Fifth Amendment Right against self-incrimination and not speak to the SEC; and

c) if he spoke to the SEC and told the truth about Wang and the historical 35-Day Month practice, the SEC would discover the full extent of the 35-Day Month practice.

109. Ranieri was clearly concerned at the prospect of Richards opening up to the SEC and ruining chances of a prompt settlement with the SEC. Ranieri told Richards that:

a) as long as he was in the Company, Ranieri would protect him;

b) if Richards took the "Fifth," because Richards was an "executive officer," the Board would be forced to fire him; and

c) if Richards went into the interview and the SEC reported back to the Audit Committee that Richards had participated in the 35-Day Month practice, the Board would be forced to fire him.

110. In sum, Ranieri presented Richards with only two options—go into the SEC interview and not discuss the 35-Day Month or, if asked directly about the 35-Day Month, lie. In fact, when Richards asked Ranieri, in substance, "what am I supposed to do, tell them Charles started all this and that this was the way it was when I got here?" Ranieri answered him directly that he should not delve into the past or Wang because doing so would make it impossible to "end this thing." Ranieri told Richards not to worry because he and D'Amato would "make this thing go away", if everyone "stuck together."

111. I have no doubt that Richards had the same understanding of Ranieri's instructions as I had. Richards has since pled guilty to, among other things, obstruction of justice and perjury charges based upon his testimony to the SEC.

K. Conclusion

112. Before August 2007, I had not met with or discussed the matters contained herein with lawyers at Bickel & Brewer.

113. In addition, due to the constraints of my incarceration, I have not been able to meet with lawyers for Bickel & Brewer for longer than three hours at a time every month or so. As a result, we were not able to finalize this declaration before August 2008.

114. I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 21, 2008

Sanjay Kumar