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**FILED**  
OCT 12 2005  
CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
DEPUTY

**UNITED STATES DISTRICT COURT  
IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
AT SAN DIEGO**

UNITED STATES OF AMERICA, ex  
rel. by RICHARD CARDEN  
  
Plaintiff,  
  
vs.  
  
ADCS, INC., a California Corporation;  
and BRENT WILKES,  
  
Defendants.

NO.  
**05 CV 1937** BEN (NLS)  
COMPLAINT AND JURY DEMAND

**Filed Under Seal**  
pursuant to  
31 U.S.C. §3730(b)(2)

COMES NOW the United States of America, by and through Richard Carden, qui tam as relator, and for a cause of action alleges that Defendants have committed fraud against the United States Government through obtaining government contracts to perform a paper to computer document conversion, but without the means to actually perform such work, and instead violated said contracts by sending such work to off shore subcontractors, and by overbilling, e.g., by billing for services which were not performed, and this Relator hereby further alleges in detail as follows:

1 **I. JURISDICTION and VENUE**

2 1.1 Jurisdiction exists pursuant to the False Claims Act under 31 U.S.C. §3730(b)(1) and  
3 31 U.S.C. §3732 in that this action seeks remedies on behalf of the United States of America for  
4 violations of 31 U.S.C. §3729 by the Defendants.

5 1.2 The "allegations or transactions" upon which this suit is based have not been publicly  
6 disclosed in a criminal, civil, or administrative hearing, in a congressional, administrative, or  
7 Government Accounting Office report, hearing, audit or investigation, or from the news media  
8 prior to relator's disclosure to the government. 31 U.S.C. 3730(e)(4)(A).

9 1.3 The Qui Tam plaintiffs are the original source of this information in that they have  
10 "direct and independent knowledge of the information on which the allegations are based." 31  
11 U.S.C. §3730(e)(4)(B).

12 1.4 Defendant corporation (ADCS, Inc.) and/or their associated, predecessor, and  
13 subsidiary companies reside in and transact business in California, within the judicial boundaries  
14 of the District of California. Defendant Wilkes is a principal of ADCS, Inc. and is sued in his  
15 individual capacity. Plaintiff reserves the right to amend this complaint to add other defendants.

16 1.5 Venue exists in this District pursuant to 31 U.S.C. §3730(b)(1) in that Defendants are  
17 qualified to do business in the State of California and transact substantial business in the District.  
18

19 **II. PARTIES**

20 2.1 The Defendant ADCS, Inc. (hereinafter "ADCS"), is a California Corporation, with  
21 principal places of business in San Diego, and elsewhere, and is or was engaged in the business  
22 of complex document scanning and raster to vector conversion services of engineering drawings.

23 2.2 Tomahawk II, Inc. was a California Corporation with principal places of business in  
24 San Diego, and elsewhere, and was engaged in the business of complex document scanning and  
25

1 raster to vector conversion services of engineering drawings. Tomahawk is a predecessor to  
2 ADCS in this matter, but has ceased operations under its own name.

3 2.3 The United States Government, e.g, the Department of Defense (DOD), Defense  
4 Automated Printing Services (DAPS) is a primary customer of Defendant ADCS, Inc., and was a  
5 primary customer of Tomahawk II, Inc.

### 6 III. STATEMENT OF FACTS

7 **A. In 1994 Congress Funded a Study to approve a Government Contractor base for**  
8 **document conversion services, and directed said study to make recommendations to**  
9 **implement the program. The final report was issued in July, 1996.**

10 3.1 Representative Duncan Hunter is Chairman of the House Armed Services  
11 Committee. Rep Hunter is the recognized leader within Congress as the mentor/director of  
12 digitizing all projects for Department of Defense ("DOD").

13 3.2 In 1994, Duncan Hunter funded through his position and authorized a Government  
14 Study known as Automated Document Conversion Study to establish and approve a Government  
15 Contractor base for document conversion services, including raster to vector conversion of  
16 engineering drawings. Mr. Hunter directed that this study be implemented by CACI, Inc. (a  
17 government consultant and contractor), and make recommendations to implement the program.

18 3.3 This resulted in a Department of Defense Automated Document Conversion Master  
19 Plan, implemented by the Office of the Deputy Undersecretary of Defense Logistics. Ann  
20 Barnes, of the Office of the Deputy Undersecretary of Defense Logistics after being transferred  
21 in from DAPS. Program Moderator was Brad Sanders worked at Wright Patterson Air Force  
22 Base as a civilian employee of the AFCPO.

23 3.4 US Representative Cunningham is a close associate of Congressman Hunter and their  
24 Congressional Districts are adjacent. Rep. Cunningham has worked in conjunction with Rep.  
25

1 Hunter to specifically direct these Task Orders to the Contractors of their choice, in this case,  
2 Tomahawk and its successor ADCS.

3 3.5 Relator owned a company called City Engineering Services, Inc. later to be known as  
4 Precision Scanning Services, Inc. (PSS, Inc.). In 1992 and 1993, Relator through his companies  
5 had developed a proprietary raster to vector conversion technology that was capable of  
6 completing large orders with short delivery times. Relators process is currently registered with  
7 the Library of Congress Copyright Office. Copyright No. TXU-996-613  
8

9 3.6 In July of 1996, Defendant TomaHawk II, and other contractors including City  
10 Engineering were approved to receive contracts under the Department of Defense Automated  
11 Document Conversion Master Plan, implemented by the office of the Deputy Undersecretary of  
12 Defense Logistics.

13 **B. Defendant defrauded the government by use of The Department of Defense payment**  
14 **process known under the name GS-35 Schedule, and was improperly awarded DOD**  
15 **contracts.**

16 3.7 After the issuance of the ADCS Final Report in July of 1996 TomaHawk attempted  
17 to entice the Relator and his company to become a part of TomaHawk, but Relator declined.  
18 Without Relator's process or another functional process TomaHawk had no ability to perform  
19 paper to computer document conversion services in a timely manner and was without the  
20 operational means to perform such contracts.

21 3.8 TomaHawk obtained the contracts anyway.

22 3.9 Steve Caira was CEO of TomaHawk.

23 3.10 Caira claimed to have a personal connection to Rep Hunter in conversations to  
24 Relator and other officers of the Relator's company.

25 3.11 Caira claimed to give, and did give Ann Barnes, of the office of the Deputy  
Undersecretary of Defense Logistics, 14,000 shares of TomaHawk stock. He claimed this

1 resulted in him having her “in his hip pocket” in conversations with Relator and his officers  
2 regarding the question of obtaining the contracts through Ms. Barnes.

3 3.12 The Department of Defense is normally required under the Federal Acquisition  
4 Regulations (FARs) to compete all procurement activities that exceed \$1,000.00. This may be  
5 “pre-competed” by fulfilling the requirements of a GS-35 Schedule through the General Services  
6 Administration.

7 3.13 TomaHawk and the Relator’s Company had acquired GS-35 Schedules for particular  
8 services referenced in the Department of Defense Automated Document Conversion Master  
9 Plan.

10 3.14 Despite his patent and his ability to perform the work, and despite the fact that  
11 Relator had acquired a GS 35 Schedule and bid on many of the same contracts Relator was never  
12 awarded any of the Task Orders.

13 3.15 During this period of time most DOD document conversion projects were contracted  
14 to TomaHawk. Although City Engineering and two other contractors were approved by the  
15 ADCS Study, they were ignored. Relator was in the best position to perform the work in the  
16 volume needed by the DOD.

17 3.16 Relator protested the award to TomaHawk, and communicated with DOD in 1999.  
18 Relator was told your product is the best, but “We take our direction from [Capitol Hill].” On  
19 further inquiry they were told that Rep. Hunter had specified where the projects were to be  
20 awarded.

21  
22  
23 **C. Being Without the Ability to do the Work, Tomahawk Made False Claims for Services  
24 by Violating Material Terms of its Contracts and by Overbilling**

25 3.17 The GSA Contract and Schedule required, as material terms of the contracts, that all  
TomaHawk’s contracts with the government be performed within the 48 contiguous States.

1 3.18 Instead of performing all work in the United States, TomaHawk subcontracted or  
2 otherwise obtained services of similar providers in India. Steve Caira made this announcement  
3 at a Stockholders meeting held in California in approximately 1999. Relator's corporate officers  
4 were in attendance at the meeting.

5 3.19 TomaHawk also regularly overbilled for work performed.

6 3.20 It was discovered that TomaHawk was sending Classified Weapons Drawings off-  
7 shore to India for "keying" and other conversion. When this discovery was made, all DOD work  
8 was withdrawn from TomaHawk. This was in the 1999

9 3.21 In total during its existence TomaHawk received approximately seventy five million  
10 dollars or more in government contracts and funds.

11 **D. ADCS Replaced TomaHawk and Continued the Fraud. In Return for Campaign**  
12 **Contributions and other Bribes Hunter and Cunningham Directed Government Document**  
13 **Conversion Contracts to Hand-Picked Contractors who Profited Handsomely.**

14 3.22 ADCS is owned by Brent Wilkes. It was founded in 1995. Directors and Officers of  
15 Wilkes Corporation gave substantial amounts as campaign contributions to both Cunningham  
16 and Hunter.

17 3.23 ADCS Inc. lacked the necessary manpower and facilities to provide services under  
18 the Automated Document Conversion Master Plan for the Department of Defense at any time.

19 3.24 ADCS, Inc. was incorporated in California in 1995. In the same year that  
20 TomaHawk was shut down, ADCS Inc. received a GS-35 Schedule -- Contract number GS35F-  
21 0540J on June 22, 1999.

22 3.25 Although not evaluated in the in the Raster to Vector Evaluation Final Report, ADCS  
23 Inc. was awarded special item numbers under the cooperative purchasing program of the GSA  
24 Federal Supply Services.  
25

1           3.26 This was despite Relator's continuing ability to perform the contracts and efforts to  
2 obtain these contracts.

3           3.27 Rep Hunter and Rep Cunningham received campaign contributions ADCS in excess  
4 of fifty thousand dollars each. On information and belief, in return, ADCS was awarded  
5 contracts, specifically Purchase Orders or in this context, "Task Orders" for these paper to  
6 computer conversion services.

7           3.28 ADCS is located within the congressional District of Congressman Duncan Hunter.  
8

9           3.29 Since 1999, ADCS has been awarded more than 78 million dollars in Document  
10 Conversion Contracts. All of these have been across the GSA Schedule.

11           3.30 ADCS has continued the fraud perpetrated by TomaHawk. Among other fraud,  
12 Defendant ADCS perpetrates the following:

13           3.31 ADCS is billing the DOD or any other issuer of Task Orders under FPDS Code D-  
14 311-IT Data Conversion Services and FPDS Code D-313IT CAD/CAM Conversion Services  
15 (engineering drawings).

16           3.32 In violation of the GSA Contract Requirements, ADCS has repeatedly overcharged  
17 manpower on the specific Task Orders.

18           3.33 All of these have been done on a time and materials billing basis instead of as  
19 opposed to Fixed Firm Fee as recommended by the Congressional Study and required by the GS-  
20 35 Scheduling process for Relator's company.

21           3.34 ADCS lacked the manpower to complete these orders under the contract  
22 requirements.  
23

24           3.35 Instead, non-existent "ghost" workers were identified as present and working, and the  
25 United States Government was billed for work which was never performed.

1 3.36 The published labor category lists of ADCS Inc. within the GS-35 Schedule do not  
2 match the work performed under the Task Orders issued. ADCS Inc. billed for more manhours  
3 than were possible on its payroll records.

4 3.37 In addition, because of its manpower shortage, ADCS like its predecessor in this  
5 scheme, TomaHawk, sent some of its work overseas and/or to other unapproved subcontractors,  
6 again without notice or approval of the agents of the Plaintiff United States Government, and in  
7 violation of its contracts with the United States Government.  
8

9 3.38 In addition, although not evaluated or approved in the Automated Document  
10 Conversion Raster to Vector Evaluation Final Report and not properly certified to do so, ADCS,  
11 Inc. sold software licenses to the US Government for substantial funds.

12 **E. The above constitutes Fraud**

13 3.39 As alleged with more particularity above, the United States Government purchases  
14 data-conversion services from ADCS, Inc., (hereinafter "ADCS").

15 3.40 The United States Government previously purchased data-conversion services from  
16 Tomahawk II, Inc., (hereinafter "TomaHawk").

17 3.41 The above referenced conduct violates material terms of contracts between the  
18 United States and Defendants.

19 3.42 In addition, Relator alleges that numerous other examples exist.

20 3.43 Defendants certified, charges, and billed for the above services at prices which reflect  
21 that the same meet the above-referenced contractual terms, and has so billed for a period of  
22 years.  
23

24 3.44 Defendant is paid directly or indirectly by the United States Government for  
25 supplying the above-referenced products to the federal government.



1 3.45 Despite notice and knowledge on the part of management and ownership of  
2 Defendants, the practices continue as referenced above.

3 3.46 The purpose of falsifying these records is to obtain money from the United States  
4 Government, or cause funds to be obtained from the United States Government, to which  
5 Defendants are not entitled.

6 3.47 The Defendants knowingly presented, or caused to be presented, to an officer or  
7 employee of the United States Government, false or fraudulent claims for payment or approval.  
8

9 3.48 The Defendants knowingly made, used, or caused to be made or used, a false record  
10 or statement to get a false or fraudulent claim paid or approved or to cause a false or fraudulent  
11 claim to be paid or approved by the Government.

12 3.49 The Defendants conspired to defraud the Government by getting a false or fraudulent  
13 claim allowed or paid or causing a false or fraudulent claim to be allowed or paid.

14 3.50 The Defendants' representations to the Government or its agents to the effect that said  
15 conversion services were performed in compliance with these material contractual terms were  
16 false representations of material fact.

17 3.51 The Defendants made these false representations of material fact knowingly as that  
18 term is defined in 31 U.S.C. § 3729(b).

19 3.52 The false representations were believed by the government and acted upon by the  
20 government to its damage.

21 3.53 These practices resulted in billing more for products and receiving, or causing to be  
22 received, more money from the United States Government than Defendants were entitled to.  
23

24 3.54 The Defendants named herein conspired with others not yet named to perpetrate the  
25 above-referenced frauds.

1 **IV. CLAIMS OF THE UNITED STATES**

2 4.1 The facts stated above give rise to a violation of the Federal False Claims Act, 31  
3 U.S.C. 3729(a)(1)(2)(3).

4 4.2 The defendants are liable for the actions of their agents, and their employees under  
5 the doctrine of Respondeat Superior.

6 **V. DAMAGES SUFFERED BY THE UNITED STATES**

7 5.1 As a proximate cause of the fraudulent practices described above the United  
8 States of America has suffered damages in amounts fraudulently billed to the United States.  
9

10 **VII. DAMAGES SUFFERED BY RELATORS**

11 7.1 As a proximate cause of the fraudulent practices described above Relator has  
12 suffered damages in the form of lost profits, and/or other actual damages.

13 **VIII. PRAYER FOR RELIEF**

14 **WHEREFORE** plaintiff prays for damages as follows on behalf of the United States,  
15 and/or on his own behalf as appropriate:

16 **On behalf of the United States:**

- 17 1. Economic damages in an amount to be proven at time of trial.  
18 2. A civil penalty of not less than \$5,500 and not more than \$11,000 per violation, or other civil  
19 penalties allowed by law.  
20 3. Treble damages as provided for in 31 U.S.C. §3729(a).  
21

22 **On behalf of Relators:**

- 23 4. Incidental or consequential damages  
24 5. a share in the recovery as provided under applicable laws.  
25 6. Other actual damages in amounts to be proven at time of trial.

1 **On behalf of either or both the United States and Relators.**

2 6. Prejudgment interest.

3 7. Reasonable attorney fees and costs.

4 8. Whatever additional damages the court shall deem to be just and equitable.

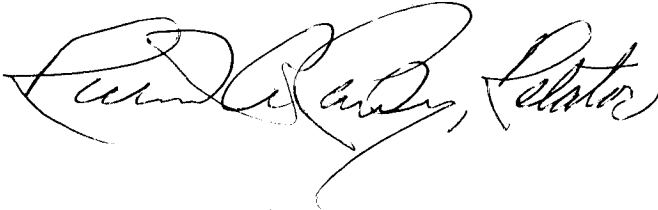
5 DATED this 5th day of October, 2005.

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A handwritten signature in cursive script, appearing to read "L. R. [unclear], Relator". The signature is written in black ink and is positioned to the right of the numbered lines 7 through 9.

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7 **UNITED STATES DISTRICT COURT**  
8 **SOUTHERN DISTRICT OF CALIFORNIA**  
9 **AT SAN DIEGO**

10 UNITED STATES OF AMERICA, ex  
11 rel. by RICHARD CARDEN

12 Plaintiff,

13 vs.

14 ADCS, INC., a California Corporation;  
15 TOMAHAWK II, INC., a California  
16 Corporation, et al.,

17 Defendants.

NO. 05 CV 1937 BEN (NLS)

**DISCLOSURE STATEMENT**

**Filed Under Seal**  
pursuant to  
31 U.S.C. §3730(b)(2)

17 This Relator has a degree in mechanical engineering and is an expert in the field of  
18 paper to computer document conversion including complex document scanning and raster to  
19 vector conversion of engineering drawings and textual and other documents.

20 Relator owned a company called City Engineering Services, Inc. later to be known as  
21 Precision Scanning Services, Inc. (PSS, Inc.). In 1992 and 1993, Relator developed a proprietary  
22 raster to vector conversion technology. This would allow conversion of drawings and other  
23 documents to digital files from paper. His technology was capable of completing large orders  
24 with short delivery times. Relator's process is currently registered with the Library of Congress  
25 Copyright Office, copyright No. TXU-996-613.

1 Although Relator's company had participated materially in a 1994 to 1996  
2 government study called the Automated Document Conversion Study and had received a  
3 favorable rating, and had acquired a GSA Schedule, it was not awarded any work from the  
4 Department of Defense. Instead the work was awarded to TomaHawk II (hereinafter  
5 "TomaHawk") and ADCS, Inc. in return for bribes to members of Congress.  
6

7 This statement is about Relator's knowledge of fraud against the Department of  
8 Defense, through which TomaHawk II and ADCS, Inc. received funds for document conversion  
9 which was not performed in accordance with contractual requirements. These funds are the  
10 subject of a Complaint for Damages which accompanies this Disclosure Statement, and is  
11 incorporated herein by this reference.

12 On August 17, 2005, Relator contacted FBI Special Agent Kiffa Shirley via email  
13 regarding the FBI's bribery investigation into ADCS Inc., and Congressman Randal "Duke"  
14 Cunningham. (Exhibit 1 attached is a copy of Relator's email). Relator notified Special Agent  
15 Shirley that the investigation should include other individuals and entities including another  
16 member of Congress.

17 On August 21, 2005, Relator sent via email a package detailing other fraudulent  
18 behavior and identifying additional potential witnesses and/or suspects. (Exhibit 2). Relator  
19 alleges Congressman Duncan Hunter is the primary actor in the fraud and identifies Steve Caira,  
20 Ann Barnes, and Brad Sanders.<sup>1</sup> Relator provided an outline of the process, documentation of  
21 campaign contributions to Congressmen Cunningham and Hunter by the ADCS political action  
22

23  
24  
25 <sup>1</sup> Ann Barnes worked for the Office of the Deputy Undersecretary of Defense Logistics after being transferred in  
from DAPS. Brad Sanders, Program Moderator, worked at Wright Patterson Air Force Base as a civilian employee  
of the AFCPO. Steve Caira was CEO of TomaHawk.

1 committee, and a copy of the 1996 Automated Document Conversion Raster-to-Vector  
2 Evaluation final report, i.e., the results of the 1994 to 1996 study.

3           On September 6, 2005, Realtor and his Counsel met with representatives from the  
4 U.S. Government; Special Agent Samuel S. Medigovich of the Office of the Inspector General;  
5 Lawrence A. Casper, Assistant United States Attorney; James Rochford, Auditor for the  
6 Department of Justice; and Karen Hewitt, Assistant United States Attorney General. Relator  
7 provided and described the information detailed herein to the four US Government  
8 representatives.  
9

10 **A. In 1994 Congress Funded a Study to approve a Government Contractor base for**  
11 **document conversion services, and directed said study to make recommendations to**  
12 **implement the program. The final report was issued in July, 1996.**

13           Representative Duncan Hunter is Chairman of the House Armed Services  
14 Committee. Rep Hunter is a leader within Congress as the mentor/director of digitizing projects  
15 for Department of Defense ("DOD").

16           In 1994, at the instance of Representative Hunter, the government authorized and  
17 funded a Study known as Automated Document Conversion Study to establish and approve a  
18 Government Contractor base for document conversion services, including raster to vector  
19 conversion of engineering drawings. Mr. Hunter directed that this study be implemented by  
20 CACI, Inc. (a respected government consultant and contractor), and make recommendations to  
21 implement the program.

22           In July of 1996, Defendant TomaHawk, and other contractors including City  
23 Engineering were approved to receive contracts under the Department of Defense Automated  
24 Document Conversion Master Plan, implemented by the office of the Deputy Undersecretary of  
25 Defense Logistics. See footnote 1.

1 US Representative Cunningham is a close associate of Congressman Hunter and their  
2 Congressional Districts are adjacent. Rep. Cunningham has worked in conjunction with Rep.  
3 Hunter to specifically direct these Task Orders to the Contractors of their choice, in this case,  
4 Tomahawk and its successor ADCS, as alleged in the accompanying Complaint, filed recently in  
5 the US District Court for the Southern District of California, in San Diego.  
6

7  
8 **B. Defendant defrauded the government by use of The Department of Defense payment**  
9 **process known under the name GS-35 Schedule, and was improperly awarded DOD**  
10 **contracts.**

11 After the issuance of the ADCS Final Report in July of 1996 TomaHawk attempted  
12 to entice the Relator and his company to become a part of TomaHawk, but Relator declined.  
13 Without Relator's process or another functional process TomaHawk had no ability to perform  
14 paper to computer document conversion services in a timely manner and was without the  
15 operational means to perform such contracts. Relator felt confident that his process would win  
16 the contracts. TomaHawk obtained the contracts anyway.

17 Steve Caira was CEO of TomaHawk. Caira claimed to have a personal connection to  
18 Rep. Hunter in conversations to Relator and other officers of the Relator's company. *Inter alia*,  
19 Caira told Relator that he had Rep. Hunter "eating from my hand."

20 Caira claimed to give, and did give Ann Barnes, of the office of the Deputy  
21 Undersecretary of Defense Logistics, 14,000 shares of TomaHawk stock. He claimed this  
22 resulted in him having her "in his hip pocket" in conversations with Relator and his officers  
23 regarding the question of obtaining the contracts through Ms. Barnes.

24 The Department of Defense is normally required under the Federal Acquisition  
25 Regulations (FARs) to compete all procurement activities that exceed \$1,000.00. This may be

1 "pre-competed" by fulfilling the requirements of a GS-35 Schedule through the General Services  
2 Administration.

3 TomaHawk and the Relator's Company both had acquired GS-35 Schedules for  
4 particular services referenced in the Department of Defense Automated Document Conversion  
5 Master Plan.

6 Despite his patent, and his ability to perform the work, and despite the fact that  
7 Relator had acquired a GS 35 Schedule and bid on many of the same contracts, Relator was  
8 never awarded any of the Task Orders for digitization of the DOD documents.  
9

10 Although City Engineering and two other contractors were approved by the ADCS  
11 Study, they were ignored. Relator was in the best position to perform the work in the volume  
12 needed by the DOD. During this period of time most DOD document conversion projects were  
13 contracted to TomaHawk, but TomaHawk was unable to perform the work.

14 Relator protested the award to TomaHawk, and communicated with DOD in 1999.  
15 Relator was told his product is the best, but "We take our direction from [Capitol Hill]." On  
16 further inquiry they were told that Rep. Hunter had specified where the projects were to be  
17 awarded.

18  
19 **C. Being Without the Ability to do the Work, Tomahawk Made False  
20 Claims for Services by Violating Material Terms of its Contracts and by Overbilling**

21 The GSA Contract and Schedule required, as material terms of the contracts, that all  
22 TomaHawk's contracts with the government be performed within the 48 contiguous States.

23 Instead of performing all work in the United States, Tomahawk subcontracted or  
24 otherwise obtained services of similar providers in India. Steve Caira made this announcement  
25 at a Stockholders meeting held in California in approximately 1999. Relator's corporate officers  
were in attendance at the meeting.



1 It was discovered that TomaHawk was sending Classified Weapons Drawings off-  
2 shore to India for "keying" and other conversion. When this discovery was made, all DOD work  
3 was withdrawn from TomaHawk. This was in 1999. In total during its existence TomaHawk  
4 received approximately seventy five million dollars or more in government contracts and funds.

5 TomaHawk also regularly overbilled for work performed. As referenced above,  
6 TomaHawk's fraud was interrupted in 1999, and TomaHawk is now defunct.  
7

8 **D. ADCS Replaced TomaHawk and Continued the Fraud. In Return for Campaign**  
9 **Contributions and other Bribes Hunter and Cunningham Directed Government Document**  
10 **Conversion Contracts to Hand-Picked Contractors who Profited Handsomely.**

11 ADCS is located within the congressional District of Congressman Duncan Hunter.  
12 It is owned by Brent Wilkes. Directors and Officers of Wilkes Corporation gave substantial  
13 amounts as campaign contributions to both Cunningham and Hunter. (See Exhibit 2).

14 Like TomaHawk II, ADCS Inc. lacked the necessary manpower and facilities to  
15 provide services under the Automated Document Conversion Master Plan for the Department of  
16 Defense at any time.

17 In the same year that TomaHawk was shut down, ADCS, Inc. received a GS-35  
18 Schedule which it has subsequently maintained.<sup>2</sup> Although not evaluated in the in the Raster to  
19 Vector Evaluation Final Report, ADCS, Inc. was nevertheless awarded special item numbers  
20 under the cooperative purchasing program of the GSA Federal Supply Services.

21 This was despite Relator's continuing ability to perform the contracts and efforts to  
22 obtain these contracts. Since 1999, ADCS, Inc. has been awarded more than 78 million dollars  
23 in Document Conversion Contracts. All of these have been across the GSA Schedule.  
24

25  

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<sup>2</sup> It was under Contract number GS35F-0540J on June 22, 1999.

1 **D. The Fraud Continued**

2 Relator therefore knows and concludes that ADCS, Inc. has continued the fraud  
3 perpetrated by TomaHawk, and among other fraud, ADCS, Inc. perpetrated the following:

4 It billed for DOD-issued Task Orders under FPDS Code D-311-IT Data Conversion  
5 Services and FPDS Code D-313IT CAD/CAM Conversion Services (engineering drawings).  
6

7 In violation of the GSA Contract Requirements, ADCS has repeatedly overcharged  
8 manpower on the specific Task Orders as TomaHawk did before it.

9 All of the Task Orders referenced here have been done on a time and materials  
10 billing basis instead of the Fixed Firm Fee method as recommended by the Congressional Study  
11 and required by the GS-35 Scheduling process (as it was applied to Relator's company and  
12 presumably others).

13 ADCS, Inc., like TomaHawk before it, lacked the manpower to complete these  
14 orders under the contract requirements.

15 Instead, non-existent "ghost" workers were identified as present and working, and the  
16 United States Government was billed for work which was never performed.

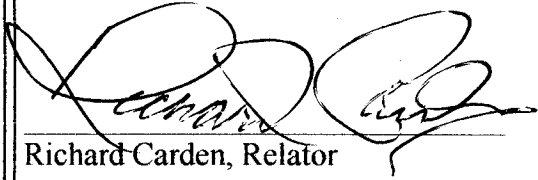
17 Further, the published labor category lists of ADCS, Inc. within the GS-35 Schedule  
18 do not match the work performed under the Task Orders issued. ADCS, Inc. billed for more  
19 manhours than were possible on its payroll records.  
20

21 In addition, because of its manpower shortage, ADCS, Inc. like its predecessor in this  
22 scheme, TomaHawk, sent some of its work overseas and/or to other unapproved subcontractors,  
23 again without notice or approval of the agents of the Plaintiff United States Government, and in  
24 violation of its contracts with the United States Government.  
25

1 In addition, although not evaluated or approved in the Automated Document  
2 Conversion Raster to Vector Evaluation Final Report and not properly certified to do so, ADCS,  
3 Inc. sold software licenses to the US Government for substantial funds.

4 The documents now in possession of FBI for purposes of the Cunningham and  
5 related investigations should already contain some or all of the documents necessary to establish  
6 that the above constituted a multi-million dollar fraud on the taxpayers and government of the  
7 United States. These documents should be maintained given the ongoing criminal investigation.

8 DATED this \_\_\_\_\_ day of November, 2005.

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12 Richard Carden, Relator  
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12 United States of America

13 UNITED STATES DISTRICT COURT  
14 SOUTHERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA, ex rel.,  
16 RICHARD CARDEN,

17 Plaintiff,

18 v.

19 ADCS, INC., a California Corporation; and  
20 BRENT WILKES

21 Defendants.  
22

) Case No. 05CV1937-BEN (NLS)

) MEMORANDUM OF POINTS AND  
) AUTHORITIES IN SUPPORT OF  
) *EX PARTE* APPLICATION OF  
) THE UNITED STATES FOR AN  
) EXTENSION OF TIME TO MAKE  
) AN INTERVENTION  
) DETERMINATION

) FILED UNDER SEAL

23 I.

24 INTRODUCTION

25 The United States submits this Memorandum, *ex parte*, in support of its application for an  
26 extension of time, through **Tuesday, May 23, 2006**, within which to notify the Court of the United  
27 States' decision of whether to intervene in the above-captioned *qui tam* action.

28 //

1 II.

2 FACTUAL BACKGROUND

3 The Relator filed this action on or about October 12, 2005, under seal, pursuant to the False  
4 Claims Act, as amended, Title 31 U.S.C. Section 3729, et seq. The Relator's Complaint was received  
5 by the Government no earlier than November 25, 2005. Under the False Claims Act, the United States  
6 is allowed at least sixty (60) days from the date it receives a relator's complaint and statement of material  
7 evidence, within which to elect whether to intervene. Title 31 U.S.C. Section 3739(b)(2). Thus, the  
8 United States' currently has until about January 24, 2006, within which to provide notice of its intent  
9 to intervene in this matter.

10 The purpose of this Application is to seek an extension through **Tuesday, May 23, 2006**, in  
11 order to allow the United States additional time within which to investigate the allegations contained  
12 in the Complaint, so that the Government will be able to make an informed intervention determination.  
13 This is the United States' first request for an extension of the intervention deadline. As more fully  
14 discussed in the *in camera* Declaration of Kevin A. Seely, submitted simultaneously herewith, the  
15 United States needs more time to further investigate the allegations contained in the *qui tam* Complaint.<sup>1/</sup>

16 III.

17 LEGAL ANALYSIS

18 The False Claims Act provides that extensions of time may be granted to the Government "for  
19 good cause shown." 31 U.S.C. Section 3730(b)(3). Thus, Congress has explicitly recognized that the  
20 Government may require additional time in which to make election decisions.

21 As discussed in the Declaration, an investigation and evaluation of the Relator's allegations is  
22 ongoing, but presently incomplete.<sup>2/</sup> The Government respectfully submits that the need for the  
23 Government to complete its evaluation of this case and fully inform itself of all relevant facts and  
24 circumstances prior to making any intervention determination, constitutes good cause.

25 \_\_\_\_\_  
26 <sup>1/</sup> The False Claims Act specifically allows the filing of declarations in support of extension  
27 requests to be made *in camera*. 31 U.S.C. Section 3730(b)(3). The United States has filed the instant  
28 Declaration *in camera* because it contains information which should not become part of the public  
record.

<sup>2/</sup> See the *in camera* Declaration of Kevin A. Seely, submitted simultaneously herewith.

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IV.


CONCLUSION

For the foregoing reasons, the United States respectfully requests that this *ex parte* Application for an Extension of Time be GRANTED.

Respectfully submitted,

PETER D. KEISLER  
Assistant Attorney General  
CAROL C. LAM  
United States Attorney

DATED: January 9, 2006

  
\_\_\_\_\_  
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MEREDITH L. BURRELL  
United States Department of Justice  
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14 UNITED STATES DISTRICT COURT  
15 SOUTHERN DISTRICT OF CALIFORNIA

16 UNITED STATES OF AMERICA, ex rel.,	)	Case No. 05CV1937-BEN (NLS)
17 RICHARD CARDEN,	)	
	)	
18	)	
	)	
19 Plaintiff,	)	<i>EX PARTE</i> APPLICATION OF
	)	THE UNITED STATES FOR AN
20 v.	)	EXTENSION OF TIME TO MAKE
	)	AN INTERVENTION
21 ADCS, INC., a California Corporation; and	)	DETERMINATION
BRENT WILKES,	)	
	)	
22 Defendants.	)	<u>FILED UNDER SEAL</u>
23	)	

24 Pursuant to 31 U.S.C. § 3730(b)(3), the United States of America, through its undersigned  
25 counsel, applies to this Court, *ex parte*, for an extension of time of approximately four (4) months,  
26 through **Tuesday, May 23, 2006**, within which to notify the Court of the Government's decision of  
27 whether to intervene in the above-captioned False Claims Act *qui tam* action.

28 The United States has been advised by the Relator's counsel of record and by the Relator, that


1 the Relator is no longer represented by counsel. The Relator has been advised of this Application and  
2 he has expressed to the United States that he does not oppose this request for an extension of the  
3 intervention deadline. This is the first application for an extension filed in this case. The intervention  
4 period currently expires on or about January 24, 2006. This Application is supported by the  
5 accompanying Memorandum of Points and Authorities filed simultaneously herewith and by the *in*  
6 *camera* submission of the Declaration of Kevin A. Seely.

7 A proposed order is provided for the Court.

8  
9 Respectfully submitted,

10 PETER D. KEISLER  
11 Assistant Attorney General  
12 CAROL C. LAM  
13 United States Attorney

14 DATED: January 9, 2006

15   
16 \_\_\_\_\_  
17 KEVIN A. SEELY  
18 Assistant U.S. Attorney

19 MICHAEL HERTZ  
20 PATRICIA R. DAVIS  
21 MEREDITH L. BURRELL  
22 United States Department of Justice  
23 Civil Division

24 Attorneys for Plaintiff  
25 United States of America  
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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, ex rel. )  
RICHARD CARDEN, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
ADCS, INC., a California Corporation; and )  
BRENT WILKES )  
 )  
Defendants. )

Case No. 05CV1937-BEN (NLS)

CERTIFICATE OF SERVICE  
BY MAIL

FILED UNDER SEAL

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN DIEGO )

I, PAMELA G. BRADLEY, am a citizen of the United States over the age of eighteen years and a resident of San Diego County, California; my business address is 880 Front Street, San Diego, California; I am not a party to the above-entitled action; and

On January 9, 2006, I deposited in the United States mail at San Diego, California, in the above-entitled action, in an envelope bearing the requisite postage, a copy of:

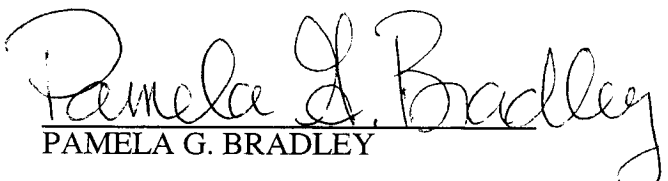
EX PARTE APPLICATION OF THE UNITED STATES FOR AN EXTENSION OF TIME TO MAKE AN INTERVENTION DETERMINATION; MEMORANDUM IN SUPPORT; . . . and (PROPOSED) ORDER

addressed to:

Richard A. Carden  
11885 Lakeview Circle  
Rolla, MO 65401

the last known address at which place there is delivery service of mail from the United States Postal Service.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 9th day of January, 2006.

  
PAMELA G. BRADLEY

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United States Attorney  
2 KEVIN A. SEELY  
Assistant United States Attorney  
3 California State Bar No. 199982  
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11 Attorneys for the  
12 United States of America

13 UNITED STATES DISTRICT COURT  
14 SOUTHERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA, ex rel.	)	Case No. 05CV1937BEN (NLS)
16 RICHARD CARDEN,	)	
17 Plaintiff,	)	UNITED STATES' NOTICE OF
18 v.	)	ELECTION TO DECLINE
19 ADCS, Inc., a California Corporation; and	)	INTERVENTION
20 BRENT WILKES,	)	
21 Defendants.	)	<u>FILED UNDER SEAL</u>

22  
23 Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States notifies  
24 the Court of its decision not to intervene in this action.

25 Although a relator may, pursuant to 31 U.S.C. § 3730(b)(1), maintain an action in the  
26 name of the United States, we note that the Relator is presently proceeding *pro se* and  
27 respectfully refer the Court to the following authority addressing maintenance of a *qui tam* action  
28 by a *pro se* relator: United States ex rel. Schwartz v. TRW, Inc., 118 F. Supp. 2d 991, 993-995

1 (C.D. Cal. 2000) (noting that lay person cannot adequately represent interests of United States,  
2 dismissing *pro se* relator's claims without prejudice, and granting relator 60 days to obtain  
3 counsel); United States ex rel. Rockefeller v. Westinghouse Electric Co., 274 F. Supp. 2d 10, 16  
4 (D.D.C. 2003) (lay person cannot adequately represent the interests of the United States and may  
5 not proceed in decline *qui tam* action *pro se*).

6 Additionally, 31 U.S.C. § 3730(b)(1) provides that an action maintained by a relator in  
7 the name of the United States "may be dismissed only if the court and the Attorney General give  
8 written consent to the dismissal and their reasons for consenting." *Id.* The United States Court  
9 of Appeals for the Ninth Circuit has held that, notwithstanding this language, the United States  
10 only has the right to a hearing when it objects to a settlement or dismissal of the action. U.S. ex  
11 rel. Green v. Northrop Corp., 59 F.3d 953, 959 (9th Cir. 1995); U.S. ex rel. Killingsworth v.  
12 Northrop Corp., 25 F.3d 715, 723-25 (9th Cir. 1994). Therefore, the United States requests that,  
13 should either the Relator or the defendant propose that this action be dismissed, settled, or  
14 otherwise discontinued, this Court provide the United States with notice and an opportunity to be  
15 heard before ruling or granting its approval.

16 Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all  
17 pleadings filed in this action be served upon the United States. The United States also requests  
18 that orders issued by the Court be sent to the Government's counsel. The United States reserves  
19 its right to order any deposition transcripts and to intervene in this action, for good cause, at a  
20 later date.

21 Finally, the Government requests that the Relator's Complaint, this Notice, and the  
22 attached proposed Order be unsealed. The United States requests that all other papers on file in  
23 this action remain under seal because, in discussing the content and extent of the United States'  
24 investigation, such papers are provided by law to the Court alone for the sole purpose of  
25 evaluating whether the seal and time for making an election to intervene should be extended,  
26  
27  
28

1 and/or for the purpose of ruling on the Relator's motions filed prior to the United States'  
2 intervention decision.


3 A proposed order accompanies this notice.  
4

5 DATED: March 14, 2006

Respectfully submitted,

6 CAROL C. LAM  
United States Attorney  
7 KEVIN A. SEELY  
Assistant United States Attorney  
8

9 PETER D. KEISLER  
Assistant Attorney General  
Civil Division  
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12 MICHAEL F. HERTZ  
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15 Attorneys for the  
United States of America  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

FILED

2006 MAR 20 PM 2: 05

1 UNITED STATES OF AMERICA, ex rel.  
2 RICHARD CARDEN,

Case No. 05CV1937BEN (NLS)

SOUTHERN DISTRICT OF CALIFORNIA

3 Plaintiff,

BY RC DEPU

4 v.

(PROPOSED) ORDER

5  
6 ADCS, Inc., a California Corporation; and  
7 BRENT WILKES,

8 Defendants.  
9

10 Upon consideration of the United States' Notice of Election to Decline Intervention, any  
11 response thereto, and the entire record herein, it is hereby

12 ORDERED that the Complaint, the United States Notice of Election to Decline,  
13 Intervention and the proposed order attached thereto be unsealed; and it is further

14 ORDERED that the Complaint, the United States Notice of Election to Decline  
15 Intervention, and this Order be served upon the defendants by the Relator; and it is further,

16 ORDERED that <sup>docket Nos. 2, 3, and 4</sup> ~~all other papers on file as of the date of this Order~~ will remain under  
17 seal and shall not be made public or served on the defendants; and it is further


18 ORDERED that the parties shall serve all pleadings filed in this action upon counsel for  
19 the United States; and it is further

20 ORDERED that the Clerk will serve all orders entered in this action upon counsel for the  
21 United States; and it is further

22 ORDERED that the seal be lifted as to all other matters occurring in this action after the  
23 date of this Order.

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27 HON. ROGER T. BENITEZ  
United States District Judge

28 cc: Counsel for the United States  
Relator

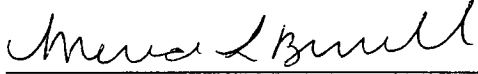




1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 14<sup>th</sup> day of March 2006, I caused the foregoing United States'  
3 Notice of Election to Decline Intervention to be served upon the Relator by mailing a copy, first  
4 class postage prepaid, to:

5 Richard A. Carden  
6 11885 Lakeview Circle  
7 Rolla, MO 65401

8   
9 MEREDITH L. BURRELL  
10 Trial Attorney

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