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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

|  |                              |
|--|------------------------------|
| U.S. SECURITIES AND EXCHANGE COMMISSION, | :                            |
|  | :                            |
| Plaintiff                                | :                            |
|  | :                            |
| v.                                       | : 04 Civ. 02322 GEL          |
|  | : ECF CASE                   |
|  | :                            |
| UNIVERSAL EXPRESS, INC.,                 | : <b>DECLARATION OF HUGH</b> |
| RICHARD A. ALTOMARE,                     | : <b>BECK PURSUANT TO 28</b> |
| CHRIS G. GUNDERSON,                      | : <b>U.S.C. § 1746</b>       |
| MARK S. NEUHAUS,                         | :                            |
| GEORGE J. SANDHU,                        | :                            |
| SPIGA, LTD.,                             | :                            |
| TARUN MENDIRATTA                         | :                            |
|  | :                            |
| Defendants.                              | :                            |

1. My name is Hugh Beck. I am over the age of eighteen years and have never been convicted of a felony or crime involving moral turpitude. I have personal knowledge of the facts set forth in this declaration, and if called to testify, I could and would testify competently thereto.
2. I am employed as an attorney with the Division of Enforcement of the United States Securities and Exchange Commission ("SEC" or "Commission") in the Central Regional

Office, Denver, Colorado. Since about August 2003 I have been an officer of the Commission authorized to issue subpoenas and take sworn testimony in an investigation of this matter. During the course of this investigation I have subpoenaed bank, transfer agent, broker dealer, and various documents from other persons. I have also taken sworn testimony from various persons and conducted interviews. This declaration is based on that investigation and the documents obtained including bank and brokerage records.

#### **I. THE DEFENDANTS**

3. Universal Express, Inc., ("Universal") a Nevada Corporation, has its principal place of business in Florida and has an office in New York, New York. The company operates a variety of developmental stage businesses including, a network of independent shipping businesses, luggage shipping, and equipment leasing. The common stock of Universal is registered with the Commission pursuant to the Securities Exchange Act of 1934 and as a result the company files reports with the Commission on Forms 10-KSB (annual) and 10-QSB (quarterly). Universal's average daily volume of trading during January and February 2004 was 6,559,920 shares. [Exhibit 1] The stock trades over-the-counter.
4. Richard A. Altomare, age 55, is a resident of Florida, and has been Universal's chief executive officer and a director of Universal since 1992. Altomare is currently the sole officer and director of Universal and signed the company's filings with the Commission. According to Universal's most recent Form 10-KSB, Altomare owns 32,590,173 shares or about 6.6% of the company's outstanding common stock.
5. Chris G. Gunderson Jr., works in Universal's New York City office and has been Universal's in-house attorney since 1995.

6. Mark S. Neuhaus, age 49, lives in New York, New York. Neuhaus has been associated with Universal since the middle of 2001. Neuhaus received stock from Universal and later engaged in an unregistered public distribution of that stock as detailed below.
7. George Sandhu, age 38, lives in New York, New York and has since 1999 been employed at an investment adviser registered with the Commission. In sworn testimony Sandhu asserted his Fifth Amendment rights and refused to answer any substantive questions. [Exhibit 2]
8. Spiga Ltd., is a Bermuda investment company controlled by Sandhu. Sandhu has trading authority over brokerage accounts of Spiga. He also controls transfers of funds from those accounts. [Exhibits 3a-3d] Spiga received stock from Universal and later engaged in an unregistered public distribution of that stock as detailed below.
9. Tarun Mendiratta, age 33, is a resident of Connecticut. Mendiratta directed and controlled the disposition of stock received by nominees of his from Universal that was sold by him in an unregistered public distribution of that stock as detailed below.

## **II. UNREGISTERED DISTRIBUTION OF STOCK BY ALL DEFENDANTS**

### **A. Summary**

10. On June 30, 2000, the end of Universal's 2000 fiscal year, the company had approximately 19 million shares outstanding. [Exhibit 4]
11. By December 31, 2003, Universal's outstanding shares exceeded 650 million due primarily to the execution of the capital-raising scheme initiated in April 2001 involving continuous issuances of new Universal shares that were distributed illegally to the public without being registered. [Xbt. 5]
12. I have search the SEC's data base of filings and have determined that since April 2001, none of the public re-sales of Universal stock to the investing public were registered with the Commission. [Exhibit 6]

13. The unregistered distribution of stock was implemented by the issuance of stock by Universal to Neuhaus, Spiga, Mendiratta's nominees, and their later public re-sales of that stock without registration with the Commission.
14. In connection with the issuance of stock to Neuhaus, Spiga, and Mendiratta's nominees the company signed consulting agreements with the recipient of the stock to purportedly qualify the recipient to receive the stock for registration with the Commission on Form S-8. [Exhibits 7a-7d] Gunderson prepared at least one of the consulting agreements.
15. Recipients of the purported S-8 stock, including Spiga (at Sandhu's direction), Neuhaus, and Mendiratta's nominees re-sold it into the public markets and remitted a portion of the sales proceeds to Universal in an apparent effort to raise capital for the company or paid a discounted price compared to the current market price of the stock. No distribution of the stock into the public markets by these persons was registered with the Commission.
16. For the two fiscal years between June 30, 2001 and December 31, 2003, Universal reported total revenue of \$2.9 million. It had a net loss from business operations during the same period. However, during this same period, it received at least \$8.5 million from the capital raising scheme from Neuhaus, Sandhu, and Mendiratta's nominees.
17. Gunderson also drafted restricted stock purchase letters apparently to make it appear that payments by the re-sellers to the company were for restricted stock, rather than the purported S-8 stock they were distributing into the public markets. [Exhibits 8a-8e; Exhibit 9a, pp. 203, 237]
18. Universal filed two S-8 registration statements with the Commission registering the issuance of only 50 million shares of its stock. [Exhibits 10a-10b] However, according to the records

of its transfer agent, it issued more than 500 million shares to Neuhaus, Spiga, and Mendiratta's nominees between April 2001 and January 2004. [Exhibits 11a-11d]

19. Universal continues to issue stock purportedly registered with the Commission on Form S-8 even though it long ago had issued many times the 50 million shares covered by its two S-8 registration forms. According to the company's transfer agent, in February 2004 and March 2004, the company directed the issuance of 11 million shares of purported S-8 stock to a single individual. [Exhibits 12a-12h] At least 4 million shares of this stock have been re-sold to the public in an apparent unregistered distribution for proceeds of at least \$240,000. [Exhibit 13]

**B. Neuhaus**

20. Neuhaus admitted that he negotiated with Altomare an arrangement whereby he would receive "free trading" Universal stock in exchange for a price substantially below the public trading price of the stock. [Exhibits 14a-14c, Exhibit 9, pp. 122-123, 220]
21. On at least one occasion, Gunderson prepared and sent to Neuhaus a calculation of the number of shares he was to receive based on an agreed upon discount from the then prevailing market price of Universal stock. [Exhibit 14b]
22. In November 2001, one of Neuhaus' brokers questioned whether stock issued by Universal to Neuhaus could be publicly sold without a registration statement. Notwithstanding the fact that by this time the purported S-8 shares issued to Neuhaus exceeded the 50 million shares covered by Universal's actual S-8 registration statements, Gunderson prepared a legal opinion falsely stating that Neuhaus "was covered by the company's S-8 registrations for its common shares." [Exhibit 15]
23. Between April 2001 and November 2003 Universal issued to Neuhaus approximately 271 million shares of Universal stock. Universal and Altomare falsely told the company's

transfer agent that all of this stock was "to be free trading under an S-8 registration."

[Exhibit 16] Based on a review of Universal's audit work papers, bank and brokerage records I have determined that Neuhaus or entities he was affiliated with paid Universal approximately \$5.1 million for this stock. He in turn publicly re-sold it for proceeds of at least \$8 million.

**C. Spiga and Sandu**

24. Between August 2001 and December 2003 Universal issued to Spiga approximately 157 million shares of Universal stock. Universal and Altomare falsely told the company's transfer agent that all of this stock was "to be free trading under an S-8 registration."

[Exhibit 17] Prior to August 2001 Universal had already issued to Neuhaus more than the 30 million shares of stock covered by Universal's first S-8 registration Form. According to Universal's audit work papers, bank and brokerage records, Sandhu directed or made payments to Universal totaling approximately \$2.4 million for this stock, often using the proceeds of public re-sales to make the payments.

**D. Mendiratta**

25. Between August 2002 and January 2004 Mendiratta arranged for two individuals who are residents of India would act as his nominees. Mendiratta opened brokerage accounts in their names and deposited approximately 79 million shares of S-8 Universal stock to those accounts. This stock was issued to his nominees purportedly in exchange for the nominees' consulting services. I was informed by the broker on these accounts, that the individuals had been represented by Mendiratta to him to be Mendiratta's aunts and that Mendiratta had actually opened the accounts. Mendiratta at all times controlled the trading activities in those accounts. [Exhibit 18]

26. Prior to August 2002 the S-8 shares issued to Neuhaus and Spiga exceeded the 50 million shares of stock covered by Universal's Forms S-8. Nevertheless, Universal, Altomare and Gunderson falsely told the company's transfer agent that all of the stock issued to Mendiratta's nominees was "free trading under an S-8 registration." [Exhibit 19a-19d] According to audit work papers, bank and brokerage records, the Mendiratta and the nominees wired payments totaling approximately \$1.2 million for this stock to Universal.

### **III. FALSE PUBLIC STATEMENTS**

#### **A. Summary**

27. During the period the company was issuing stock to persons who re-sold it into the public markets to raise money for the company, Universal had limited revenues and operating losses. Yet at the same time, Altomare transferred substantial funds from Universal to himself and his wife and had Universal pay various personal expenses of his. These amounts totaled approximately \$1 million. Universal in filings with the SEC claimed that the transfers were "advances" to Altomare.
28. While issuing the stock to Neuhaus, Sandhu, and Mendiratta, Universal issued a series of false press releases. The market effect of those releases was dramatic.
29. From May 2002 to April 2003, Altomare caused Universal to issue four false press releases that announced Universal's receipt of purported large funding commitments. Each of the releases materially overstated the willingness or ability of the lender to fund the transaction. Each release was followed by a substantial increase in Universal's share price and trading volume, which permitted the re-sellers to dispose of large amounts of Universal shares.
30. In October 2003, Altomare and Universal issued a press release claiming that Universal had contracted to purchase an airline. That release was false and misleading as detailed below.

31. The below table documents the market reaction to the various press releases issued by

Universal and is based on published market data [Exhibits 20a-20e]:

| Date of Release   | Mkt. Volume Day Before | Mkt. Volume Day of Release | Previous Day Close Price | Day of Release Close Price |
|-------------------|------------------------|----------------------------|--------------------------|----------------------------|
| May 23, 2002      | 2.9 million            | 26 million                 | \$.02                    | \$.033                     |
| July 10, 2002     | 1.3 million            | 10.6 million               | \$.021                   | \$.024                     |
| November 21, 2002 | 5.2 million            | 19.6 million               | \$.017                   | \$.026                     |
| April 9, 2003     | 2.3 million            | 109.7 million              | \$.007                   | \$.026                     |
| October 12, 2003  | 29.4 million           | 131.8 million              | \$.072                   | \$.103                     |

32. Universal, Altomare, and Gunderson also caused Universal to make false statements in its filings with the SEC and to its auditors concerning the funding of the company through the unregistered distribution of stock.

33. Universal, Altomare, and Gunderson caused Universal to make false statements in its SEC filings about the source of the funds it received from the re-sellers.

34. Universal and Altomare also made other false public statements about the company detailed below.

**B. May 23, 2002 Announcement of \$100 million in Funding Commitments**

35. On May 23, 2002, Universal issued a press release falsely claiming it had received "Over \$100,000,000 in Funding Commitments" from "two International Hedge Funds." [Exhibit 21] Quoting Altomare, the release further stated: "To complete our corporate objectives, Universal obviously needs to jump start revenues, profits and logistical capabilities. Fortunately, that belief is shared by these investors, who have already invested over \$5,000,000 with Universal over the past five years. . . . These monies will be invested initially as debt and equity only at prices well above the current market value . . . . [D]eveloping companies like Universal Express with capital can now seize the opportunities that are readily available to it."



36. The press release was materially false and misleading.
37. Neuhaus testified and Sandhu told me in an interview, that, at Altomare's request [Exhibit 9b, p. 47], each prepared a "funding" letter. Neuhaus' letter stated that an entity Neuhaus controlled had "authorized \$5,000,000 in additional seed capital" for Universal and that it would "also provide up to \$40,000,000 in long-term financing, if necessary." [Exhibit 22] In testimony, Neuhaus admitted that the value of Coldwater's total assets was far less than \$45,000,000. [Exhibit 9a, pp. 175-177] Sandhu's letter, which he wrote on behalf of Target Growth Fund stated that Sandhu had "authorized up to \$7,500,000 in additional capital from the Fund for future approved [Universal] acquisitions," and that he was "also prepared based upon due diligence and proper collateral to arrange an additional \$50,000,000 in long term financing. . . ." [Exhibit 23] In fact, Sandhu admitted to me in an interview that Target Growth Fund could not at the time invest \$57,000,000 in Universal. Sandhu admitted to another SEC staff member that Target Growth Fund's total assets were only \$4 or \$5 million.
38. In May 2002, Sandhu and Neuhaus prepared new letters expressing commitments to fund Universal's proposed acquisition of a transportation company. Sandhu's letter dated May 21, 2002 stated: "[B]ased upon the initial proposed letter of intent, we would be committed to the funding of the combined company. Please let us know when the final terms have been negotiated so we can move our discussions to the next level." [Exhibit 24] After receiving Sandhu's letter, Universal faxed to Neuhaus language, including the statement: "[M]y hedge fund and partners enthusiastically commit to the funding of Universal Express' strategic acquisition . . . ." [Exhibit 25] Although Neuhaus did not manage a fund of any sort, he copied the text into a letter dated May 22, 2002 that he delivered to Altomare. [Exhibit 26]

39. The press release was thereby materially false and misleading. Even on their face Sandhu's letters did not state a "commitment" to invest, but instead stated that Sandhu was prepared "based upon due diligence and proper collateral" to arrange financing and that Sandhu "*would be* committed to the funding of the combined company" (emphasis added) if the acquisition worked out.
40. The press release also falsely claims that Neuhaus' entity and Sandhu's entity would pay a premium over the market price to invest in Universal and fund the company. In fact, Neuhaus and Sandhu had paid substantially less than current market prices for the Universal stock they had acquired and re-sold.
41. Neuhaus, who had been selling approximately 500,000 Universal shares per day prior to May 23, 2002, sold more than three million shares before the close of trading. He received total proceeds of \$80,180. [Exhibits 27a-27b]
42. I have determined in my investigation and have requested documents from a Canadian brokerage firm that show that Spiga, at Sandhu's direction sold about 1 million shares of Universal stock on May 23 and an additional one million shares on May 24. He received proceeds of about \$64,000.

**C. July 10, 2002 Announcement of \$460 million Letter of Intent**

43. By July 9, 2002, Universal's stock price had again drifted down to \$0.02. On July 10, Universal issued a press release announcing that "in addition to its previously announced \$100,000,000 in venture funding commitments, . . . [Universal] has received a letter of intent from a funding institution for \$460,000,000." [Exhibit 28]
44. The press release was based on a letter Universal had received from a loan broker. [Exhibit 29] In fact, Altomare did not have an agreement for the purchase of the assets and Altomare never delivered to the broker promised bankruptcy court documents supporting the value of

the assets. In addition the letter of intent had been delivered not by a funding institution, but by a loan broker that had no available funds of its own to invest.

**D. November 21, 2002 Announcement of \$25 Million in Additional Funding**

45. On November 21, 2002, Universal issued a press release that began: "In further preparation of its planned acquisition programs, Universal announced additional funding of \$25,000,000 from Transamerica and New Millennium Financial." Quoting Altomare, the release continued, "This funding, in addition to previously announced funding of \$100,000,000 and \$460,000,000 . . . is designed to advance our delivery network capabilities and obviously add revenues and personnel infrastructure. . . . [H]aving the continued financial and corporate confidence of so many respected institutions continues to empower all of us at Universal. . . . This \$25,000,000 brings our total financial commitments to \$585,000,000." [Exhibit 30]
46. The press release was materially false and misleading. It was based on letters from Transamerica Business Capital Corporation ("Transamerica") and New Millennium Financial Corp. ("New Millennium").
47. The Transamerica letter was merely a tentative "funding proposal letter" for a \$20 million credit facility in connection with a proposed acquisition. The third paragraph of Transamerica's letter explicitly stated: "It should be emphasized that the following is only a letter of proposal and it is not intended nor should it be construed as a commitment on the part of Transamerica Business Capital Corporation." [Exhibit 31]
48. Likewise, the New Millennium letter was a tentative letter of intent, and not a commitment for a \$5 million credit facility. [Exhibit 32]
49. Universal never received any funding from Transamerica or New Millennium.
50. Altomare knew that the letters from Transamerica and New Millennium did not represent actual financial commitments. After becoming aware of the press release, Transamerica

stated in a December 15, 2002 letter to Altomare that the announcement “incorrectly states the facts” and Transamerica “expects that the misstated facts in your press release will be promptly corrected.” Universal failed to correct the release after receiving Transamerica's complaint letter. [Exhibit 33] Altomare also knew that his discussions with brokers regarding the \$460 million in funding had long since terminated.

**E. April 9, 2003 Announcement of \$300 Million in Funding**

51. On April 9, 2003, Universal issued a press release with the headline "Universal Express Inc. ("Universal-L") – Receives \$300,000,000 For Transportation Funding." The release then asserted that the company "to-day received \$300,000,000 in committed and approved funds and plans to acquire a soon to be announced nationally established transportation company. A Letter of Intent with that Company to be acquired has been signed . . . ." Quoting Altomare, the release further stated: "The formal closing should be concluded in 75 days or less, and a specific announcement will be made by both parties at the appropriate time . . . ." The purpose of this preliminary announcement, according to the release, was "simply [to] inform[] the public of [Universal's] financial capability to now effectuate a transaction of this size . . . ." Continuing this theme, the release also observed: "During the developmental stages of any company, that company may receive financial commitments based on the funder's due diligence requirements . . . . To-day's commitment is far more definite and it is for that reason a press release has been issued." [Exhibit 34]

52. The press release was materially false and misleading. In December 2002, Universal convinced Coach USA to sign a letter of intent for the sale of its assets to Universal.<sup>1</sup> The

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<sup>1</sup> Based on my investigation I determined that Coach USA was an American subsidiary of Stagecoach PLC, a public company based in Scotland.

proposed terms required Universal to pay half the purchase price (\$300 million) in cash at the closing, which was to occur no later than March 31, 2003. [Exhibit 35]

53. In early March 2003, Millennium Capital, LLC ("Millennium"), an investment banking firm, proposed to Universal a three-party financing program for the acquisition. Millennium's funding program required Universal to find a commercial bank that would bear the entire credit risk associated with Universal's ability to repay the \$300 million. Universal was unable to find a commercial bank to participate. Further, on March 28, 2003, Millennium delivered a term sheet that was to expire in five days after delivery, or April 4, 2003.

[Exhibits 36a-36b; Exhibit 37]

54. When Universal's April 9, 2003 press release was issued Universal's letter of intent with Coach USA had expired, no bank willing to participate in the funding program had been found, and Millennium's proposal had expired.

55. On April 29, 2003, Coach USA informed Universal that it did not wish to have further acquisition discussions. In early June 2003, Coach USA's parent announced that it had signed an agreement to sell a significant portion of the Coach USA assets to another buyer. Universal and Altomare, however, continued to represent to investors in various promotional materials that Universal had financial commitments of \$300 million until at least September 2003. [Exhibit 38; Exhibits 39a-39b]

#### **F. Announcement of Airline Acquisition**

56. In fall 2003, Altomare and the owner of North American Airlines ("NAA") signed an option for the sale of the airline to Universal. To fund the 50% non-refundable \$1 million deposit required by the owner, Altomare and Neuhaus agreed that Neuhaus would wire the \$1 million on Universal's behalf in exchange for 20 million "free trading" Universal shares and 20 million restricted Universal shares. [Exhibit 40] With Universal's stock trading at \$0.05 at

that time, Altomare and Neuhaus knew that Neuhaus could recover the entire \$1 million cost of the deposit by selling the 20 million "free trading" shares.

57. On October 7, after NAA's owner resisted Universal's requests to issue a press release announcing the contract, Neuhaus sent the owner an e-mail stating that SEC rules required Universal to make a public announcement. [Exhibit 40] After receiving Neuhaus' e-mail, the owner relented and on Sunday, October 12, Universal issued a press release announcing the contract. In an apparent attempt to convince investors that Universal and Altomare had a serious stake in completing the acquisition, the release, quoting Altomare, stated: "We have paid a \$1,000,000 deposit, 50% of which is non-refundable." [Exhibit 41]
58. The release was materially false and misleading. It failed to disclose that the deposit had been financed through an illegal issuance of Universal shares to Neuhaus and that Neuhaus planned to sell the shares into the market after the announcement. Neuhaus admitted that he and Altomare had discussed disclosing the \$1 million deposit and that he had reviewed a draft of the press release that included the statement regarding the deposit. [Exhibit 9a, pp. 107-109]
59. On October 13, 2003, the first trading day after the release was issued, Neuhaus sold 1 million share of Universal stock and thereafter an average of about 1 million shares per day for several weeks. By October 22, 2003 he had received total proceeds from these sales of \$1 million. [Exhibit 42]
60. When Neuhaus failed to wire a second required deposit on November 14, 2003, Universal's option to purchase NAA expired. On November 21, NAA issued a news release announcing the termination of the deal. [Exhibit 43] On November 24, 2003, Altomare issued a press release stating: "During the 45 day due diligence period, our accountants raised questions

regarding substantial liabilities and doubtful future revenues of NAA." [Exhibit 44] In an interview the owner of NAA told me that prior to the November 14, 2003 expiration of Universal's option, Altomare never suggested that Universal's accountants had identified any problems with North American's financial statements, but instead had affirmed as late as November 13, 2003 that Universal would exercise the option. [Exhibit 45]

**G. Fraudulent Statements Regarding Private Postal Network Membership**

61. Each of Universal's eight most recent filings with the Commission falsely stated that its private postal network, called WorldPost, had 8,000, and in later filings 9,000, members. [Exhibits 52a-52b] In response to a SEC subpoena sent by me requiring Universal to produce documents supporting this representation, it produced no responsive documents. Universal recently created a WorldPost website that provides a search functionality for locating a member store in a particular zip code and city. I recently talked to three owners and managers of postal stores listed as WorldPost members on the website and each told me that their stores were not members of the WorldPost network and that they had never heard of WorldPost, the private postal network, or Universal.

**H. False Statements Concerning Naked Short Selling**

62. A September 23, 2003, Universal press release suggested that "naked short selling" could have artificially depressed Universal's stock price. [Exhibit 46]. In early October, Altomare indicated in an interview that without the downward pressure of "naked shorting" Universal's share price would be much higher. [Exhibit 47]. In a subsequent interview with Dow Jones Newswire, Altomare stated that Universal provided the SEC with 11,000 to 12,000 pages of documents in response to a subpoena requesting documents relating to short selling of Universal shares. [Exhibit 48]

63. In fact, Universal's total production of documents in response to that SEC subpoena was only 295 pages, none of which provided evidence that investors or brokers were intentionally failing to deliver Universal shares as claimed by Altomare when he claimed there was naked short selling of the stock.
64. Also, it appears that at the time there was only limited naked short selling of Universal stock. as of September 30, 2003, the total "fails to deliver" at National Securities Clearing Corporation were only 370,929 shares or .067% of Universal's 552,027,232 shares outstanding on that date. [Exhibit 49] In addition, none of Altomare's statements regarding naked short selling disclosed Universal's issuance of nearly 400 million Universal shares pursuant to the illegal funding scheme for Universal detailed herein whereby Universal stock was re-sold into the market.

**I. False Statements In SEC Filings And To Auditors**

65. Each of Universal's periodic filings with the Commission from its June 30, 2001 Form 10-KSB through its December 31, 2003 Form 10-QSB made materially false statements that concealed the illegal arrangements between Universal and Neuhaus, Sandhu, Spiga, and Mendiratta to distribute Universal stock to the public for purposes of financing the company. Each of the filings stated falsely that the shares issued as part of the distribution were "deferred services" or "advisory fees . . . prepaid to consultants retained by the Company to provide advisory services." Most of the filings also falsely stated that the funds transferred to Universal by Neuhaus, Sandhu, Spiga, and Mendiratta were payments for "stock rights," which the filings defined as "amounts received from investors for their future rights to purchase shares of stock." [Exhibit 50]
66. Gunderson prepared a consulting agreements between Universal and Neuhaus that obligated him to provide services for Universal. Universal prepared agreements for Mendiratta's



nominees and Spiga. In his sworn testimony Sandhu asserted his Fifth Amendment rights and refused to answer questions about whether he or his entities provided consulting services to Universal. Mendiratta's attorney has informed me that he will assert the Fifth Amendment if questioned about these matters. The only services Neuhaus provided was to agree to put Universal's logo on his race car. [Exhibit 9a, pp 207-208]

67. In an apparent effort to explain the transfers of money from Sandhu and Neuhaus to Universal, Gunderson also prepared false restricted stock purchase agreements which were apparently backdated that purported to obligate Spiga and an entity controlled by Neuhaus to buy restricted Universal stock at prices substantially higher than the current market price for unrestricted stock. [Exhibit 8a] These false documents as well as the consulting agreements were provided to Universal's auditors. The purported stock purchase letter signed by Universal and Spiga was dated August 10, 2001. The fax date stamps on the fully executed agreement, however, indicate that the agreement was actually signed on August 20, 2002, a few weeks after the audit started. In addition, all of the certificates representing the restricted shares supposedly purchased by Neuhaus's entity and Spiga during Universal's 2002 fiscal year were issued on October 2, 2002, a few days after the audit was completed.
68. During the 2002 audit, Universal's auditor apparently questioned the more than \$2.1 million in transfers to Universal from Neuhaus and Sandhu during the 2002 fiscal year. In response, Universal delivered to the auditor four separate restricted stock purchase letters between Universal and Neuhaus's entity and another between Universal and Spiga purporting to obligate Neuhaus's entity and Spiga, respectively, to purchase restricted stock at \$0.32 per share and thereby permitting Universal to assert that all the wires were payments for the restricted shares. [Exhibits 8a-8e]

69. Universal further misled the auditors to believe that the wires transferring money from Sandhu, Spiga, Neuhaus, and Mendirrata's nominees to Universal were payments for "stock rights" rather than the purported S-8 shares by including the wires in lists of "stock rights" payments delivered to the auditors. [Exhibits 51a-51b]
70. Further evidence of the falsity of the statements quoted in ¶ 65 is the fact that Sandu, Spiga, Neuhaus, and Mendiratta through his nominees made substantial payments to the company contemporaneously with the issuances of Universal stock. Such payment back to the company are inconsistent with the claim that stock issuances were prepayments for future services.
71. One Neuhaus transaction demonstrates his payments to the company were for purchase of S-8 stock and not for "stock rights." On June 24, 2001, Universal issued 7,496,300 purported S-8 shares to Neuhaus. [Exhibit 14a] On June 26, Gunderson sent Neuhaus a fax explaining how Universal had calculated a price per share of \$0.01334 based on a 42% discount to Universal's current trading price and then used that price to determine the number of shares to which Neuhaus was entitled based on his forthcoming wire of \$100,000 to Universal. [Exhibit 14b] The fax stated: "Mark – Friday's Close (6/22) .023 X 58% = .01334.  $\$100,000 / .01334 = 7,496,251.8$  shares, rounded up to the Cert. for 7,496,300. Pls confirm wire was sent." Shortly thereafter, Neuhaus wired \$100,000 to Universal's account. [Exhibit 14c]
72. By categorizing the shares purchased by the re-sellers as payments for future consulting services, Universal's statement of shareholders' equity failed to reflect accurately the transactions between Universal, Spiga, Sandhu, Neuhaus, and Mendirrata.
73. I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 24<sup>th</sup> day of March, 2004.

/s/

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Hugh Beck  
Securities and Exchange Commission  
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