

RESEARCH RE BOETHU CASE

TIMOTHY M. BURGESS
United States Attorney

FRANK ■. RUSSO
JAMES A. GOEKE
Assistant U.S. Attorneys
Federal Building & U.S. Courthouse
222 West Seventh Avenue, Room 253, #9
Anchorage, Alaska 99513-7567
(907) 271-5071

SHERRI A. STEPHAN
Trial Attorney, Criminal Division
Child Exploitation and Obscenity Section
United States Department of Justice
1400 New York Ave, NW, Sixth Floor
Washington, D.C. 20005
(202) 353-4438

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,	)	No. A04-003-01 CR (JWS)
)	
Plaintiff,)	
)	
vs.	)	<u>NOTICE TO COURT OF</u>
	)	<u>RESTITUTION PLAN AND</u>
	)	<u>APPROVAL OF TRUST</u>
JOSEF F. BOEHM,	)	<u>DOCUMENT</u>
a/k/a "Joe Millionaire",)	
)	
Defendant.)	

COMES NOW the United States of America, by and through counsel, and hereby provides the Court with notice of the restitution plan in the above captioned case. In addition, attached hereto as Exhibit 1 is the Trust document for the Court's review and approval.¹

Title 18, U.S.C. §§ 3663A, mandates restitution for crimes of violence and cases in which there are identifiable victims. Such restitution includes, in relevant part:

- (2) in the case of an offense resulting in bodily injury to a victim—
 - (A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;
 - (B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and
 - (C) reimburse the victim for income lost by such victim as a result of such offense;

. . . .

- (4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

¹ The document is marked "draft" because we are awaiting final approval from the Trustee, which is expected before the sentencing hearing on April 27, 2005.

18 U.S.C. § 3663A(b). Such restitution must be paid to the victims or their guardians. 18 U.S.C. § 3663A(a)(2).

Title 18, U.S.C. § 3664 sets forth the procedure for issuance of restitution. Generally, such information pertaining to restitution is provided to the probation officer and included in the presentence report. 18 U.S.C. § 3664(d). However, in a case where the victims losses are not readily ascertainable by the date of sentencing, the attorney for the Government shall inform the court, and the court shall set a date for the final determination of the victims losses not to exceed 90 days from sentencing. 18 U.S.C. § 3664(d)(5). The United States submits that this is such a case where victims losses are not readily ascertainable based on the nature of the conduct at issue.

Within the plea agreement in the instant case, the parties agreed that any restitution should be paid out from the \$1.2 million dollar corpus of the trust fund the defendant has agreed to establish. See Plea Agreement, p. 10. Accordingly, the United States has arranged for the payment of \$1.2 million dollars into an escrow account with First National Bank Alaska as the escrow agent. The United States proposes, in the order attached hereto, that the Court instruct the United States to provide notice to all victims and their guardians of their ability to seek

restitution for any injury they sustained , as set forth above. Within 30 days of the entry of judgment in this case, the United States will submit such requests for restitution to the Court in a motion under seal, along with supporting documentation for approval, with a proposed order directing the escrow agent to pay such expenses if the Court finds that such expenses fall within the restitution statute. Because any restitution is deducted from the agreed \$1.2 million, Boehm, through his attorney Kevin Fitzgerald, has waived notice of such motion, which may be filed with the Court ex parte under seal. After 30 days from judgment, the money from the escrow will be transferred to the trust fund, which will then become operational.

The Trust Fund provides for future counseling, treatment, and educational and professional expenses for the victims in pro rata amounts. The Trust Document was drafted under the supervision of attorney Greg Taylor, of the law firm of Jermain, Dunnagan & Owens. Mr. Taylor and his law firm donated their time in view of the charitable nature of the Trust Fund. The Trustee will be First National Bank Alaska, which will be compensated out of the corpus of the trust for its services under its current fee schedule, attached to the Trust Document as Exhibit F. First National Bank Alaska has agreed to waive certain closing costs

associated with the establishment of the trust, in light of the charitable nature of the trust.

Three "Trust Protectors" have agreed to assist the Trustee with administration of the trust by providing guidance and serving as an appeal board. These Trust Protectors are Detective Steven Boltz, of the Anchorage Police Department, Susan Sullivan, the director of Victims for Justice, and Susan Brown, the Executive Director of the Alaska Violent Crimes Compensation Board. These individuals have also agreed to donate their time in view of the charitable nature of the Trust.

Generally, the Trust Fund allows for disbursements to 12 victims (whose names will be filed under seal), for qualified purposes, until the victims attain the age of 26 years old. After such time, the remaining pro rata share of the victims' allotment will be donated to a charity chosen by a majority of Trust Protectors, and approved by the Court as consistent with the intent of the Plea Agreement (drug treatment for children in Alaska).

//

//

Accordingly, the United States asks that the Court approve the proposed restitution plan and anticipated trust document, in the order annexed hereto.

RESPECTFULLY SUBMITTED this 22nd day of April, 2005, in
Anchorage, Alaska.

TIMOTHY M. BURGESS
United States Attorney

FRANK ■ RUSSO
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I declare under penalty of perjury that a true and correct copy of the foregoing was sent to the following counsel of record on, September 18, 2007, via:

(X) Fax

Philip Paul Weidner
330 L. Street, Suite 200
Anchorage, Alaska 99501
Fax: (907) 278-6571

Kevin T. Fitzgerald
Ingaldson, Maassen & Fitzgerald, PC
813 West 3rd Ave.
Anchorage, AK 99501
Fax: (907) 258-8751

Rex Lamont Butler
Law Offices of Rex Lamont Butler
745 W. 4th Ave., Suite 300
Anchorage, AK 99501
Fax: (907) 276-3306

Executed at Anchorage, Alaska, on September 18, 2007

Office of the U.S. Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,	)	No. A04-003-01 CR (JWS)
)	
Plaintiff,)	
)	
vs.	)	<u>ORDER</u>
)	
JOSEF. F. BOEHM,)	
)	
Defendant.)	
_____)	

Having duly considered the government's motion setting forth the restitution plan in the above captioned case, the COURT hereby APPROVES such plan.

IT IS ORDERED that the United States Attorney's Office make diligent efforts to provide notice to all known victims in the above-captioned case, by certified mail, Federal Express, or hand delivery. In such notice, the United States shall provide notice of the ability of such victims or their guardians to seek restitution, as well as include a copy of the final Trust Agreement. The United States shall submit any restitution requests that fall within 18 U.S.C. § 3663A, together with supporting documentation, to the Court in an ex parte motion filed under seal. Following the last such submission, or after 30 days, the United States

shall notify the escrow agent to transfer the funds in the escrow account into the Trust Fund, and the United States shall notify the beneficiaries of the Trust Fund of their ability to seek disbursements.

It is further approved that the TRUSTEE is entitled to reasonable compensation for its services in administering the Trust Fund, as set forth in its current fee schedule.

IT IS SO ORDERED.

Dated: _____

UNITED STATES DISTRICT JUDGE

TIMOTHY M. BURGESS
United States Attorney

FRANK ■ RUSSO
JAMES A. GOEKE
Assistant U.S. Attorneys
Federal Building & U.S. Courthouse
222 West Seventh Avenue, Room 253, #9
Anchorage, Alaska 99513-7567
(907) 271-5071

SHERRI A. STEPHAN
Trial Attorney, Criminal Division
Child Exploitation and Obscenity Section
United States Department of Justice
1400 New York Ave, NW, Sixth Floor
Washington, D.C. 20005
(202) 353-4438

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,	)	No. A04-003-01 CR (JWS)
)	
Plaintiff,)	
	)	<u>NOTICE OF</u>
vs.	)	<u>BENEFICIARIES</u>
)	
JOSEF F. BOEHM,	)	<u>Filed Ex Parte and Under Seal</u>
a/k/a "Joe Millionaire",)	
)	
Defendant.)	

COMES NOW the United States of America, by and through counsel, and hereby provides the Court with a list of the beneficiaries of the trust fund established in the above-captioned case, which is attached hereto as Exhibit A. This filing is made ex parte because Boehm, in his plea agreement, waived any rights he had pertaining to the selection of beneficiaries and the disbursement of funds to such beneficiaries. This filing is made under seal because Exhibit A contains the names and identifying information of juvenile crime victims. Exhibit A will be provided to First National Bank Alaska and the three trust protectors: Susan Sullivan, of Victims for Justice; Susan Brown, from the Alaska Violent Crimes Compensation Board, and Detective Steven Boltz, from the Anchorage Police Department.

RESPECTFULLY SUBMITTED this 14th day of June, 2005, in Anchorage, Alaska.

TIMOTHY M. BURGESS
United States Attorney

FRANK ■. RUSSO
Assistant U.S. Attorney

JOSEF FRANZ BOEHM IRREVOCABLE TRUST FUND

Introduction

This TRUST AGREEMENT is made and entered into effective this ____ day of _____, 2005, at Anchorage, Alaska, between Josef Franz Boehm (hereinafter "BOEHM" or "TRUSTOR") and the First National Bank Alaska, ("TRUSTEE"). This Trust Agreement is established to satisfy the terms of the Plea Agreement and Judgment entered in the United States District Court for the District of Alaska under Case No. A04-003-01 CR (JWS) (a copy of the Plea Agreement is attached hereto as Exhibit A and incorporated by reference herein; the Judgment will be filed as a matter of public record in Case No. A04-003-01 CR (JWS) and is incorporated by reference herein); that is, as restitution to the victims of BOEHM and his co-defendants' criminal conduct as charged in the Fourth Superseding Indictment (a copy of which are attached hereto as Exhibit B and incorporated by reference herein). This Trust Agreement shall be construed in a manner consistent with the terms and purposes of the Plea Agreement and Judgment, and pursuant to Alaska Statutes Sections 13.126.125 - 13.126.310. The TRUSTEE shall receive, hold, administer, invest, reinvest and distribute, in accordance with the provisions of this Trust Agreement, all funds paid to the

TRUSTEE by TRUSTOR and all income earned on said funds (hereafter the "Trust Fund") as provided by the terms of this Trust Agreement.

The Trust Protectors

Three (3) Trust Protectors (hereinafter the "TRUST PROTECTORS") shall be designated by the United States Attorney's Office for the District of Alaska, the names of which will be filed with the United States District Court for the District of Alaska in Case Number A04-003 CR (JWS). The TRUST PROTECTORS shall have responsibility for: (1) clarifying general policy and guidelines for distributions consistent with the purposes of the Plea Agreement and this Trust Agreement; (2) advising and providing guidance for the TRUSTEE; and (3) acting as an Appellate Board to hear appeals by beneficiaries regarding decisions of the TRUSTEE. Such responsibilities are not delegable to, transferable to, or exercisable by any other officials, other than successors appointed to replace designated TRUST PROTECTORS by the United States Attorney's Office, District of Alaska.

ARTICLE I

**APPLICATION OF FUND CORPUS AND INCOME
AND POWER OF APPOINTMENT**

A. Distribution of the Trust Fund.

The TRUSTEE may distribute all or part of the principal or income of the Trust Fund only for a qualified purpose, as set forth below, on behalf of the twelve (12) beneficiaries of the Trust Fund, whose names and identifying information will be filed under seal in Case No. A04-003 CR (JWS), and provided to the TRUSTEE and TRUST PROTECTORS. To the extent that any such beneficiary has not attained the age of 18, information pertaining to the guardian of such beneficiary is provided therewith. To the extent necessary herein, the beneficiaries of the Trust Fund will be identified by their corresponding number listed in the identifying document filed under seal in Case No. A04-003 CR (JWS) pursuant to this Trust Agreement.

The TRUSTEE has an irrevocable power to direct distributions of all Trust Fund Principal and Income, pursuant to the guidelines established in this Trust Agreement and the Plea Agreement between BOEHM and the United States, or as directed by the TRUST PROTECTORS. The purposes of this Trust, as set forth

in the Plea Agreement and as expanded upon below, are to provide the beneficiaries numbered one (1) through eleven (11) with the following:

1. Drug treatment through a licensed / certified / accredited facility or practitioner;
2. Counseling through a licensed / certified / accredited facility or practitioner;
3. Treatment for physical injury through a licensed / certified / accredited facility or practitioner arising from the beneficiaries' involvement in the activity outlined in the Fourth Superseding Indictment.

Payment for drug treatment or counseling that takes place outside Alaska, but within the United States, may include reasonable transportation expenses for the beneficiary and one guardian if the beneficiary is under the age of 18 years.

In addition, this Trust provides for future educational or professional expenses for beneficiaries one (1) through eleven (11) and for beneficiary twelve (12). Such expenses include education or training from a recognized / licensed / certified / accredited institution, the goal of which is to lead to a trade or employment in a recognized profession. In addition, expenses for room and

reasonable living expenses are included in such expenses provided that: a beneficiary is maintaining a passing grade (a 2.0 grade point, or C average) in a course of study or training requiring at least twelve (12) hours per week, calculated based on the number of in-class hours spent in training or class. What constitutes other appropriate future educational or professional expenses shall be in the discretion of the TRUSTEE, under the guidance established by the TRUST PROTECTORS, and subject to the appeal procedures outlined below. Such other appropriate future educational or professional expenses may include books, course or training materials, and reasonable transportation costs. Such expenses shall not include the purchase of assets (such as motor vehicles) used for transportation purposes.

The Trustee shall also make any other distribution to any party, whether or not a beneficiary of the Trust Fund, specifically ordered by the United States District Court for the District of Alaska under Case No. A04-003-01 CR (JWS) for the purposes of providing restitution in Case No. A04-003-01 CR (JWS). Any such distribution ordered by the United States District Court shall be deducted in equal amounts from the proportional shares of every beneficiary then eligible to receive distributions from the Trust Fund.

B. Apportionment of Trust Estate.

The TRUSTEE shall hold the trust estate undivided and pay to or apply for the benefit of the beneficiaries all or so much of the net income or principal of the trust estate as the TRUSTEE, in the TRUSTEE's and TRUST PROTECTORS' discretion, deems advisable for the purposes set forth herein. To the extent possible, the TRUSTEE shall apportion the funds equally amongst the beneficiaries. Each beneficiary is limited to an equal share of one twelfth of the Trust Fund and any subsequent income, with such shares to be determined at the time the Trust Fund is funded. Additionally, to the extent possible, the TRUSTEE should pay any distributions directly to the provider of services (health providers, educational providers, or professional service providers) rather than directly to the beneficiaries. Other than such providers of services, the beneficiaries cannot assign or make available disbursements from the Trust to other third parties.

C. Expenses Incurred Prior to the Creation of the Trust Fund.

Expenses incurred by the beneficiaries or their guardians prior to the date of this agreement are "qualified purposes", as set forth above, and eligible for reimbursement provided that such expenses meet the requirements set forth in Article 1, Section A, points 1 - 3 above, and occurred after the beneficiary's

involvement in the crimes charged in the Fourth Superseding Indictment. The earliest date of each beneficiary's involvement is set forth in the separate document containing identification information of the beneficiaries, filed under seal in Case No. A04-003 CR (JWS), and are made available to the TRUSTEE and TRUST PROTECTORS. All such expenses that incurred prior to the date of this Agreement shall be deducted from the invested escrow account prior to the establishment of the Trust corpus, and before the proportional share of each beneficiary is determined. Accordingly, claims for pre-existing expenses must be submitted to the Court thirty (30) days from the date the Judgment as entered in the United States District Court for the District of Alaska under Case No. A04-003-01 CR (JWS) against Josef Franz Boehm. Such expenses shall be paid by the invested escrow agent pursuant to court order. Furthermore, any restitution payable to any person or entity, whether or not a beneficiary of this Agreement, ordered by the United States District Court for the District of Alaska as part of the Judgment in Case No. A04-003-01 CR (JWS) pursuant to 18 U.S.C. §§ 1593, 3556, 3663, and 3663A, or any other provision of Title 18 or Title 21, shall also be deducted from the invested escrow account and paid the invested escrow agent pursuant to court order before the trust corpus is established.

Following thirty (30) days from Judgment in Case No. A04-003-01 CR (JWS) against Josef Franz Boehm the funds in the invested escrow account shall be transferred to the Trust Fund upon written direction from the United States Attorney's Office, District of Alaska and an attorney for Josef Franz Boehm as contemplated by the invested escrow instructions, attached hereto as Exhibit D. The Trust Fund and provisions herein shall become operable at such time such transfer is made.

D. Power to Direct Distributions Not Delegable.

The power to direct distributions provided herein to the TRUSTEE and TRUST PROTECTORS is not delegable to, transferable to, or exercisable by, any other officials, other than successors appointed to replace the designated TRUSTEE. Thus, the only distributions authorized under this Trust, other than to the TRUSTEE for fees, costs, expenses and taxes, if any, as set forth below, shall be pursuant to the terms of this Trust Agreement and to satisfy the purposes of the Plea Agreement.

E. Documentation Required for Distributions.

The TRUSTEE and/or the TRUST PROTECTORS have a duty and authority to inquire into or about the uses or purposes for requested distributions

of the Trust Fund by the beneficiaries and/or their guardians. The TRUSTEE and/or the TRUST PROTECTORS shall request documentation from each beneficiary or guardian requesting a distribution from the Trust Fund to ensure that such distribution is made in accordance with the purposes of this Trust Agreement and the Plea Agreement. Such documentation shall include, but is not limited to, the following:

- (1) The name, date of birth, and social security number of the Victim seeking the distribution;
- (2) Government issued picture identification documents establishing the Victim's identity;
- (3) Documentation that bears a date by month, day, and year that such expense was or will be incurred;
- (4) The purpose of the expenditure;
- (5) Specifies in words and/or numeral the amount of money sought to be disbursed;
- (6) A supporting statement of expenses from the entity to be paid (i.e., the doctor, counselor, treatment center, hospital, trade

school, college, university, or other provider) approved by the TRUSTEE or TRUST PROTECTORS;

Such documentation required herein shall be addressed to the TRUSTEE at the following address:

**First National Bank Alaska
Trust Department
P.O. Box 100720
Anchorage, AK 99510**

Any documentation so submitted must reference the "JOSEF FRANZ BOEHM IRREVOCABLE TRUST FUND".

Upon receipt of such a request from a beneficiary or the guardian of a beneficiary, the TRUSTEE and/or TRUST PROTECTORS, in their sole discretion, may request additional documentation to justify the distribution. The TRUSTEE has sole discretion, subject to the appeal rights discussed below, to approve, deny, or modify the request for the distribution so that it is consistent with the purpose of this Trust Agreement and the Plea Agreement. The TRUSTEE may consult with a member or members of the TRUST PROTECTORS before making any such determination. The TRUSTEE may make a prepayment of qualified

expenses (as set forth in Article I(A)), upon request of a beneficiary or guardian, upon the provider's statement of need.

F. Appeal of Denied Distributions.

In the event that a beneficiary is dissatisfied by the denial of a request to the TRUSTEE for payment of services requested by the beneficiary, the beneficiary may appeal, within thirty (30) days of the denial. Any such appeal shall be in writing and shall set forth specific reasons for beneficiary's belief that the requested payment should be allowed in accordance with the terms of this Trust Fund. The appeal shall be addressed to the TRUSTEE at the address set forth above (First National Bank Alaska / Trust Department / P.O. Box 100720 / Anchorage, AK 99510) and must reference the "JOSEF FRANZ BOEHM IRREVOCABLE TRUST FUND". The TRUSTEE shall review the appeal and forward the appeal to the TRUST PROTECTORS, who, by majority vote, shall determine all such appeal requests and provide direction and instruction to the TRUSTEE within a reasonable time after receiving any such appeal. Should the TRUST PROTECTORS decide that the requested distribution should be paid, the TRUST PROTECTORS shall complete a document that is substantially in the form of Exhibit C, annexed hereto, which must be signed by a majority of the

TRUST PROTECTORS. The TRUSTEE will then pay the requested distribution as directed by the TRUST PROTECTORS.

G. Age Limits and Donations of Trust Fund Assets to Charity.

Amounts of the Trust Fund remaining following any distributions pursuant to written directions shall continue to be held by the TRUSTEE and applied and distributed pursuant to future written directions. A beneficiary may seek distribution from the Trust Fund for qualified expenses incurred until such beneficiary attains the age of 26 years old. After such beneficiary attains the age of 26 years, any expenses incurred will cease to be qualified expenses. Thirty (30) days after such beneficiary attains the age of 26 years, such beneficiary's proportional remaining available share and distribution shall be held in a separate holding account until the end of the fiscal year of the Trust Fund. At such time, the TRUST PROTECTORS shall donate such funds to an appropriate charity chosen by a majority vote of the TRUST PROTECTORS and approved by the United States District Court for the District of Alaska under Case No. A04-003-01 CR (JWS) for any uses or purposes consistent with the Plea Agreement. Upon the death of any beneficiary before such beneficiary attains the age of 26 years, such beneficiary's proportional share of the Trust Fund shall be donated to an

appropriate charity as set forth above. If, by February 1, 2029, the Trust Fund has not been fully distributed, (regardless of the reason for such events), the TRUSTEE shall terminate the entire Trust Fund and both principal and income shall be distributed and shall be paid outright and free of trust to an appropriate charity approved by the United States District Court for the District of Alaska under Case No. A04-003-01 CR (JWS) for any uses or purposes consistent with the original purposes of this Trust, as approved by the TRUST PROTECTORS.

H. TRUSTOR Retains No Authority Whatsoever and Trust Fund and Trust Agreement Irrevocable.

TRUSTOR, his assignees, designees, or heirs shall have no authority to select a TRUSTEE or TRUST PROTECTOR or supervise the use and distribution of the Trust Fund. Nor shall TRUSTOR have the right to challenge the exercise of any power to direct distributions defined herein or distributions of Trust Fund assets by the TRUSTEE pursuant to such power.

This Trust Agreement is irrevocable and TRUSTOR, his assignees, designees, or heirs retain no right whatsoever to alter, amend, revoke, or terminate this Trust Agreement, in whole or in part. TRUSTOR's sole right and responsibility is to create the Trust Fund by entering into this Trust Agreement and

funding the Trust Fund through the invested escrow account and created separately. The invested escrow account instructions are attached hereto as Exhibit D.

I. No Fiduciary Obligations or Alteration of Sovereign Immunities on the Part of the United States and Officers and Employees' of the United States.

This trust document does not create fiduciary obligations on the part of the United States or any employees or officers of the United States. This Trust Agreement does not purport to alter in any way the sovereign immunities which such governmental officials and bodies and employees of the United States possess.

ARTICLE II

ADMINISTRATION OF THE TRUST FUND

A. Powers and Duties of the TRUSTEE.

In addition to the duties, powers, and rights imposed and granted by law upon trustees, and all other powers herein granted to the TRUSTEE, the TRUSTEE shall have the following duties, powers and rights in the exercise of sole and absolute discretion:

- (1) To purchase or otherwise acquire, and to retain, whether originally a part of the trust estate or subsequently acquired, any and all common or preferred stocks, bonds, notes or other securities, or any variety of real or personal property, whether within or without the United States, including, but without limitation, foreign real estate or foreign securities, securities of a corporation in which the TRUSTEE is a director, officer or shareholder, securities of any corporate TRUSTEE or any successor or affiliate corporation, interests in any business venture (incorporated or unincorporated), any assets formerly part of the trust estate of another trust of which the TRUSTEE is also a trustee, and interests in entities formed principally for the commingling of assets for investment, such as common trust funds (including, but without limitation, common trust funds maintained by any corporate TRUSTEE or by any successor or affiliate corporation), investment companies, investment trusts, mutual funds, real estate and other investment trusts, and interests in any partnership, limited liability company or other entity, whether or not such investments be of the character permissible for investments by fiduciaries; to make or

retain any such investment without regard to the proportion any such investment or similar investment may bear to the entire trust estate, without regard to degree of diversification and without regard to whether such investment is unproductive or underproductive; to invest in interest bearing deposit accounts, or hold funds in non-interest bearing deposit accounts pending investment or disbursement thereof, in any bank, including any bank that is acting as a TRUSTEE hereunder or any bank affiliated with the TRUSTEE; to invest in registered mutual funds for which the TRUSTEE hereunder, or an affiliate of the TRUSTEE, provides investment advisory, custodial or other services for compensation paid from such mutual funds; and to execute trades of securities by, purchase from or sell securities to the dealer position of any affiliate of the TRUSTEE;

- (2) To vote in person or by general or limited proxy with respect to any shares of stock or other security; directly or through a committee or other agent, to oppose or consent to the reorganization, consolidation, merger, dissolution or liquidation of any corporation, or to the sale, lease, pledge or mortgage of any property by or to any such

corporation; and to make any payments and take any steps proper to obtain the benefits of any such transaction;

- (3) To take part in the management of any business in which investment is retained or made hereunder and to delegate duties with respect to such management, with the requisite powers, to any employee, manager, partner or associate of such business, without liability for such delegation; to reduce, expand, limit or otherwise fix and change the operation or policy of any such business and to act with respect to any other matter in connection with any such business; to subject to the risks of any such business, any part or all of any trust estate, for such term or period as the TRUSTEE, in the exercise of sole and absolute discretion, may determine; to advance money or other property to any such business; to make loans, subordinated or otherwise, of cash or securities to any such business and to guarantee the loans of others made to any such business; to borrow money for any such business, either alone or with other persons interested therein, and to secure such loan or loans by a pledge or mortgage of any part of any trust estate; to select and vote for directors, partners,

associates and officers of any such business; to act as directors, general or limited partners, associates and officers of any such business either individually or through an officer or officers if the TRUSTEE is a corporation, and to receive compensation from such business for so acting; to enter into stockholders' agreements with corporations in which any trust estate has an interest and/or with the stockholders of such corporations; to liquidate, either alone or jointly with others, any such business or any interest in any such business; and generally to exercise any and all powers as the TRUSTEE may deem necessary with respect to the continuance, management, sale or liquidation of any such business;

- (4) To form or cause to be formed, alone or with others, such corporations, partnerships, limited partnerships, limited liability companies, business trusts and other business organizations organized under the laws of any state or country and to transfer and convey to such business organizations all or any part of the assets, real or personal, of any trust estate in exchange for such stocks, bonds, notes, other securities or interests of such business organizations as the

TRUSTEE, in the exercise of sole and absolute discretion may deem advisable;

- (5) To keep assets held hereunder or the physical evidence of their ownership in any state or country whatsoever, and from time to time to move the same to any other state or country;
- (6) To employ a qualified third party as custodian for all or any part of the securities at any time held by any trust and to register such securities in the name of a nominee with or without the addition of words indicating that such security is held in a fiduciary capacity, or to hold securities in bearer form, or in uncertificated form; and to use a central depository, clearing agency or book-entry system, such as The Depository Trust Company, Euroclear or the Federal Reserve Bank;
- (7) To manage any trust in a consolidated manner with any other trust created hereunder or with any other trust created by any other person which has similar terms, conditions and beneficiaries;
- (8) With respect to a trust, if any, of which both individuals and charity are beneficiaries, to create or make an addition to a so-called qualified

charitable lead trust with remainder to or in further trust for any one or more of the beneficiaries of the trust, or a qualified charitable remainder trust initially for the benefit of any one or more of the beneficiaries of the trust, as the TRUSTEE, in the exercise of sole and absolute discretion, may determine; to select the qualified charitable organizations receiving a benefit from any such split-interest trust; to determine whether the trust is of the annuity, unitrust or income-only unitrust variety, the annual payout percentage or amount, and the length of the Trust;

- (9) To divide any trust created hereunder or augment any trust created hereunder into two or more fractional shares to be held as separate trusts hereunder, or to divide any trust created hereunder into one or more separate trusts for the benefit of one or more of the beneficiaries (to the exclusion of the other beneficiaries) of the trust so divided, as the TRUSTEE, in the exercise of sole and absolute discretion, may determine and to allocate to such divided trust some or all of the assets of the trust estate for any reason including, but not limited to,

enabling any such trust or trusts to qualify as an eligible shareholder of an S corporation;

- (10) If two trusts created hereunder are directed to be combined into a single trust (for example, because property of one trust is to be added to the other), whether or not the trusts have different inclusion ratios with respect to any common transferor or have different transferors in whole or in part for generation-skipping transfer tax purposes, in the exercise of sole and absolute discretion, instead of combining the trusts, to hold and administer them as separate trusts with identical terms in accordance with the provisions that would have governed the combined trusts;
- (11) If anyone adds or is deemed to add by gift or bequest property to a trust created hereunder, in the exercise of sole and absolute discretion, to hold the added property as a separate trust with terms identical to the trust to which it would have been added;
- (12) To make distributions in kind and to cause any distribution to be composed of cash, property or undivided fractional shares in property different in kind from any other distribution without regard to the

income tax basis of the property distributed to any beneficiary or any trust;

- (13) To allocate receipts and expenses between income and principal as the TRUSTEE, in the exercise of sole and absolute discretion, may determine;
- (14) To make such elections under the tax laws as the TRUSTEE, in the exercise of sole and absolute discretion, may determine to be appropriate, regardless of the effect thereof on any interests in any trust created under this Agreement, and to determine whether or not any adjustment of such interests shall be made by reason of any such election;
- (15) To make any application of principal or income for the benefit of any beneficiary by payment to such person or persons (including, but without limitation, other trusts, estates, individuals and institutions) as the TRUSTEE, in the exercise of sole and absolute discretion, determine (including, but without limitation, a trust of which any TRUSTEE hereunder is also acting as TRUSTEE, and whether such trust was created pursuant to authority granted to the TRUSTEE

hereunder or otherwise); provided, however, that no such payment or application may be made to or for the benefit of the TRUSTOR regardless of the capacity in which the TRUSTOR may be acting; the written receipt of the person or persons so paid shall be a full discharge to the TRUSTEE from all liability with respect thereto, and any such payment or application may be made without bond, without intervention of any guardian, conservator or committee, and without the order of any court;

- (16) To make or terminate elections with respect to S corporation stock, and to make such adjustments between income and principal to compensate for the consequences of the trust's ownership of S corporation stock as the TRUSTEE may deem just and equitable; provided, however, that if the trust holds S corporation stock, the TRUSTEE shall not make adjustments that would have the effect of denying to the income beneficiary the income of the trust to which the beneficiary must be entitled in order for the trust to qualify as a Qualified Subchapter S Trust; and provided further, that if a trust holds S corporation stock no TRUSTEE shall exercise any power

conferred under this Agreement that would have the effect of denying to the income beneficiary the income of the trust to which the beneficiary must be entitled in order for the trust to qualify as a Qualified Subchapter S Trust; and provided further, during the term of any trust created hereunder, (i) if the TRUSTEE sells any interest in a corporation or if the assets of any entity constituting a corporation in which the trust has an ownership interest are sold, and (ii) if that corporation has made an election to be taxed under Subchapter S of the Code, then in the TRUSTEE's sole and absolute discretion, the TRUSTEE may distribute to the income beneficiary such amounts of principal as shall be necessary to pay any income tax caused by that sale, if the income or gain attributable to that sale is taxed directly to the income beneficiary under applicable Federal tax law;

- (17) To appoint, employ and remove, at any time and from time to time, any investment counsel, accountants, depositories, custodians, brokers, consultants, attorneys, expert advisers, agents, clerks and employees, irrespective of whether any person, firm or corporation so

employed shall be the TRUSTEE hereunder or shall be a corporate affiliate of the TRUSTEE hereunder and irrespective of whether any firm or corporation so employed shall be one in which the TRUSTEE hereunder shall be a partner, stockholder, officer, director or corporate affiliate or shall have any interest; and to pay the usual compensation for such services out of principal or income as the TRUSTEE may deem advisable; and such compensation may be paid without diminution of or charging the same against the commissions or compensation of the TRUSTEE hereunder, and any TRUSTEE who shall be a partner, stockholder, officer, director or corporate affiliate in any such firm or corporation shall nonetheless be entitled as partner, stockholder, officer, director or corporate affiliate to receive such TRUSTEE's share of the compensation paid to such firm or corporation;

- (18) To delegate any duties or powers discretionary or otherwise, to a co-TRUSTEE or any other person or institution for such periods and upon such terms and conditions as may be designated in an acknowledged written instrument delivered to such co-TRUSTEE,

other person or institution; and if such duties or powers are delegated to a co-TRUSTEE, the TRUSTEE so delegating any duties or powers hereunder shall have no further responsibility with respect to the exercise of such duties or powers so long as such delegation shall remain in effect; and any such delegation shall be revocable by a similar instrument so delivered at any time; provided, however, that no duties or powers may be delegated to a beneficiary or a person under a duty to support a beneficiary;

- (19) To execute and deliver any and all instruments to carry out any of the foregoing powers, no party to any such instrument being required to inquire into its validity or to see to the application of any more or other property paid or delivered pursuant to the terms of any such instrument; and
- (20) Except for a loss resulting from negligence or willful misconduct, the TRUSTEE shall not be liable for loss caused by or resulting from an error of judgment with respect to any action taken or omitted requiring the exercise of discretion in good faith.

B. Authorization to Divide Trust Assets.

The TRUSTEE, in the exercise of sole and absolute discretion, is authorized to divide any trust or any property used or to be used to fund or augment any trust created hereunder into two or more fractional shares. The shares shall be held and administered by the TRUSTEE as separate trusts but may be managed and invested in solido.

The TRUSTEE is authorized, in the exercise of the sole and absolute discretion, to combine any one or more trusts with identical terms for an identical beneficiary or beneficiaries created under this Trust Agreement as a single trust. The TRUSTEE is also authorized, in the exercise of the sole and absolute discretion, late to divide such trust as provided above in this paragraph.

C. Exercise of the TRUSTEE's Powers.

The powers granted to the TRUSTEE hereunder in and by this Trust Agreement may be exercised in whole or in part and from time to time, and without court authorization, and shall be deemed to be supplemental and not exclusive, and the TRUSTEE hereunder shall have all the general powers of fiduciaries as well as all of the special powers herein expressly granted, and all

powers incidental to, reasonably to be implied from or necessary to the proper exercise of the powers herein granted.

Subject to the provisions of the Trust Agreement, every act done, power exercised or obligation assumed by the TRUSTEE pursuant to the provisions of this Trust Agreement shall be held to be done, exercised or assumed, as the case may be, by the TRUSTEE acting in a fiduciary capacity and not otherwise, and every person, firm corporation or other entity contracting or otherwise dealing with the TRUSTEE shall look only to the funds property of the trust estate for payment under such contract or payment of any money that may become due or payable under any obligation arising under this Trust Agreement, in whole or in part, and the TRUSTEE shall not be individually liable therefor even through the TRUSTEE did exempt himself, herself, or itself from individual liability when entering into any contract, obligation or transaction in connection with or growing out of the trust estate. The TRUSTEE shall be fully indemnified by the trust estate against any claim or demand by an trust beneficiary or trust creditor, except for any claim or demand based on such TRUSTEE's own willful misconduct, willful default or gross negligence proved by clear and convincing evidence.

D. Exercise of the TRUST PROTECTORS' Powers.

Some persons may be hesitant to serve as TRUST PROTECTORS hereunder because of a concern about potential liability. Therefore, (A) the TRUST PROTECTORS shall not incur any liability by any reason of any error of judgment, mistake of law, or action of any kind taken or omitted to be taken in connection with the administration of the Trust Fund if in good faith reasonably believed by such TRUST PROTECTOR to be in accordance with the provisions and intent hereof, except for any matter involving such TRUST PROCTETOR's own willful misconduct or gross negligence proved by clear and convincing evidence, (B) the TRUST PROTECTOR shall not have any fiduciary responsibility to observe, monitor or evaluate the actions of the TRUSTEE and shall not be liable to any party for the failure to seek to remedy a breach of trust, or in a recurring situation to request instructions from a court having jurisdiction over the trust, even if a TRUSTEE may be guilty of a gross violation of fiduciary duties hereunder, and (C) the TRUST PROTECTORS shall be fully indemnified by the trust estate against any claim or demand by any trust beneficiary or trust creditor, except for any claim or demand based on such TRUST PROTECTORS' willful misconduct or gross negligence proved by clear and convincing evidence. In no

event shall any TRUST PROTECTOR hereunder be liable for any matter with respect to which he, she or it is not authorized to participate hereunder (including the duty to review or monitor trust investments).

E. Identity of TRUSTEE.

First National Bank Alaska is hereby designated and appointed as the TRUSTEE.

F. Appointment of Successor TRUSTEE.

If there is no TRUSTEE acting as to a trust hereunder, the successor TRUSTEE, as the case may be, shall be such individual or individuals (other than the TRUSTOR or any other person who has contributed property to the trust) or such bank or trust company as shall be appointed by the TRUST PROTECTORS in the same manner as provided in Section II(A) for the removal and replacement of a TRUSTEE; provided, however, that unless the TRUST PROTECTORS determined to change the situs of the trust from Alaska, the successor TRUSTEE so appointed must be an individual or a bank or trust company domiciled in Alaska and provided further, that in the case of any appointment of a successor TRUSTEE, no successor TRUSTEE of any trust hereunder shall be any individual or bank or trust company that is related or subordinate to the TRUSTOR.

G. Identity of TRUST PROTECTORS.

The individuals named in Exhibit E attached hereto are hereby appointed as the members of the Trust Protector Committee. The TRUST PROTECTORS are authorized, in the exercise of sole and absolute discretion, to remove any TRUSTEE acting hereunder and, if the TRUST PROTECTORS consider it appropriate, to designate a successor TRUSTEE in its place; provided, however, that no TRUST PROTECTOR, may appoint as TRUSTEE himself or herself, or any person who is married to a TRUST PROTECTOR, or any descendent of a TRUST PROTECTOR, or any person who is a partner or fellow shareholder of a TRUST PROTECTOR in any entity in a TRUST PROTECTOR has a 10% or greater interest or to which a TRUST PROTECTOR devotes on an average more than ten hours a week. Each TRUST PROTECTOR also is authorized, in the exercise of sole and absolute discretion, to designate by a written, acknowledged instrument delivered to the other TRUST PROTECTORS, a successor member to act in the event of his or her incapacity, resignation or death and to revoke such designation before it becomes effective; provided, however, that neither the Spouse, any descendant of the TRUSTOR, any person under a duty to support a descendant of the TRUSTOR, nor any person acting as a guardian or committee or

conservator of a descendant of the TRUSTOR, can be appointed as a TRUST PROTECTOR. Any successor TRUST PROTECTOR shall have all the powers of an initial TRUST PROTECTOR. TRUST PROTECTORS shall not have any fiduciary responsibilities to monitor the acts of any TRUSTEE. The TRUST PROTECTORS shall not be liable for a failure to remove any TRUSTEE even if such TRUSTEE may be guilty of gross violation of fiduciary duties hereunder.

H. Appointment of Successor TRUST PROTECTORS.

In the event of any vacancy a TRUST PROTECTOR not otherwise fulfilled by specific appointment pursuant to this Article, there shall be appointed as successor TRUST PROTECTOR such individual (other than the TRUSTOR, the TRUSTOR's spouse, any other person who has contributed property to the trust, any descendant of the TRUSTOR or any spouse of any descendant of the TRUSTOR) as designated in writing by the United States Attorney's Office, District of Alaska.

I. Resignation of TRUSTEE.

Any TRUSTEE may resign from office without leave of court at any time and for any reason. Such resignation shall be made by instrument in writing, duly acknowledged, and delivered in person or by registered mail to the TRUST

PROTECTORS, or, if there are no TRUST PROTECTORS then in office, in the manner provided in Paragraph J of this Article.

J. Manner of Notice.

Any notice directed to be given in the manner provided in this Paragraph shall be by an acknowledged instrument in writing delivered to the TRUST PROTECTORS or the United States Attorney's Office, District of Alaska. Any notice hereunder must be actual notice.

K. Term of TRUSTEE's and TRUST PROTECTORS' Duties.

The title, powers, duties, immunities and discretions herein conferred upon the TRUSTEE and TRUST PROTECTORS shall continue after the termination of each trust hereby created until final distribution of the particular trust estate.

L. Accounting.

The TRUSTEE shall keep true and accurate records of the administration of the Trust Fund which shall be available at reasonable times for inspection by the TRUST PROTECTORS and their designated agents or the United States Attorney's Office, District of Alaska, and shall render an annual written accounting to the TRUST PROTECTORS with a copy to the United States Attorney, District of Alaska. Such copy of the annual written accounting may be

sent to the United States Attorney, 222 W. 7th Avenue, Room 253, Anchorage, AK 99513. Such account shall, as to all matters shown therein or thereby, be final and binding upon all parties unless written objection to such accounting is made within ninety (90) days after such accounting has been rendered. No TRUSTEE shall be required to file or render periodic accounts in or to any court. No TRUSTEE shall be required to give any bond.

M. TRUSTEE's Compensation.

By executing this Agreement, First National Bank Alaska agrees to act as TRUSTEE hereunder and First National Bank Alaska shall be entitled to receive commissions or other compensations for its services as TRUSTEE in accordance with the schedule of rates, including applicable minimum fees and adjustments to conform to statutory rate changes, which First National Bank Alaska publishes and which shall be in effect from time to time or such other compensation as is agreed upon from time to time in writing. A copy of First National Bank Alaska's statement of commissions and compensations as of the date this Trust Agreement is attached as Exhibit F hereto.

N. Spendthrift Provision.

No beneficial interest in any trust created under this Trust Fund and this Trust Agreement, whether in income or in principal, shall be subject to anticipation, assignment, pledge, sale or transfer in any manner, and no beneficiary of any such trust or other person interested therein shall have the power to anticipate, encumber or charge his, her or its interest therein, and no trust estate created hereunder shall be liable for or subject to the debts, contracts, obligations, liabilities, and/or torts of any beneficiary of any such trust or other person interested therein.

O. Construction of this Agreement.

This Trust Agreement shall be construed under the laws then in effect in the State of Alaska at time of dispute resolution. Headings or captions used in this Trust Agreement are inserted for reference purposes only and shall not be deemed to limit or affect in any way the meaning or interpretation of any of the terms hereof. In the event of any dispute as to the meaning or interpretation of any terms hereof, or the administration of the Trust Fund, or if any controversy arises between the parties hereto or with any third person, the TRUSTEE shall not be required to determine the same or to take any action in the premises, but the TRUSTEE in its discretion may institute such court proceedings in connection

therewith as the TRUSTEE may deem proper. Enforcement and construction of this Agreement shall be by the United States Magistrate for the District of Alaska, if that Court has jurisdiction, upon motion in A04-003-01 CR (JWS), with notice to the United States Attorney's Office, District of Alaska. If any provision of this TRUST AGREEMENT is deemed unenforceable, the remaining provisions shall nevertheless be carried into effect. Any disputes not involving enforcement or construction of this Trust Agreement, but rather merely of a contractual or other nature between the TRUSTEE and third parties, may be resolved in any appropriate forum. The TRUSTEE shall give notice of such actions to the TRUST PROTECTORS and the United States Attorney's Office, District of Alaska, by copy of pleadings served upon the TRUSTEE through the United States Attorney at 222 W. 7th Avenue, Room 253, Anchorage, AK 99513. The beneficiaries, by virtue of their benefitted status under this Trust Agreement, and the TRUST PROTECTORS, are intended to have such standing or interest in such disputes as is provided under the law of the State of Alaska for trust beneficiaries.

P. Execution of Trust Agreement.

IN WITNESS WHEREOF, Josef Franz Boehm, acting by and through the undersigned, and the First National Bank Alaska, as TRUSTEE, acting by and

through its undersigned duly appointed officer, have executed this Trust Agreement effective on the day and year first above written.

TRUSTOR:

By: _____
JOSEF FRANZ BOEHM

ATTORNEY FOR JOSEF FRANZ BOEHM:

By: _____
Attorney for Josef Franz Boehm

TRUSTEE:
First National Bank Alaska

By: _____
Senior Trust Officer

UNITED STATES ATTORNEY'S OFFICE
DISTRICT OF ALASKA:

By: _____
TIMOTHY M. BURGESS
United States Attorney

By: _____
FRANK [REDACTED] RUSO
Assistant United States Attorney

By: _____
JAMES A. GOEKE
Assistant United States Attorney

Exhibit C

Month day, year

Dear Trustee:

By this document we appoint from the subject trust the sum of _____ dollars and ____ cents to be paid to :

Name
Address
City, State, zipcode

on behalf of _____ [Beneficiary Name]. You are directed to pay said amount to the above appointee at the address written above.

Sincerely,

Trust Protector

Trust Protector

Trust Protector

Exhibit E

Trust Protectors

Susan Brown
c/o Alaska Violent Crimes Compensation Board
450 Whittier St # 101
Juneau, AK 99801
(907) 465-3040

Susan Sullivan
c/o Victims For Justice
1057 W Fireweed Ln # 101
Anchorage, AK 99503
(907) 278-0977

Detective Steven Boltz
c/o Anchorage Police Department
4501 S Bragaw
Anchorage, AK 99507
(907) 786-2414