

COPY

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

| | | |
|----------------------------------|---|-----------------------|
| JEFFREY EPSTEIN and L.S.J., LLC, |) | |
| |) | |
| Plaintiffs, |) | CASE NO. ST-10-CV-443 |
| |) | |
| -vs- |) | ACTION FOR DAMAGES |
| |) | |
| FANCELLI PANELING, INC., |) | JURY TRIAL DEMANDED |
| |) | |
| Defendant, |) | |
| |) | |
| -vs- |) | |
| |) | |
| J.P. MOLYNEUX STUDIO, LTD., |) | |
| |) | |
| Nominal Defendant. |) | |

2012 MAR 21 PM 3:31
SUPERIOR COURT
OF THE VIRGIN ISLANDS

SECOND AMENDED COMPLAINT

COME NOW, the Plaintiffs, Jeffrey Epstein and L.S.J., LLC (collectively referred to herein as "Epstein"), by and through their undersigned counsel, Hodge & Francois, and in compliance with this Court's Memorandum Opinion and Order entered May 24, 2011 and Memorandum Opinion and Order entered on March 14, 2012, as and for their Second Amended Complaint against the Defendants, Fancelli Paneling, Inc. and J. P. Molyneux Studio, Ltd., state the following:

1. The Plaintiff, Jeffrey Epstein, is a resident of the United States Virgin Islands and is the sole member of L.S.J., LLC.
2. The Plaintiff, L.S.J., LLC ("LSJ"), is a limited liability company organized under the laws of the State of Delaware, and at all times relevant herein was the owner of Little St. James Island located off the coast of St. Thomas, United States Virgin Islands and maintains its principal address in the United States Virgin Islands.

3. Upon information and belief, at all times relevant herein, Defendant Fancelli Paneling, Inc. (“Fancelli”) was a corporation, incorporated in the State of New York engaged in the business of restoration and reproduction of antique wood panels and cabinetry in the United States, Canada and Europe. At all times relevant herein, Fancelli’s website at <http://www.fancelli-paneling.com> advertised Jean-Pierre Fancelli as a master of his craft, trained as an architect who “works directly with his clients and approaches his craft with the commitment to create spaces that reflect the perfect balance of harmony and timeless aesthetic.”

4. Upon information and belief, at all times relevant herein, Nominal Defendant J.P. Molyneux Studio, Ltd. was incorporated in the State of New York and maintained its principal place of business in the State of New York. J.P. Molyneux Studio, Ltd. is identified as a party in this action in compliance with this Court’s order and this Court’s determination that J.P. Molyneux Studio, Ltd. is a necessary party. The Plaintiffs have settled their claims against J.P. Molyneux Studio, Ltd. arising from the subject matter of this action (expressly preserving their claims against Defendant Fancelli Paneling, Inc.) and do not allege any claims or causes of action herein against J. P. Molyneux Studio, Ltd. or Juan Pablo Molyneux.

5. In 2005, Epstein engaged the architectural and design services of Juan Pablo Molyneux and J.P. Molyneux Studio, Ltd. (collectively, “Molyneux”) to design a large-scale, multi-structure, multi-million dollar residential project to be constructed on Little St. James Island in St. Thomas, U. S. Virgin Islands. As part of this project, Epstein contracted with Molyneux for the architecture and design of the interior and exterior of a separate building on Little Saint James Island known as the Office Pavilion.

6. Molyneux's services included the design, as well as the delivery and installation, of cabinetry, bookshelves, columns, and wood paneling (the "Library Cabinetry") for the library in the Office Pavilion. Molyneux's design for the library of the Office Pavilion, as agreed to by Epstein, required that the Library Cabinetry was to be a reproduction of the design, color, finish and proportions of the antique cabinetry, bookshelves, columns and wood paneling of the library at El Escorial in Spain. Photographs of the library at El Escorial are attached as **Exhibit "1"** hereto. Molyneux also presented Epstein with Molyneux's own rendering of the proposed Library Cabinetry. A copy of Molyneux's rendering is attached as **Exhibit "2"** hereto. On the basis of both the photographs of the library at El Escorial, including, without limitation, the photographs in **Exhibit "1"**, and the rendering in **Exhibit "2"** presented by Molyneux, Epstein approved the general design, color and finish of the proposed Library Cabinetry. In addition, Molyneux and Epstein agreed to certain refinements to that design which required that the columns and valences included in the general design be intricately carved with representations of marine flora and fauna consistent with a tropical locale. Additional intricate wood carvings of the same tropical theme were to be applied at various places on the Library Cabinetry as well.

7. Upon Molyneux's recommendation and at Molyneux's insistence, Epstein agreed with Molyneux that Fancelli would be contracted to fabricate and install the Library Cabinetry for the benefit of Epstein. As evidenced by representations made in Fancelli's website, Fancelli held itself out as skilled in intricate wood sculpting and specializing in the reproduction of fine antique cabinetry and woodwork. In fact, Fancelli's website advertised that Fancelli's "[t]eam of artisans, sculptors and cabinet makers uphold the tradition and carry

on the sophisticated art of fine wood paneling that graces the walls of some of the world's most beautiful interiors." Fancelli's website also advertised that its craftsmen are "able to carve intricate motifs as well as restore and replicate any antique design."

8. Molyneux entered into an agreement with Fancelli for the benefit of Epstein providing for the fabrication in accordance with Molyneux's design and installation on Little St. James Island of the cabinetry, bookshelves, columns, and wood paneling that constituted the Library Cabinetry ("Fancelli's Agreement"). The charge to Epstein for the fabrication and installation of the Library Cabinetry was \$780,000. Molyneux's \$780,000 proposal, accepted by Epstein, on which Fancelli's Agreement was based (the "Proposal") is attached as **Exhibit "3"** hereto. The Proposal specifically called for the fabrication and installation of "stained walnut with waxed finish cabinetry per JMP design".

9. Fancelli fabricated the Library Cabinetry in Europe and then shipped the disassembled pieces of the same in sealed crates to Little Saint James Island in or about May 2009.

10. Between May 2009 and March 2010, Fancelli installed the Library Cabinetry on Little St. James Island. As of the date of this Complaint, however, Fancelli failed to fully complete the proper installation, staining and finishing of the Library Cabinetry on Little St. James Island in accordance with the requirements of the Proposal, Molyneux's design and Fancelli's Agreement, and, as installed, the Library Cabinetry was incomplete and defective in numerous respects, including but not limited to, the following:

- A. Under the Proposal in **Exhibit 3** and Fancelli's Agreement and in accordance with Molyneux's design, the Library Cabinetry was to be made of "walnut," but was actually fabricated of oak instead of walnut;
- B. As evidenced by the photographs attached in **Exhibit 4**, as installed, the Library Cabinetry was discolored, its finish was sloppy and uneven, and carpenter's guide marks were apparent on the surface of various panels of the Library Cabinetry;
- C. As evidenced by the photographs in **Exhibit 1** and Molyneux's rendering in **Exhibit 2**, the Library Cabinetry was to be stained with darker colors and a rich antique finish. Under the Proposal in **Exhibit 3** and Fancelli's Agreement, the stained walnut cabinetry was to have a "wax finish". However, as evidenced by the photographs attached as **Exhibit 4**, as installed, the Library Cabinetry had a light or transparent color and a badly simulated, inconsistent distressed finish, contrary to the color and finish of the cabinetry in the library of El Escorial, contrary to Molyneux's rendering and design and contrary to the Proposal and Fancelli's Agreement.
- D. The method used to simulate the distressed finish, which was never agreed to by Epstein and was itself a violation of Fancelli's Agreement, incorporated a treatment which made the wood of the Library Cabinetry resistant to being re-stained and re-finished without first being stripped and sanded. The required stripping and sanding created a substantial risk of further damage to the Library

Cabinetry without any assurance that it could be re-stained and re-finished to achieve the originally agreed color and finish;

- E. Upon information and belief, various components of the Library Cabinetry were made of different types of wood thereby contributing to the lack of uniformity in color and finish evident throughout the Library Cabinetry;
- F. As installed, the surfaces and edges of the panels of the Library Cabinetry were rough and jagged (See Exhibit 4-G);
- G. Upon information and belief, the Library Cabinetry was treated with a finish which caused the wood to oxidize and change color so that some portions of the Library Cabinetry were grey in color and because it was not properly sealed, the Library Cabinetry continued to oxidize and change colors (see Exhibits 4-C, 4-E, and 4-F);
- H. Contrary to Fancelli's Agreement and Molyneux's original design, as installed, the proportions of Library Cabinetry were inconsistent with those of the library cabinetry in El Escorial;
- I. The decorative brass handles on the hardware holding the upper bookcases closed were breaking and falling off;
- J. The concealed hardware inside the swinging bookcases at the entry doors was falling off. The keys that operate the locks were breaking and the escutcheons at the keyholes were missing;
- K. The hinges on the swinging bookcase doors were misaligned;

- L. The connecting hardware at the sliding panels at the picture window was loose or broken;
- M. The wood filler pieces were gapping and open so that daylight shined through;
- N. Open joints in the woodwork, especially at the cornice allowed the cove lighting to shine through;
- O. Numerous carved pieces of wood at the cornice top edge were broken off and required repair and replacement;
- P. Several cabinet doors did not fit evenly and square within their frames;
- Q. The perforated panels at the tilt top desk panels were consistently unfinished on the right side. The perforations on the left side were shaped like flower petals, while the perforations on the right were simply drilled. (See Exhibits 4-B through 4-G);
- R. The exterior side (the side facing out and viewable from the exterior when looking into the windows) of the sliding panels was completely unfinished and incomplete (See Exhibit 4-H);
- S. The sliding panels covering the windows of the library in the Office Pavilion were improperly constructed;
- T. The overall workmanship and finish of the Library Cabinetry was of inadequate quality and inconsistent with the agreed upon design and the \$780,000 price of the Library Cabinetry.

11. Despite Epstein's demand therefor, Fancelli failed to fully complete the proper installation of the Library Cabinetry or to correct the numerous defects in the fabrication, workmanship, color and finish of the Library Cabinetry.

Count I - Breach of Contract

12. Plaintiffs repeat and reallege paragraphs 1 through 10 as though fully set forth herein.

13. Plaintiffs were the intended third party beneficiaries of the agreement between Molyneux and Fancelli.

14. Fancelli failed to fabricate, and properly complete the installation, staining and finishing of, the Library Cabinetry in accordance with the Proposal, Molyneux's design and Fancelli's Agreement.

15. All material obligations owed to Fancelli then had been performed under Fancelli's Agreement.

16. Fancelli breached Fancelli's Agreement by failing to fabricate, and properly complete the installation, staining and finishing of, the Library Cabinetry in accordance with the Proposal, Molyneux's design and Fancelli's Agreement.

17. As a direct and proximate result of every contractual breach by Fancelli, Plaintiffs have suffered damages that include but are not limited to \$780,000, plus additional expenses incurred to correct the defects in the Library Cabinetry, the loss of use of the funds paid to Fancelli through Molyneux; and the loss of time and effort of Epstein's staff and resources in the attempt to obtain Fancelli's performance of its contractual duties.

Count II - Negligence

18. Plaintiffs repeat and reallege paragraphs 1 through 11 as though fully set forth herein.

19. Fancelli at all times relevant hereto owed Epstein a duty of care and a duty to perform the professional services contracted for in a reasonable, competent, diligent, careful and good workman-like manner.

20. By virtue of the foregoing acts and omissions, Fancelli breached its professional duties owed to Epstein and was, at a minimum, negligent and careless in failing to exercise the requisite care, skill, knowledge and judgment required of Fancelli, and in doing so acted in a manner below the applicable standard of care.

21. As a direct and proximate result of the negligent acts and omissions of Fancelli, Plaintiffs have suffered damages that include but are not limited to \$780,000, plus additional expenses incurred to correct the defects in the Library Cabinetry, the loss of use of the funds paid to Fancelli through Molyneux; and the loss of time and effort of Epstein's staff and resources in the attempt to obtain Fancelli's performance of its contractual duties.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in Plaintiffs' favor and against Defendant Fancelli Paneling, Inc., awarding the following relief:

A. Award the Plaintiffs compensatory, general and special damages against Defendant Fancelli Paneling, Inc. in an amount proven at trial;

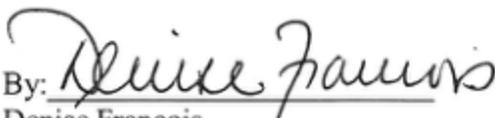
B. An award of costs and attorneys' fees against Fancelli Paneling, Inc. incurred by Plaintiffs in bringing this action;

C. An award of such further relief as this Court deems appropriate.

PLAINTIFFS DEMAND A JURY TRIAL ON ALL ISSUES TRIALABLE BY JURY

Respectfully submitted,
HODGE AND FRANCOIS

Dated: March 21, 2012

By: 

Denise Francois

V.I. Bar Association #285

1340 Taarneberg

St. Thomas, VI 00802

Tel. 

Fax. 

Email: 

*Attorneys for Jeffrey Epstein and
L.S.J., LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT that I caused a true and correct copy of the foregoing Second Amended Complaint to be served upon Treston E. Moore, Esquire, MOORE DODSON & RUSSELL, 5035 Norre Gade, St. Thomas, VI by hand delivery on this 21st day of March, 2011.

A handwritten signature in cursive script, reading "Denise Fancelli", written over a horizontal line.

EXHIBIT 1



EXHIBIT 1

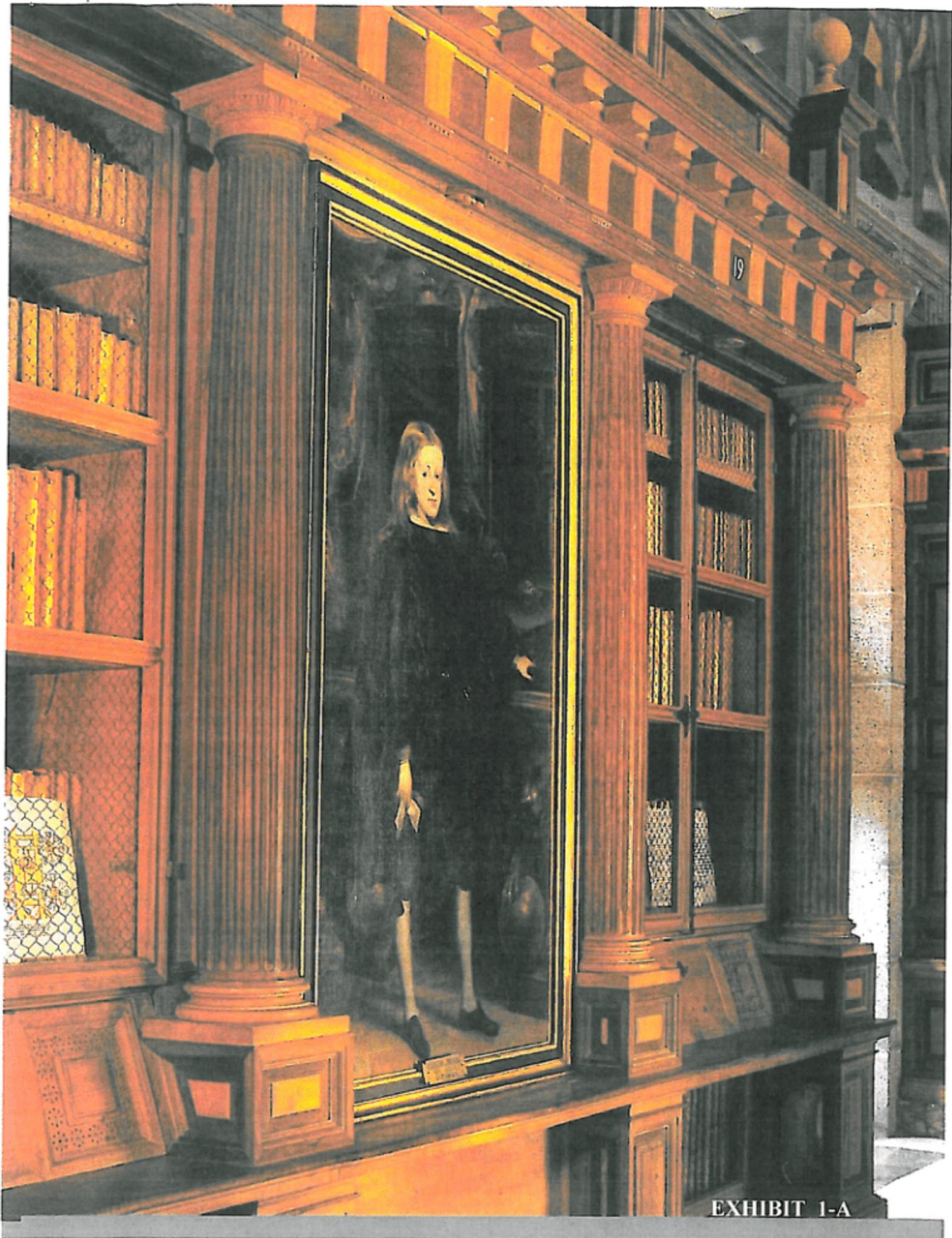


EXHIBIT 1-A

EXHIBIT 2

This is a
Reverse way -
Not a Photo.

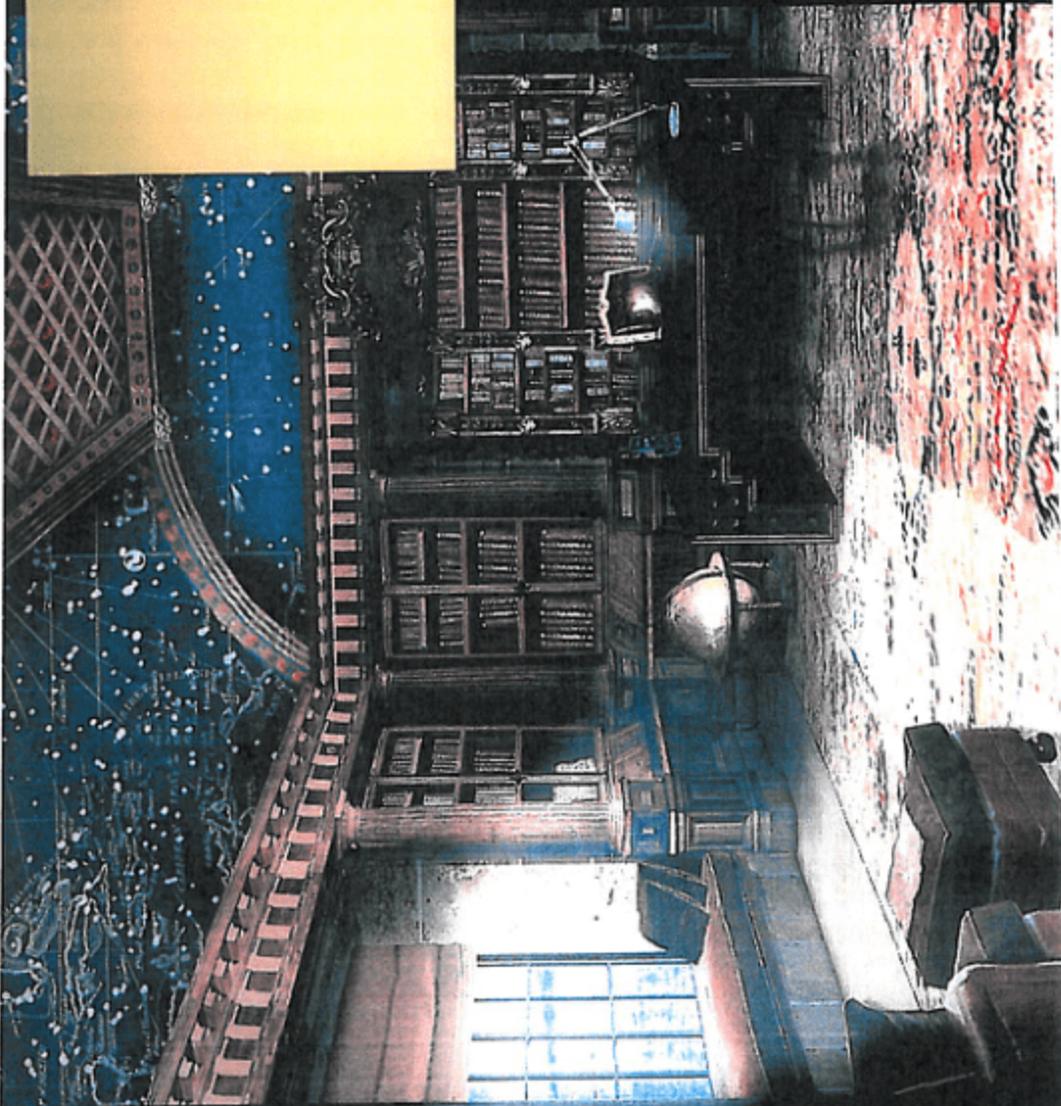


EXHIBIT 2

EXHIBIT 3

REVISED 6/6/06

MR. JEFFREY EPSTEIN
9 EAST 71ST STREET
NEW YORK, NY 10022

MAY 19, 2006

J. P. HOLYNEUX STUDIO, LTD.
PROPOSAL NO. 29764 PAGE 1

| | AMOUNT | DEPOSIT | ITEM |
|---|---------------|--------------|-------|
| OFFICE & SITTING AREA - WOODWORKING Fabrication and installation of <u>stained walnut</u> with waxed finish cabinetry per JPH design. Will include survey, shop drawings, molding of base, lower cabinetry with doors and upper bookshelves, 3 hidden cabinet doors and interior window shutters, columns with bases and crown. Will include packing, insurance and waterproof container to St. Thomas and crew travel. Cost will not include 2 globes, flat base (stone), transportation of goods to St. James, scaffolding, local taxes, customs or workmen's accommodations (hotel or expenses). | | | |
| VENDOR: ATELIER FANCELLI [-0.00-]. | \$ 780000.00X | \$ 195000.00 | 42178 |
| TOTAL | \$ 780000.00 | \$ 195000.00 | |

PLEASE RETURN PROPOSAL WITH 25.00% DEPOSIT WHICH IS... \$195000.00
TAX AND JPH FEE INCLUDED IN DEPOSITS REQUIRED ABOVE.
X=NO TAX S=SPECIAL TAX
SUBJECT TO 8.625% TAX, DELIVERY ADDITIONAL (F.O.B. ORIGIN)
PLEASE MAKE YOUR CHECK PAYABLE TO: J.P. HOLYNEUX STUDIO, LTD.

ACCEPTED: _____ DATE _____

EXHIBIT 3

EXHIBIT 4



EXHIBIT 4

EFTA01120448



EXHIBIT 4-A

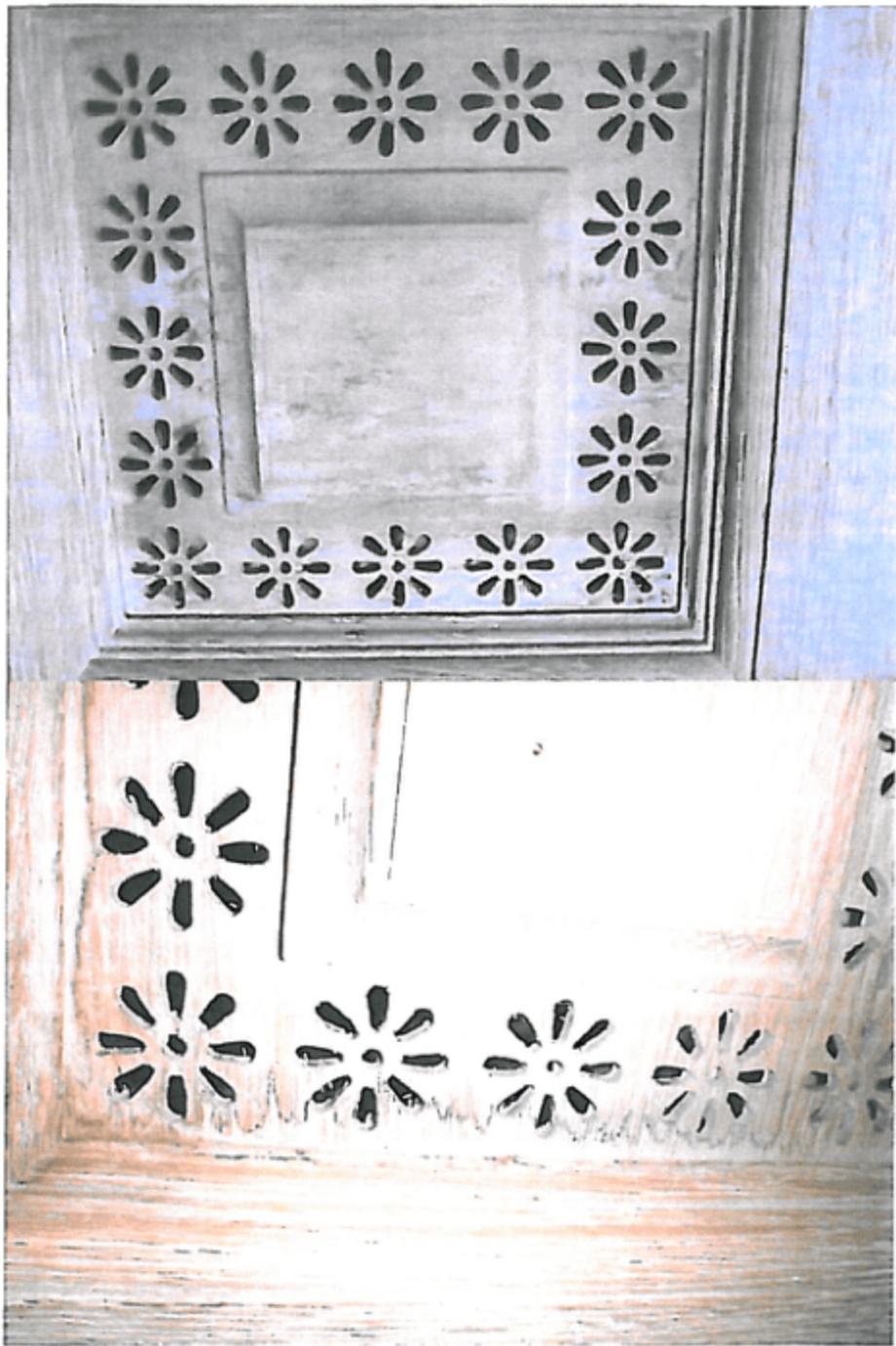


EXHIBIT 4-B

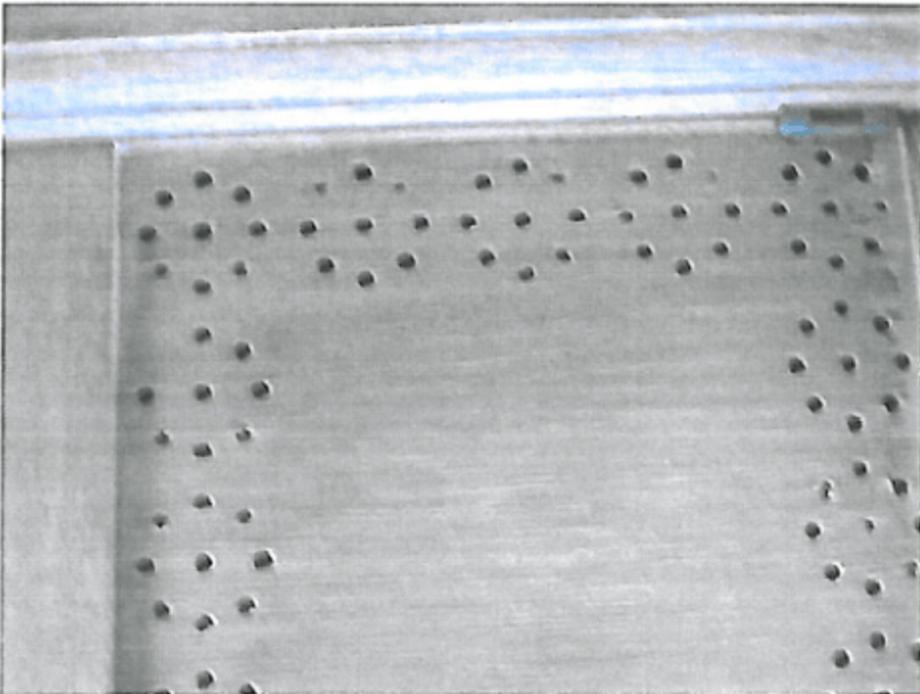


EXHIBIT 4-C

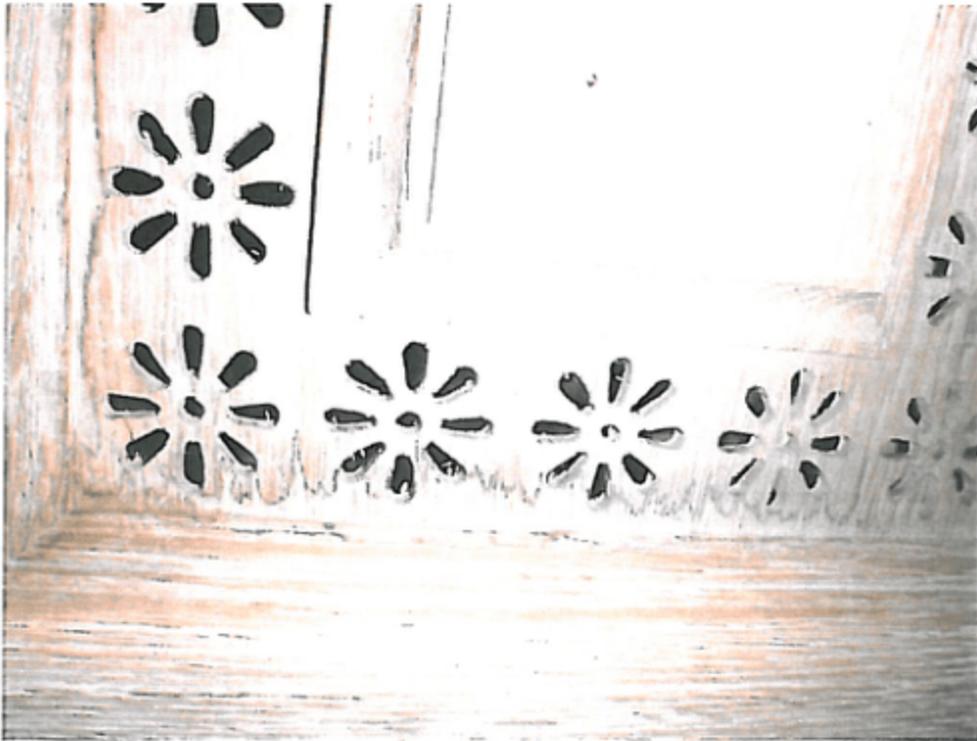
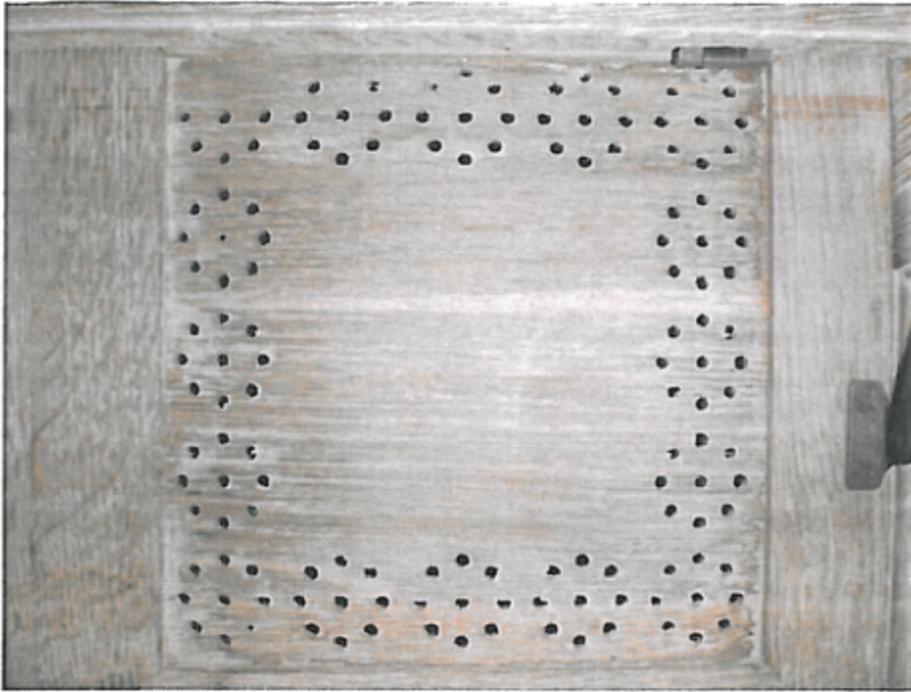


EXHIBIT 4-D

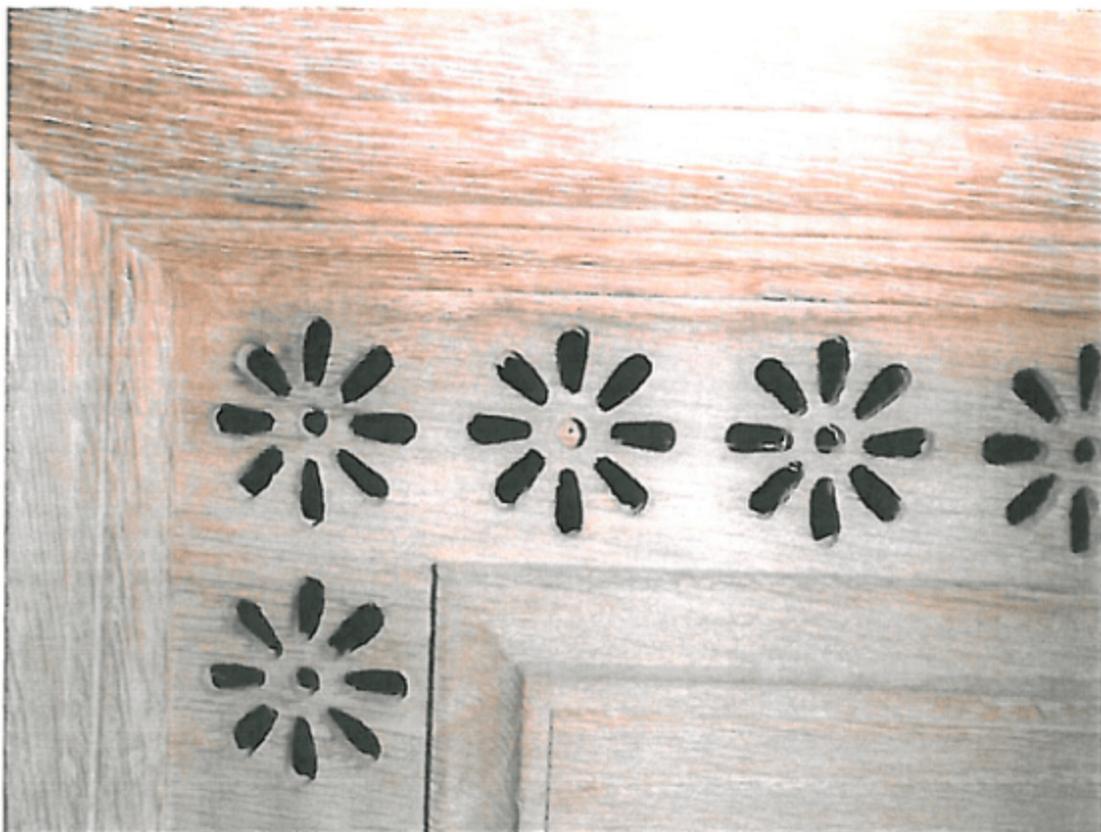
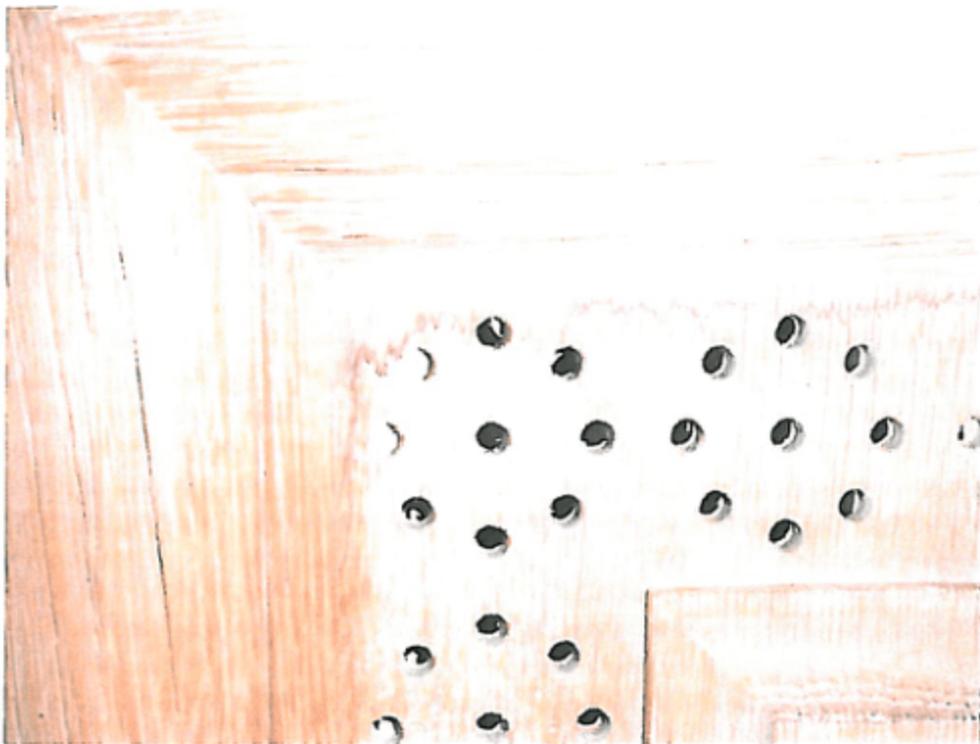


EXHIBIT 4-E

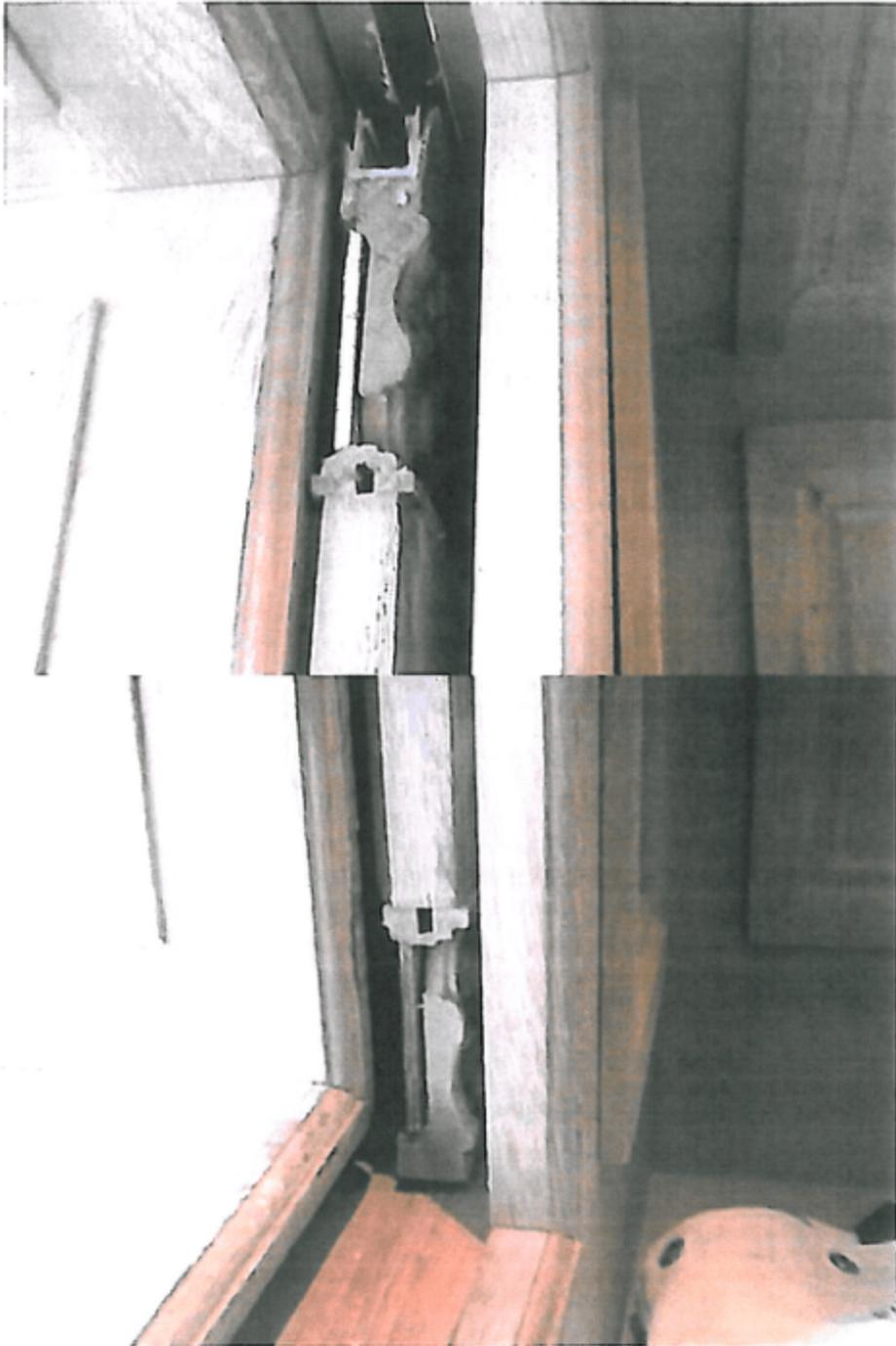


EXHIBIT 4-F

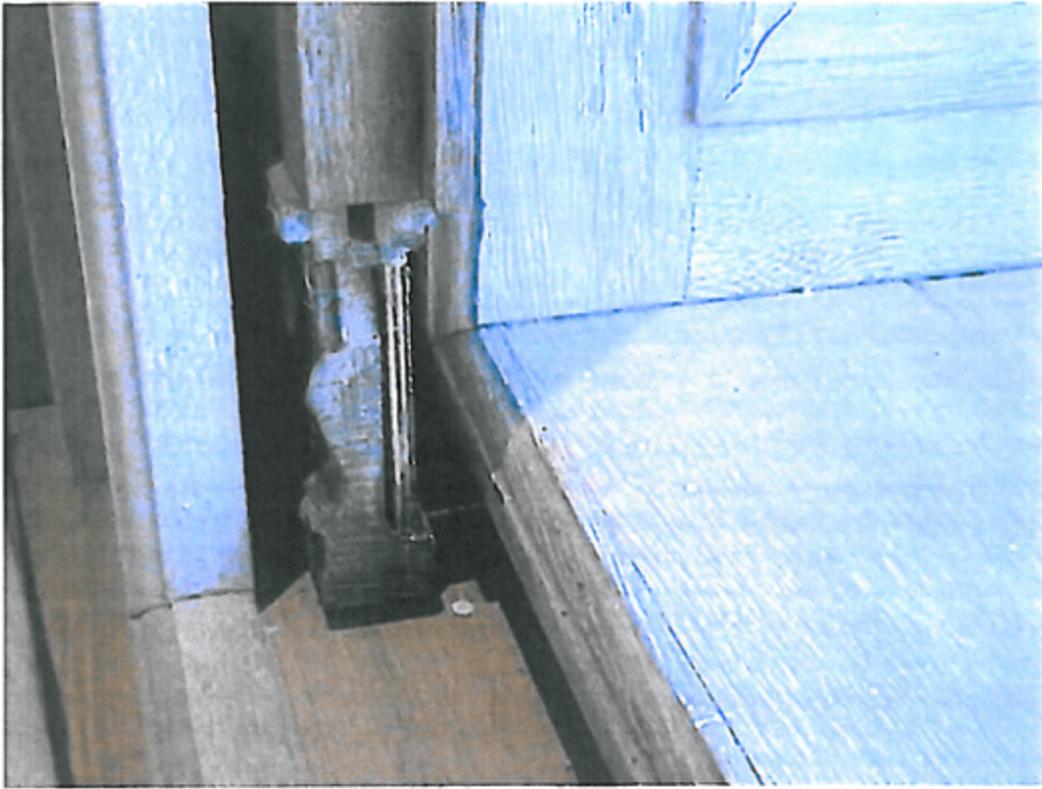


EXHIBIT 4-G

EFTA01120455

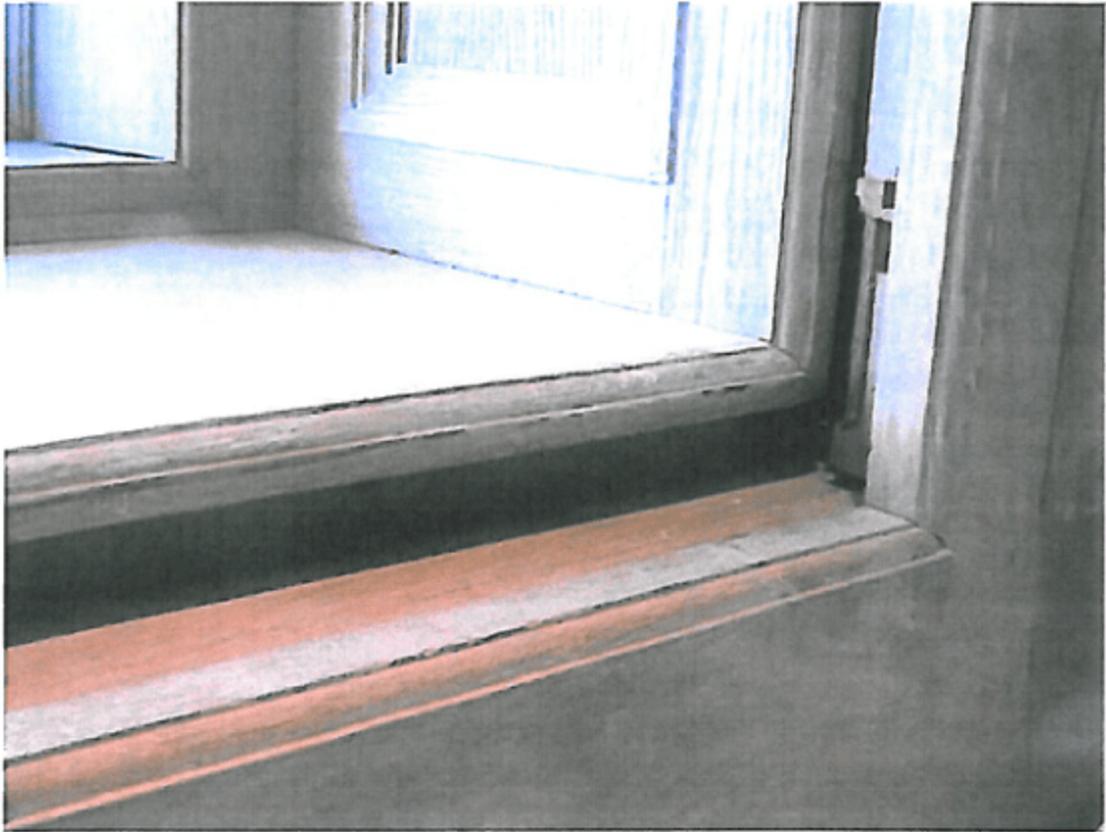


EXHIBIT 4-H

EFTA01120456

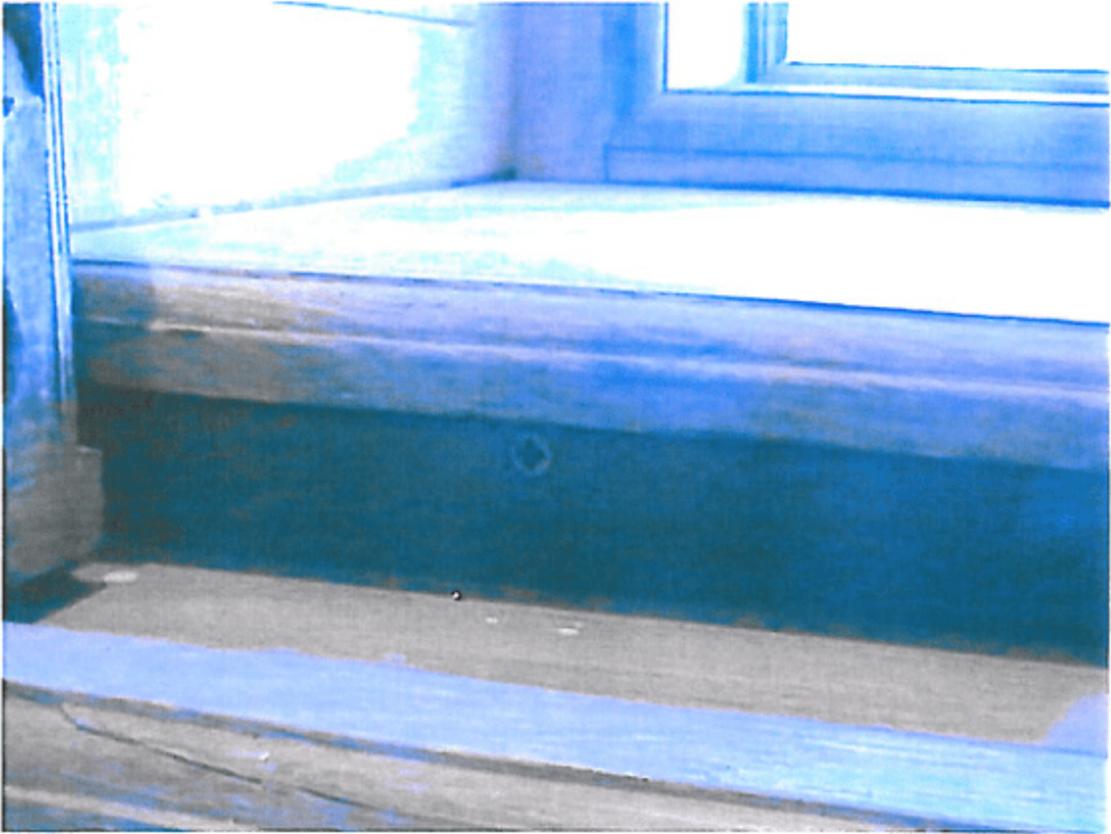


EXHIBIT 4-I

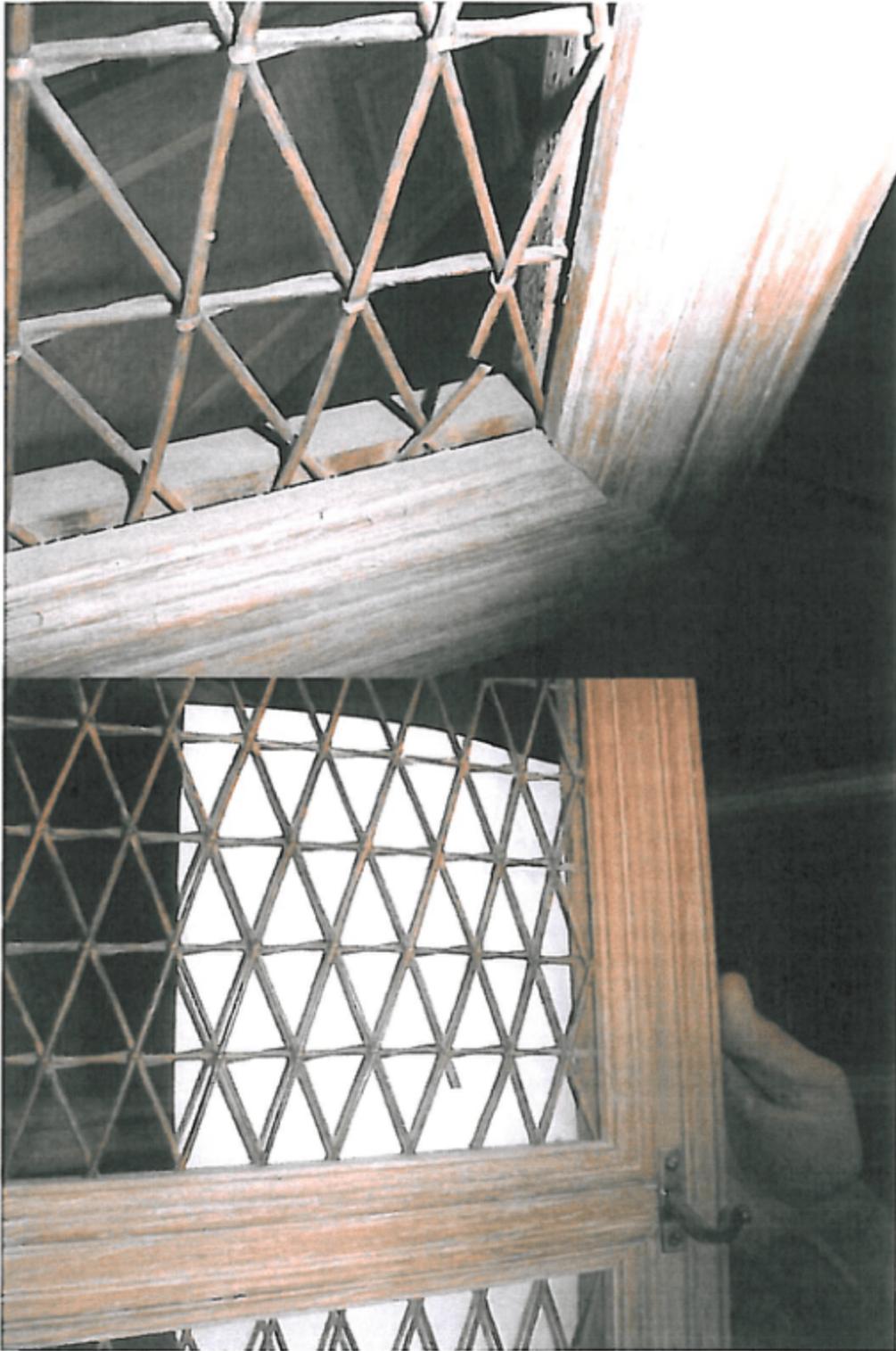


EXHIBIT 4-J



EXHIBIT 4-K



EXHIBIT 4-L



EXHIBIT 4-M

EFTA01120461



EXHIBIT 4-N

EFTA01120462

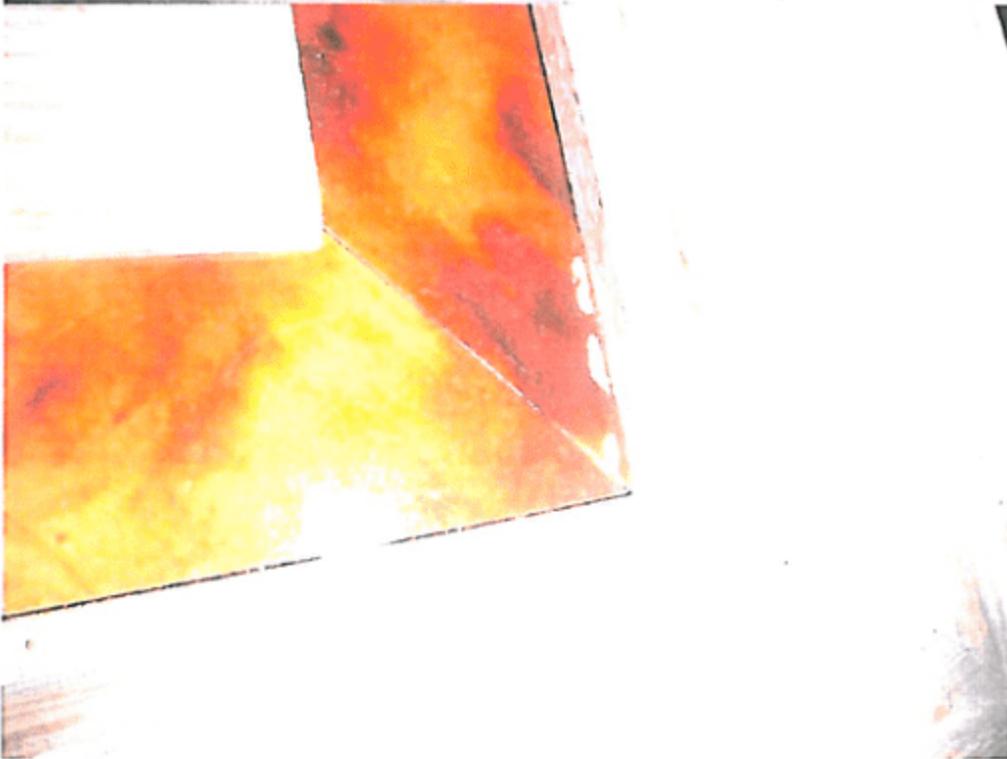


EXHIBIT 4-O



EXHIBIT 4-P

EFTA01120464



EXHIBIT 4-Q