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September 12, 2002

VIA FAX (310) 552-4909

Wayne Pariser, Esq.  
1925 Century Park East  
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Re: *Shafir v. Nicherie 01-01507 CAS (JWJx)*

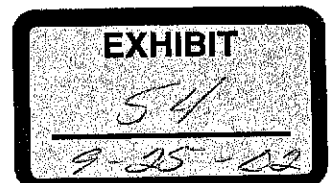
Dear Mr. Pariser:

I am in receipt of your letter dated August 30, 2002 where you respond to my faxed letter of August 28, 2002. In that fax I provided notice to you that Daniel Nicherie, as purported trustee of the pension plan was in violation of reporting and compliance requirements. Your response was to inform me that you do not represent Daniel Nicherie in the pension plan case, under the belief that your representation was limited to the within RICO action. You further expressed your belief that the pension action and the RICO action are not related.

Paragraphs 219 through 226 of the first amended complaint in the RICO action set forth the allegations relating to your clients' racketeering activities with respect to Amtec's pension plan.

You have acknowledged that Daniel Nicherie purports to be the trustee of Amtec's pension plan. You further acknowledge that Daniel Nicherie is a convicted felon, and among other matters, he fails to comply with reporting requirements, notwithstanding the fact that his representation of Amtec's profit sharing plan is otherwise unlawful.

As I informed Mr. Moore last week, Daniel Nicherie is in violation of 29 U.S.C. 1111, a matter directly relevant to these RICO proceedings.



## **Sec. 1111. - Persons prohibited from holding certain positions**

### **(a) Conviction or imprisonment**

No person who has been convicted of, or has been imprisoned as a result of his conviction of, robbery, bribery, extortion, embezzlement, fraud, grand larceny, ... shall serve or be permitted to serve -

#### **(1)**

as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee, or representative in any capacity of any employee benefit plan,

#### **(2)**

as a consultant or adviser to an employee benefit plan, including but not limited to any entity whose activities are in whole or substantial part devoted to providing goods or services to any employee benefit plan, or

#### **(3)**

in any capacity that involves decision making authority or custody or control of the moneys, funds, assets, or property of any employee benefit plan, during or for the period of thirteen years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least three years after such conviction or after the end of such imprisonment, whichever is later, or unless prior to the end of such period, in the case of a person so convicted or imprisoned

...

### **(b) Penalty**

Any person who intentionally violates this section shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

Moreover, the statute contains provisions relating to any person interfering with the exercise of any right under these pension plan rules, as follows:

## **Sec. 1141. - Coercive interference**

It shall be unlawful for any person through the use of fraud, . . . to restrain, coerce, intimidate, or attempt to restrain, coerce, or intimidate any participant or beneficiary for the purpose of interfering with or preventing the exercise

of any right to which he is or may become entitled under the plan, this subchapter, section 1201 of this title, or the Welfare and Pension Plans Disclosure Act (29 U.S.C. 301 et seq.). Any person who willfully violates this section shall be fined \$10,000 or imprisoned for not more than one year, or both

The purpose of this information is strictly intended to provide you and your client with the notice requirements of these federal statutes in the interests of persuading him to terminate his unlawful representation. Moreover, since the statute refers to a willful violation, I want to establish, in no uncertain terms, his knowledge of these provisions.

Very truly yours,



Mark Estes, Esq.