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**ORIGINAL**

**FILED**

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U.S. COURT OF  
FEDERAL CLAIMS

UNITED STATES COURT of FEDERAL CLAIMS

**11-601 C**

Christopher Kortlander, and the  
businesses Historical Rarities, Inc.; The  
Custer Battlefield Museum, Inc.; The  
Elizabeth Custer Library and Museum,  
Inc.

Plaintiffs,

vs.

The United States of America,  
Department of the Interior, Bureau of  
Land Management, U.S. Fish and  
Wildlife Service.

(Federal) Defendants.

CLAIM FOR  
COMPENSATORY DAMAGES

Federal Tort Claim

Cause number:

COMES NOW Plaintiffs: The Custer Battlefield Museum, Inc.; Historical Rarities, Inc.; The Elizabeth Custer Library and Museum, Inc.; and CHRISTOPHER KORTLANDER, hereinafter KORTLANDER, by counsel, pursuant to the various statutes and regulations of those legislative acts collectively known as the Federal Tort Claim Act [including 28 U.S.C. § 1346(b), 28 U.S.C. § 1402(b), 28 U.S.C. § 2401(b), 28 U.S.C. § 2402, 28 U.S.C. §§ 2671-2680, and 28 C.F.R. §§ 14.1 - 14.11] does make claim for relief and damages against the United States of America, through its agencies and divisions including the Department of the Interior, the Bureau of Land Management, the U.S. Fish and Wildlife Service, ~~the Federal Bureau of Investigation, the United States Attorney and other unknown federal agents and agencies, as follows:~~

### **JURISDICTION**

1) Jurisdiction in this Court is founded on the existence of a federal question pursuant to 28 U.S.C. § 1346(b) and the Federal Tort Claim Act (hereinafter "FTCA"), including its various amendments and the regulations related thereto, and the deprivation of civil rights pursuant to 28 U.S.C. 1343(a)(3). Further, Plaintiff's aver that the requirement for submission of a claim to the United States pursuant to 28 U.S.C. § 2675 have been fully complied with. The administrative claim was served upon the BLM, 5001

Southgate Drive, Billings, MT 59101, on September 16, 2010, and upon the Interior Department by U.S. Mail at Washington, D.C. The administrative claim is attached hereto as Exhibit "A" and incorporated herein by reference.

2) Now, more than six months has passed since notice of the administrative claim against the United States has been served as set forth above, and NO response to said claim having been received from the United States -- thus satisfying the requirements of 28 U.S.C. § 2401(b) – this action is commenced as authorized by the FTCA.

### **PARTIES**

3) Plaintiff CUSTER BATTLEFIELD MUSEUM, INC., is a Montana not-for-profit corporation, recognized as a 501(c)(3) organization by the Internal Revenue Service. Plaintiff HISTORICAL RARITIES, Inc., is a Montana corporation. Plaintiff ELIZABETH CUSTER LIBRARY AND MUSEUM, Inc., is a Montana not-for-profit corporation recognized as a 501(c)(3) organization by the Internal Revenue Service. Plaintiff CHRISTOPHER KORTLANDER<sup>1</sup> is a resident of the State of Montana, residing at Garryowen<sup>2</sup>, Montana.

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<sup>1</sup> Chris Kortlander is Founding Director of the Custer Battlefield Museum. He was the Governor's Tourism Person of the Year (2004) for Montana. He has served as a deputy Big Horn County Sheriff in Montana. He is a member of the FBI's Infragard public-private partnership program.

<sup>2</sup> Garryowen, Montana is a privately owned township located on the Custer Battlefield at the location of the Sitting Bull Camp. The site is where the Battle of the Little Big Horn began, June 26, 1876 that resulted in the annihilation of much the U.S. 7<sup>th</sup> Cavalry under the command of George Armstrong Custer. Located on the

4) Defendant(s) are the United States of America, the Department of the Interior, the Bureau of Land Management which was the lead agency in all matters related to this claim. The U.S. Fish and Wildlife Service worked with the Bureau of Land Management and the extent its role is uncertain to Plaintiffs. The full extent of the involvement of the U.S. Fish & Wildlife Service will be determined in the course of discovery.

### **PRELIMINARY STATEMENT OF FACTS**

5) KORTLANDER is a resident of Garryowen, Montana, and operates several business entities, all located at the Town of Garryowen, which he owns. Garryowen is a wholly owned private town, located on fee land within the external boundaries of the Crow Indian Reservation.

6) On or about March 31, 2005, KORTLANDER and KORTLANDER's buildings were the target of a federal raid by dozens of federal agents armed with automatic weapons. KORTLANDER, his employees, volunteers, plus a business tenant on the premises and its employees were threatened with automatic weapons pointed at their persons.

7) Many items were seized, and many areas beyond the scope of the original search warrant were accessed by use of force and intimidation.

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banks of the Little Big Horn river, it is also the site of the only tomb of an unknown U.S. soldier outside of Arlington National Cemetery

8) In the ensuing months and years, federal agents systematically destroyed KORTLANDER's businesses and his reputation with an ongoing pattern of false allegations and lies to KORTLANDER's business and social contacts, using threats and intimidation to obtain testimony negative to KORTLANDER.

9) Between 2005 and 2008, federal agents extensively investigated KORTLANDER while simultaneously destroying his businesses and reputation, through innuendo and out right lies.

10) In 2008, the BLM conducted a second raid, executing a Search Warrant, at Garryowen, this time seizing items on display at the Custer Battlefield Museum on the premises. Several items were seized in that raid.

11) In 2009, the United States Attorney for Billings, Montana determined that NO charges were to be filed against KORTLANDER as a result of any of the raids or investigations conducted over a period of more than five (5) years.

12) At no time did the BLM or any federal agency document any criminal activity by KORTLANDER, although beginning with the 2005 raid, repeated allegations of criminal activity were asserted by federal agents and the United State Attorney against KORTLANDER directly and through his attorneys.

13) In 2009, the BLM returned many of the items seized in the raid of 2005, and one of the items seized in the 2008 raid, stating that it (the BLM) was going to retain all items it deemed to contain contraband, including many items containing eagle and migratory bird feathers.

14) Neither the BLM nor the United States Attorney has offered any legal basis for the retention of ANY of the items that were seized during the 2005 and/or the 2008 raids. Nor has the BLM nor any agency of the United States provided any information, operation plan or statements of witnesses justifying any investigation, sting operation, raid or seizure, confiscation or conversion of property of KORTLANDER or of any business entity, which he owns or with which he is associated. Rather, the United States of America, through its agents and agencies has engaged in a common course of conduct over time to damage KORTLANDER and his business interests.

15) This claim involves the procedures, policies, and activities of federal agents. The actions of the agent(s) were such that they endeavored to create a situation where KORTLANDER was set up to commit a crime, although there was NO credible evidence that KORTLANDER would otherwise commit a crime. The entrapment effort of the agents and agencies involved in investigating KORTLANDER were in direct violation of the policies and procedures of the agencies involved, the laws of the United States and in

violation of KORTLANDER's (and every other American's) Constitutional rights.

16) KORTLANDER committed no crime, no evidence of a crime was ever realized; no criminal charges whatsoever were filed. The only wrongful acts were those of the United States and its agents. The only victims in this whole matter were the Plaintiffs.

**COMPREHENSIVE RECITATION OF RELEVANT FACTS:**

17) KORTLANDER is a resident of and the owner of Garryowen, Montana and operates several business entities, all located at the Town of Garryowen, a wholly owned private town. The town consisted of the Custer Battlefield Museum, a Subway Sandwich Shop, a Conoco gas station, a C-store (convenience store), a U.S. Post Office, and a Trading Post (then owned and operated by Putt Thompson). In addition, KORTLANDER headed a for-profit corporation, Historical Rarities, Inc., which dealt in historical artifacts and was a substantial source of the funding for the ongoing operation of the Custer Battlefield Museum, a non-profit 501(c)(3) organization.

18) KORTLANDER has been recognized for promoting and developing tourism in Montana. In that regard KORTLANDER had built the Custer Battlefield Museum, rebuilt the Town of Garryowen, Montana, and bought and sold Custer collectables through Historical Rarities. Construction of

Garryowen included the largest EPA environmental cleanup in the State of Montana, up to that time. In addition, in 2005, he had announced plans to expand and develop the Garryowen site to include a second museum, built around the recently acquired collection of the historical Libby Custer manuscripts, the largest collection in existence, consisting of over 5000 items, as collected and preserved by General Custer's widow, Elizabeth Custer. The budget for this new museum was \$30,000,000.00.

19) The Little Bighorn Battlefield is an area more than five (5) miles long and one (1) mile wide, and only a small portion of the battlefield is part of the Little Bighorn Battlefield National Monument. The majority of the land, including the place where the battle began (Garryowen), is fee land in private ownership.

### **BUYING AND BUILDING GARRYOWEN**

20) KORTLANDER previously lived in Malibu, California. Malibu was devastated by wildfires in November, 1993, also destroying KORTLANDER's residence. The area was declared a Federal Disaster Area by President Bill Clinton. Only nine days before the fire, KORTLANDER bought an option to purchase the historic town site of Garryowen, Montana, the only town inside the perimeter of the Custer Battlefield. This option, which was exercised after



the fire, allowed KORTLANDER to apply for and receive disaster-related financing which, in part, helped construct/rebuild the town of Garryowen.

21) The application was submitted immediately after the fire, and was approved about a year later. Garryowen was built in 1994-1995. When the building was framed and the roof was still being built, KORTLANDER moved to Garryowen.

### **THE CUSTER BATTLEFIELD MUSEUM**

22) In December, 1991, under President George Bush, the federal government changed the name of the Custer Battlefield National Monument to the Little Bighorn Battlefield National Monument, and abandoned the name Custer Battlefield Museum. KORTLANDER filed to take the name as soon as it became available.

### **LEE LINGARD and JASON PITSCH**

23) In 1996, KORTLANDER, dated Cathy Lingard. She was the ex-wife of Lee Lingard, a BLM undercover Special Agent and a former Navy SEAL. Feeling threatened by her ex-husband, she obtained a restraining order against Lee Lingard. Lee Lingard continued to use his position within the BLM to monitor her activities. This was also true when she began dating KORTLANDER.

24) Lingard utilized a 'snitch' named Jason Pitsch to interact with KORTLANDER's businesses, especially Historical Rarities, which focused on buying and selling western collectibles with an emphasis on items associated with the famous Custer's Last Stand of 1876. Pitsch had long-term relationship with Lee Lingard, enjoying a common interest, especially in shooting Lingard's machine guns, and buying and selling Nazi collectibles. Pitsch was building the (Nightengale/Smith) 'Fort Custer' adjacent to Garryowen at about the same time KORTLANDER was building Garryowen. Pitsch befriended KORTLANDER, revealing that he was working 'undercover' with the BLM for the federal government.

25) Pitsch had been selling Custer Battlefield artifacts on EBay and was investigated for possibly selling contraband artifacts. In the process of the investigation, Pitsch was converted into a paid BLM undercover/confidential informant, based upon his connections to those who dealt in Custer- and Indian-related artifacts in the region.

26) Lingard utilized Pitsch and his relationship with KORTLANDER to monitor his ex-wife and her relationship with KORTLANDER. Lee Lingard surveilled KORTLANDER and Cathy Lingard when she would visit Garryowen, at times spending the night, utilizing his government vehicle and equipment to spy upon the couple. KORTLANDER and Cathy Lingard's

relationship dissolved after a few months, because of the issues involving Lee Lingard.

27) From 1995 to 1998, Pitsch functioned as something of a “double agent” and provided information to his BLM handlers, while slipping information to KORTLANDER, among others. During these years, whenever Pitsch was coming to Garryowen with then undercover BLM agent Lee Lingard (his BLM handler), Pitsch would advise KORTLANDER of Lingard’s intent to visit Garryowen to look for any activity dealing in contraband artifacts. There was never any such activity at Garryowen, but Pitsch was interested in parlaying his “informant” status into whatever ego-boost or potential prestige that would serve to enhance his perceived personal value and credibility. Pitsch bragged about his association with federal agents and agencies. He repeatedly claimed he was a paid confidential informant working under Lee Lingard. Early in their relationship, Pitsch told KORTLANDER of his informant status and that information was later confirmed by Lingard’s ex-wife.

28) KORTLANDER turned Lee Lingard in to the Office of the Inspector General (OIG) in 1995, and because of threats reported by Cathy Lingard regarding Lee Lingard’s conduct and behavior which compromised Cathy Lingard’s and KORTLANDER’s safety. OIG said they would investigate the

matter. In a response dated February 9, 1996, the BLM said their internal affairs division had been advised of the OIG investigation into Lingard.

29) OIG brought in a three-man internal affairs team from Washington, D.C. to the Billings BLM headquarters to investigate KORTLANDER's report. As a result of the OIG investigation, the BLM undercover investigative division involving Lee Lingard was disbanded.

30) In 1998, Lingard's paid informant, Jason Pitsch, was snared in a nationwide FBI child pornography sting. He was convicted and sentenced to three years in federal prison, but suspended on condition of his successful completion of probation. He subsequently violated his probation, resulting in his having to serve out his prison time.

### **PITSCH COLLECTED ARTIFACTS**

31) Jason Pitsch used a metal detector to locate and obtain many Custer artifacts from his father's land, which is inside the exterior perimeter of the Custer Battlefield (NOT to be confused with the Little Bighorn Battlefield National Monument). The Pitsch property borders KORTLANDER's Garryowen property. Much of the property owned by Pitsch's father is now owned by the Custer Battlefield Preservation Committee (CBPC).

KORTLANDER acquired many artifacts directly from Pitsch over a span of several years, and in these transactions Pitsch provided KORTLANDER with a

copy of Lingard's letter. KORTLANDER acquired additional battlefield and Custer-related artifacts from Pitsch's bankruptcy sale conducted by the Small Business Administration (SBA), from KORTLANDER's own private land at Garryowen, and at other public auctions which used the BLM Lingard letter.

### **THE LINGARD LETTER**

32) While Pitsch was obtaining funding for the construction of the structure previously identified as "Fort Custer", but now referred to as the Smith/Nightengale Fort, an issue arose concerning the status of artifacts found on the land. The land was privately owned fee land and there had been some question as to the legality of owning and selling artifacts found and removed from the property. September 15, 1994, Lee Lingard wrote a letter (See Exhibit "B" attached) on official BLM/DOI letterhead to Pitsch's bank, providing the government's opinion that Pitsch's Custer Battlefield artifacts were legally obtained, ostensibly because the items in the collection were found on private, not federal land. The bank required the documentation so that the artifacts could be pledged, and the bank could accept those artifacts as collateral for a federally funded SBA loan. Granted, the loan allowed Pitsch to build a fort-style building next to Garryowen.

33) Lingard's letter would later serve as evidence of legitimacy for many -- including Pitsch, KORTLANDER and others -- in the sale of artifacts

acquired from private fee land around the battle site owned by Pitsch and others.

34) A decade later, the BLM claimed it sent KORTLANDER a letter instructing him to “cease and desist” using Lingard’s letter on his EBay auctions. Attempting to discredit the letter with the BLM explanation was that Lee Lingard had no legal standing to make such an authentication claim for the pieces in question, because he had not seen them physically removed from non-federal lands. In 2005, the letter Lingard letter would be a key element of the BLM’s case against KORTLANDER when the BLM went before a federal magistrate to obtain a Search Warrant, as will be discussed more below.

35) In 1994, the Lingard letter had been used to justify the financing of a federally guaranteed SBA loan to Pitsch. The letter justified the SBA guarantee of a \$600,000 loan based upon Pitsch’s ability to claim legal possession of the artifacts in question, as well as the right to sell, pledge, or otherwise possess and transfer such artifacts. Later, when the SBA foreclosed on Pitsch, the same letter was then used by the SBA to document that the artifacts were legal for private parties to buy, possess, and sell. The SBA consigned the collection to a public auction on the east coast of the United States. As a result of doing business with Lingard’s paid confidential informant (Pitsch), the SBA suffered a loss of \$500,000 of the more than \$600,000 the SBA had guaranteed.

**BART FITZGERALD**

36) In 1996, the BLM brought a new Special Agent into Montana from Utah. Bart Fitzgerald was appointed to be the Special Agent in Charge of BLM law enforcement in Montana. The highlight of BLM Special Agent Bart Fitzgerald's career had come earlier in 1996 in Utah, when he aided in the capture of infamous artifact thief, Earl Shumway. The feat earned Fitzgerald a three (3) page feature article in the June 10, 1996 edition of People Magazine titled Grave Responsibility. It also resulted in a 6 ½ year prison sentence for Shumway, by far the longest (if not the first-ever) prison sentence meted out for stealing artifacts from (Anasazi) Indian burial sites.

37) In Montana, Fitzgerald and his fellow agents were energized to pursue vandals and grave robbers with more confidence, and were expected to produce results. Over the next several years, Fitzgerald labored to justify his promotion and placement in Montana.

38) As the BLM Special Agent in Charge in Montana, Fitzgerald would have been was Lee Lingard's supervisor. Fitzgerald would have acted to remove Lingard from the BLM, resulting in Lingard's transfer to HUD. These changes in the BLM undercover operations and in Lingard's job were the direct result of KORTLANDER's 1995 complaint to the OIG.

39) Publicized successes for the BLM and Fitzgerald in Montana were slow in coming. Thus it was, in March, 2005, that the BLM, with Fitzgerald the Special Agent in Charge, accompanied by two dozen federal agents descended on Garryowen, Montana, with weapons drawn and a defective search warrant in search of evidence regarding the sale of a button. One button.

### **BRIAN CORNELL**

40) Brian Cornell, BLM Special Agent, was the lead agent in the investigation and in the interrogation of KORTLANDER.<sup>3</sup> He was the affiant in the application for both search warrants. Brian Cornell was an aggressive agent, seeking to gain a conviction. The need for a conviction became greater as the costly "investigation" progressed. The cost of the 2005 raid alone, with dozens of federal agents from several states, would require results. Thus, the investigation pursuing ANY infraction that would result in a conviction was pursued, until the investigation was terminated in August, 2009.

### **THE INVESTIGATION OF KORTANDER AND GARRYOWEN**

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<sup>3</sup> However, this was not the first investigation in which Cornell had been involved, and it was not the first time that Cornell had a problem with the content of a search warrant.

In 2003, Cornell was involved in the issuance and execution of a search warrant on Mr. Dan Boechler. Problems with the warrant were challenged by Boechler's attorney in a Motion to Re-open Evidentiary Hearing, and a Suppression Hearing. Boechler's attorney expressed serious concerns with Cornell's testimony in that case, and a motion for judicial review of the matter was made moot because of a Plea Agreement to reduce charges to misdemeanors, instead of the felonies that had been charged in the original Indictment.

In a May 26, 2005 follow-up letter to the Inspector General for Program Integrity, Department of the Interior in Washington, D.C., Boechler's attorney wrote: "Based upon my knowledge of the circumstances, I do not believe that Agent Cornell made an inadvertent or good faith mistaken statement during the course of his testimony. Although there was a large team of law-enforcement personnel who assisted Agent Cornell in the execution of the warrant, none could, or would, verify [Cornell's statement that necessary documents] accompanied the Warrant on the search; and certainly none were able to testify that it was served with the Warrant. It is my belief that Agent Cornell's testimony was materially false."



41) The investigation of KORTLANDER, which is the subject of this claim, began in 2003, with complaints from an unnamed source. Upon information and belief, the complaint used by the BLM to reopen its investigation was received from a former BLM employee who felt that the use of the Lingard letter was inappropriate by KORTLANDER. No complaint was ever received from any customers of KORTLANDER or customers of any of the Plaintiffs.

#### **THE 2005 SEARCH WARRANT**

42) The BLM stated in its application for the search warrant that items sold by KORTLANDER on EBay and elsewhere consisted of small artifacts, such as small arms ammunition casings, buttons, bullets, and such. However, no items of Native American Indian origin were reported and alleged by the BLM to have been sold by Plaintiffs on EBay nor anywhere else.

43) The BLM, through Special Agent Brian Cornell and the search warrant application, advised the Federal District Court in Billings, Montana, that Cornell and the BLM believed the reports (the complaints) they had received, and he determined that further investigation was warranted. There was no violation of any federal law alleged in the reports. There was only an allegation that KORTLANDER was selling artifacts – a completely legal activity. This supports the conclusion that BLM law enforcement in Montana

had a proclivity to go after KORTLANDER, without any substantiated allegation or evidence of criminal activity.

44) In the Application for Search Warrant, the BLM also told the same court that KORTLANDER advertised that he buys, sells, and appraises artifacts. Again, this is a completely legal activity, but was used to imply that something was happening that was improper or even illegal. The federal agent reported that KORTLANDER “accepted walk-in sellers of artifacts,” a statement that was attributed to a former business associate. Most likely, this former business associate would be either Robert Nightengale or Jason Pitsch, both of whom claimed to be undercover informants for the BLM. But the overriding point is that all of this is a legal activity.

45) What Cornell and the BLM had done in the Application for Search Warrant in March, 2005, was to take two areas of complex federal law (the Archeological Resources Protection Act [ARPA] and the Native American Graves Protection and Repatriation Act [NAGPRA]), and then to spin completely legal activities to imply criminal activity. The effect was to twist the facts in such a way as to gain the approval of a federal magistrate, by a misleading recitation of facts and the law.

46) The BLM had early on decided to focus on KORTLANDER and his business of selling artifacts on EBay. In 2003, an undercover BLM agent

purchased a button from Historical Rarities through the EBay auction process. The complaints, as reported in the application for a search warrant in 2005, alleged that “KORTLANDER was selling artifacts purported to have been recovered from the battlefield where the infamous Battle of the Little Big Horn took place.” The BLM implied that possessing or selling items from the battlefield is illegal and worthy of investigation, but this is false. The fact is that it is NOT illegal, in any way, to possess, buy, sell, or trade artifacts recovered from privately owned land within the perimeter of the battlefield.

47) This was an action apparently supported by the United States as a policy of the Interior Department and the BLM. However, the actions of Cornell, and apparently Fitzgerald and other federal agents was a direct and knowing violation of the Constitutional protections of the Bill of Rights as to the Plaintiffs. The federal agents operated on the premise that they were going to find something illegal in KORTLANDER’s business practices. THEY DID NOT FIND ANYTHING!

48) The BLM reported that the U.S. Fish and Wildlife Service had previously conducted an undercover investigation. In the earlier investigation, there was absolutely NO evidence that ANY unlawful activity of ANY sort had taken place.

49) Based on this allegedly dark track record, the BLM determined that the allegations outlined above had merit and “required further investigation.” BLM agent Brian Cornell then set about to conduct an entrapment sting, focusing on KORTLANDER. Cornell acquired some uniform buttons and a uniform suspender buckle, which were surreptitiously marked for identification. These were identical to items already owned by KORTLANDER, which were offered for sale by Historical Rarities, on EBay.

50) Next, the BLM dispatched an undercover agent(s) to entrap KORTLANDER. One of those attempting to sell items to KORTLANDER was a man who identified himself as Rudy Zapada. In fact, an undercover federal agent, Zapada concocted a hard-luck story of being stranded and out of gas, stranded in the Garryowen parking lot. Although KORTLANDER had initially avoided meeting with the undercover agent who called himself Zapada, he did so when advised that Zapada was a stranded motorist.

51) From several items offered, only three buttons and a suspender buckle were purchased from the agent. The \$50 price was enough to get the stranded traveler down the road. KORTLANDER was trying to be a compassionate human being, but through his innocent actions, he unknowingly set the BLM entrapment scheme into motion.

52) Beginning in late December, 2004, BLM agents again began purchasing items from KORTLANDER. In the ensuing few weeks, according to the Application for Search Warrant, BLM agents reported that they bought three items. The first one was purchased later the same month, but there was no violation of law alleged as a result of that sale.

53) Over the following several weeks, Historical Rarities received a number of telephone calls in which repeated requests were made that Historical Rarities list uniform civil war/Indian war buttons for sale on EBay. These calls came from federal agent(s). Because of other more pressing business issues, it was several weeks before the request could be acknowledged and another button listed on the EBay auction site. During this time, Historical Rarities was conducting literally 1000's of auctions each year, and this portion of the business was largely handled by administrative assistants and interns.

54) In February or March, 2005, KORTLANDER was contacted by a man he later learned was Agent Brian Cornell. Cornell identified himself as the father of an overseas soldier and said that he was also a buyer on EBay. A few months after KORTLANDER had purchased the buttons and suspender buckle in the parking lot of Garryowen, his office personnel were contacted by telephone numerous times by undercover Agent Cornell about buying a military button through EBay. KORTLANDER did not pay any attention to the

multiple solicitations, but finally acquiesced when the caller told KORTLANDER's assistant that he wanted the button(s) for his son, who was serving in Iraq.

55) In February, 2005, a second button was purchased by the BLM, and this time a 'marked' (micro-dotted) button was delivered to an undercover buyer. However, the button was not the button that had been offered for sale as being from the battlefield and there was no accompanying paperwork that certified the button's point of origination – its provenance.

56) More than a month later while working undercover, agent Brian Cornell contacted KORTLANDER by phone complaining about paperwork. He asserted that KORTLANDER then agreed to sell another, additional button. However, no button was sold, no money was tendered and that transaction for an additional button was never completed. No other paperwork was ever provided by KORTLANDER and no other sale occurred, despite the assertion of Cornell that an additional transaction had taken place.

57) Reviewing the button count, between 2004 and 2005, two buttons were sold and delivered, no false signed certifications were delivered, and no crime was committed, except for false statements made by the BLM and the BLM's illegal entrapment procedures.

58) The BLM obtained a search warrant asserting that KORTLANDER was "any person to knowingly defraud, or devise a scheme to defraud, using wire in interstate commerce or through the mail." The problem with the search warrant is that no crime had been committed, as had been alleged by the federal agents. The only truth is that the BLM and its agents, including Special Agent-in-charge Bart Fitzgerald and Special Agent Brian Cornell, created a scheme to entrapment of KORTLANDER.

**The Search Warrant: There was no Crime:**

59) In his application for the 2005 search warrant, in his affidavit Brian Cornell "submits that there is probable cause to believe that Title 18, United States Code, Sections 1341 and 1342 have been violated by Christopher Kortlander. These sections state it is a violation for any person to knowingly defraud, or devise a scheme to defraud, using wire in interstate commerce or through the mail." However, 18 United States Code, Section 1342, relates to Fictitious Names: *Whoever, for the purpose of conducting, promoting, or carrying on by means of the Postal Service, any scheme or device mentioned in section 1341 of this title or any other unlawful business, uses or assumes, or requests to be addressed by, any fictitious, false, or assumed title, name, or address or name other than his own proper name, or takes or receives from any post office or authorized depository of mail matter, any letter, postal card,*

*package, or other mail matter addressed to any such fictitious, false, or assumed title, name, or address, or name other than his own proper name, shall be fined under this title or imprisoned not more than five years, or both.*

60) The Search Warrant states that it is dependant upon the statements of Cornell in his affidavit to obtain a search warrant. However, Cornell stated that he believed that there was probable cause to believe that 18 U.S.C., Sections 1341 and 1342 had been violated, and that a search warrant should be issued. Cornell never stated that there had been evidence submitted that he believed was sufficient for a finding of probable cause to believe that 18 U.S.C. 1343 had been violated.

61) The problem with the affirmation of the violation of 18 U.S.C. 1342 by Cornell is that there is virtually no evidence referred to within Cornell's affidavit that supports the violation of any part of the statute. Every business mentioned in the application was a lawfully created entity, registered and recorded with the Secretary of State of the State of Montana and with a tax/employer identification number from the Internal Revenue Service. There is no allegation that fictitious names or addresses were used.

62) Given his failure to affirm that 18 U.S.C. 1343 had been violated, it follows that there is no reason *"to believe that certain artifacts, documents and computers along with their storage devices, the monitors, keyboards, and*



*digital images producing peripherals {were} all instrumentalities of the crime(s), within the meaning of Title 18, United States Code, ... Section 1343, or that any should be seized as such along with the other items also mentioned in Attachment A."*

63) Attachment A to the application for search warrant submitted by Cornell is description of the location and structures at Garryowen, Montana. It is unclear from reading Attachment A, what Cornell is asking the Magistrate to authorize Defendant(s) to seize. Presumably Cornell was not intending to seize the buildings on the premises at Garryowen. The application and affidavit were too vague to have established with adequate specificity what was to be seized.

64) The Search Warrant states that "*there is now concealed certain property relating to violations of 18 United States Code, Section 1341 and 1343...*"

65) Section 1341 relates to mail fraud. According to the Department of Justice Criminal Resource Manual, "There are two elements in mail fraud: (1) having devised or intending to devise a scheme to defraud (or to perform specified fraudulent acts), and (2) use of the mail for the purpose of executing, or attempting to execute, the scheme (or specified fraudulent acts)." *Schmuck v. United States*, 489 U.S. 705, 721 n. 10 (1989); *see also Pereira v. United States*, 347 U.S. 1, 8 (1954) ("The elements of the offense of mail fraud under . . . §

1341 are (1) a scheme to defraud, and (2) the mailing of a letter, etc., for the purpose of executing the scheme."); Laura A. Eilers & Harvey B. Silikovitz, *Mail and Wire Fraud*, 31 Am. Crim. L. Rev. 703, 704 (1994) (cases cited).

66     Section 1343 is similar and relates to wire fraud. According to the Department of Justice Criminal Resource Manual, "The elements of wire fraud under Section 1343 directly parallel those of the mail fraud statute, but require the use of an interstate telephone call or electronic communication made in furtherance of the scheme. *United States v. Briscoe*, 65 F.3d 576, 583 (7th Cir. 1995) (citing *United States v. Ames Sintering Co.*, 927 F.2d 232, 234 (6th Cir. 1990) (per curiam)); *United States v. Frey*, 42 F.3d 795, 797 (3d Cir. 1994) (wire fraud is identical to mail fraud statute except that it speaks of communications transmitted by wire); *see also, e.g., United States v. Profit*, 49 F.3d 404, 406 n. 1 (8th Cir.) (the four essential elements of the crime of wire fraud are: (1) that the defendant voluntarily and intentionally devised or participated in a scheme to defraud another out of money; (2) that the defendant did so with the intent to defraud; (3) that it was reasonably foreseeable that interstate wire communications would be used; and (4) that interstate wire communications were in fact used) (citing Manual of Model Criminal Jury Instructions for the District Courts of the Eighth Circuit 6.18.1341 (West 1994)), *cert. denied*, 115 S.Ct. 2289 (1995); *United States v. Hanson*, 41 F.3d

580, 583 (10th Cir. 1994) (two elements comprise the crime of wire fraud: (1) a scheme or artifice to defraud; and (2) use of interstate wire communication to facilitate that scheme); *United States v. Faulkner*, 17 F.3d 745, 771 (5th Cir. 1994) (essential elements of wire fraud are: (1) a scheme to defraud and (2) the use of, or causing the use of, interstate wire communications to execute the scheme), *cert. denied*, 115 S.Ct. 193 (1995); *United States v. Cassiere*, 4 F.3d 1006 (1st Cir. 1993) (to prove wire fraud government must show (1) scheme to defraud by means of false pretenses. (2) defendant's knowing and willful participation in scheme with intent to defraud, and (3) use of interstate wire communications in furtherance of scheme); *United States v. Maxwell*, 920 F.2d 1028, 1035 (D.C. Cir. 1990) ("Wire fraud requires proof of (1) a scheme to defraud; and (2) the use of an interstate wire communication to further the scheme.").

67) The common element in both statutes is that there must be a scheme. Merriam Webster Legal Dictionary defines ***scheme*** as: A ***combination of elements*** (as statutes or regulations) that are connected, adjusted, and integrated by design. There was no evidence that a scheme existed and absent a scheme, there was no crime according to the statutes presented as having been criminally violated in the Search Warrant.

68) There was also no crime involving a scheme alleged by the evidence submitted. In addition, every item sold by Historical Rarities was protected by a five year warranty, a policy announced on the Historical Rarities website. Defendants had only purchased a single 'marked' button and that button was delivered without provenance inasmuch as documents of provenance were blank according to Defendant Cornell's Affidavit.

69) In the application for Search Warrant, several statements were made by Cornell, intended to infer criminal activity by Kortlander. These statements, however, did not individually or collectively recite that there had been any crime committed by Kortlander, nor was there any foundation to infer any criminal activity by the Custer Battlefield Museum, Inc. or even any business entity with which Kortlander was associated.

**THE RAID: May 31, 2005, by BLM, et al**

70) Early on the morning of Thursday, March 31, 2005, KORTLANDER was in Hardin doing a live radio interview promoting tourism on the Crow Indian Reservation on a local radio station. At approximately 9:00 a.m., KORTLANDER received a call on his cell phone from Putt Thompson (then lessee of the Garryowen Trading Post Store and Curator of the Custer Battlefield Museum). Mr. Thompson said, "Chris, you'd better get back here right away. There are federal agents with search warrants and guns and they are

threatening to break down your doors.” KORTLANDER asked who was in charge of the federal agents and Federal BLM agent Brian Cornell took the phone.

71) Previous to Thompson’s call to Kortlander, agent Cornell had asked Garryowen employees where KORTLANDER was and Cornell was told that KORTLANDER was in Hardin doing a radio show. KORTLANDER was called and Cornell told KORTLANDER that “if he did not want his doors busted down” that KORTLANDER had better get back to Garryowen right away, or Cornell was going to forcibly enter on his own. On the phone, KORTLANDER explained that he was only 30 minutes away and asked Cornell to please wait.

72) Mr. Thompson, Fred Oyebi, and Lucinda Small (employees of the Garryowen Trading Post) were present at the Trading Post when the agents arrived. Mr. Oyebi and Ms. Small were asked for their identification and were detained at the front counter. They were asked if they had any weapons. Mr. Thompson was patted down.

73) The agents detained Thompson, Oyebi, and Small at the front desk of the Trading Post for approximately 25 minutes. BLM agent Cornell asked Mr. Thompson and others for keys to the various doors at Garryowen. Agent Cornell said if they did not produce the keys, he would instruct his men to break

the doors down. Agent Cornell repeated this statement multiple times. Agent Cornell told Thompson, Fred Oyebi, and Lucinda Small that they were to stay at the front counter of the Garryowen Trading Post, until he decided to release them.

74) KORTLANDER arrived at Garryowen at approximately 9:30 a.m. and saw that Garryowen was surrounded by BLM law enforcement vehicles at the perimeter of the property. KORTLANDER parked his vehicle in front of the building and was immediately approached by an armed BLM federal agent, who asked if he had any weapons. KORTLANDER replied "no" and then was patted down. The agent then told KORTLANDER that he needed to look in his truck. He was no longer in the vehicle, and so, without KORTLANDER signing a "consent to search", the agent proceeded to thoroughly search KORTLANDER's vehicle, finding nothing.

75) KORTLANDER then entered the Trading Post where he was met by Agent Cornell. Cornell told KORTLANDER that they had a federal search warrant. Upon reviewing the search warrant KORTLANDER realized it was limited and not for the whole complex. The federal warrant authorized its agents to search only the store and the Custer Battlefield Museum for evidence, contraband, etc., associated with violations of 18 US Code 1341 Mail Fraud and

Fraud by Wire. (See U S District Court March 31, 2005 SEARCH WARRANT, attached as Exhibit "C").

76) Agent Cornell and Joe Waller (from the Office of Inspector General) brought KORTLANDER back to the Trading Post office in the rear of the store. KORTLANDER requested that agent Cornell brief him as to what this was about. Cornell said something to the effect that he would tell KORTLANDER "when the time was right."

77) As KORTLANDER entered the Trading Post Office, he looked to his left (north) and saw that an agent was standing at the open door to KORTLANDER's upstairs residence. This agent had the door open and KORTLANDER watched him and others go upstairs to KORTLANDER's private residence. KORTLANDER saw that they had the door propped open, so it would not automatically close and self lock. (This door has an expensive push button combination and an automatic door closer installed.) KORTLANDER was not aware of who had opened the door to allow access to his residence at that time, but has since learned (through statements from other employees) that James Fowler (Custer Battlefield Museum volunteer intern) either let the agents in or gave the combination to the agents, who then gained access to KORTLANDER's private upstairs residence AND the basement, where KORTLANDER's private walk-in vault is located. The Agents had

accessed KORTLANDER's residence and basement (neither of which was on the search warrant) PRIOR to his arrival at Garryowen and BEFORE he signed any consent to search.

78) The Federal Agents understood that they did NOT have the right warrant for the areas they wanted to search. Agent Cornell and OIG agent Joe Waller talked to KORTLANDER and explained that Brian Cornell was with the Bureau of Land Management and the lead law enforcement officer in charge of the search. OIG agent Joe Waller, they explained, was there just as another federal agent for back-up assistance.

79) After agents and law enforcement officers had already entered KORTLANDER's residence and the basement area of the main building, Cornell told KORTLANDER that they needed consent from him to clear the whole property for security reasons. Cornell explained that KORTLANDER could cooperate with them and make their job easier, or KORTLANDER could refuse and they would forcibly break his doors down. Cornell said that this consent was to do a "security walk through" to make sure that no one else was on the property. Cornell stated that should KORTLANDER fail to give his consent that his refusal would require additional time and involve the Federal Judge. This, they said, would make the judge angry and result in a longer



incarceration for KORTLANDER. Kortlander, however, was not given Miranda warnings.

80) KORTLANDER reluctantly gave consent, as he did not want to anger the federal officers and he did not want his doors or property destroyed. Federal agents and law enforcement officers had already accessed all private areas behind locked doors even before asking for KORTLANDER's consent to search.

81) The heavily armed agents, repeatedly brandish automatic weapons and generally bullied KORTLANDER throughout the execution of the Search Warrant. KORTLANDER was repeatedly threatened and intimidated into cooperation by Cornell and the federal agents.

82) Even though KORTLANDER signed the "security walk-through consent form," Cornell and Waller came back to him and explained that they had made a mistake and did not have the right areas on the warrant that they felt they needed to search. They had KORTLANDER sign additional "consents to search" for areas and items not listed in the original search warrant.

83) Thus, faced with armed federal agents with automatic weapons, KORTLANDER was coerced and intimidated to agree to a General Search throughout the premises and additional unattached buildings. Agent Cornell told KORTLANDER that the federal judge would be angry and that jail time

would be increased, unless Kortlander agreed to a General Search. Cornell stated that the delay would incur extra expense to the federal government and extend the search by at least an additional day, adversely affecting KORTLANDER's businesses and employees. Cornell further threatened to "bust down doors," if KORTLANDER did not cooperate by allowing them the unlimited access they said they needed.

84) Hundreds of items and priceless artifacts that belonged to KORTLANDER personally, to Historical Rarities, Inc., and to the Custer Battlefield Museum were seized by Cornell and the federal agents. The items seized were not on the Search Warrant, and were not illegal to possess, nor contraband in any way, nor were they evidence of a crime. There had been no crime.

85) All this time, KORTLANDER was held in the Garryowen Trading Post office with an armed federal agent assigned to him, and was told that he had to stay in the office; he could not leave. Kortlander could not use a restroom without permission from Cornell. When he was allowed to use a restroom he was escorted by an armed federal agent, effectively keeping KORTLANDER in custody.

86) Agent Cornell became quite aggressive during the interrogation. He said that he KNEW KORTLANDER was lying. He accused KORTLANDER

of getting rich off this “scheme,” and said something about KORTLANDER lining his pockets with cash. Cornell continued his diatribe about KORTLANDER’s supposed knowledge of and intention to attribute false documentation with historical artifacts for personal profit and gain.

87) The agents wanted locked drawers in KORTLANDER’s office opened, which KORTLANDER did. Whenever they wanted KORTLANDER to enter the office area from outside the building, they would radio or yell “Mr. KORTLANDER is with me. Let us know when we can enter.”

88) KORTLANDER asked agent Cornell what would happen to the Medical Marijuana in his residence, if he signed the consent. Cornell told KORTLANDER that his boss, Bart Fitzgerald, was not interested in that and would not charge KORTLANDER with possession of such a small amount (a 35mm film canister, not half full).<sup>4</sup>

89) Cornell knew about the museum’s basement walk-in vault, but failed to put the basement of the main building on the search warrant. Cornell threatened KORTLANDER, saying if KORTLANDER did not open the vault he would call a locksmith with a torch and destroy the vault door to gain access.

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<sup>4</sup> Many months later, the United States Attorney threatened KORTLANDER with 30 years in prison as habitual addict while in possession of firearms. This was one of nine federal felonies that KORTLANDER was threatened with following the raid.

At that point, KORTLANDER was in tears and he believed he had no other choice than to open the vault.

90) Cornell and other federal agents escorted KORTLANDER into the vault, where KORTLANDER had stored some unidentified bones that were found during the excavation and building of Garryowen ten years earlier.<sup>5</sup> Bullying and intimidation continued while KORTLANDER was in the vault with the federal agents. U.S. Fish and Wildlife agent Doug Goessman waved the bones three inches in front of KORTLANDER's face and yelling "These are little girl bones! Where is she buried?" Grossman had a smirk on his face, and kept repeating that statement and question.

91) U.S. Fish and Wildlife agent, Doug Goessman asked KORTLANDER about the medicine bundles in the secure basement room. No longer limiting the search for items on the Search Warrant, Goessman asked KORTLANDER where he acquired the war bonnet in the museum. KORTLANDER said that the receipt of donated feathers is a common practice among Native American and Western museums in the United States, and that there is plenty of federal case law to back this up. Grossman said "I don't think so. You're not an attorney. The good news is that I'm not going to smash all

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<sup>5</sup> In 1996, KORTLANDER had voluntarily sent these bones to Dr. Doug Scott, now retired, but then an archeologist with the National Park Service, to make sure they were not human remains. This was done to satisfy NAGPRA requirements.

your cases in the museum and take your questioned items. Do not move anything outside of this museum; it is part of a crime scene.”

92) Goessman then asked about a footlocker, which contained articles originating from Laban Little Wolf. KORTLANDER explained that this specific collection had been exhibited for three years at the Gene Autry Western Heritage Museum in Los Angeles, and had also been exhibited at the Custer Battlefield Museum.

### **THE SEARCH OF KORTLANDER’S RESIDENCE**

93) In KORTLANDER’s bedroom, agents found two oversized, “homemade” firecrackers (M-500s); one seven inches long, the other 10 inches long. When asked where they came from, KORTLANDER told the agents that every 4th of July, Indians on the reservation build these fireworks, and that he had received them as a birthday gift. One had the words ‘happy birthday Kortlander’ written on it.

94) The agents asked KORTLANDER about some letters written by Don Dahlside, a loan officer with the SBA. KORTLANDER received the letters when he purchased some of Jason Pitsch’s battlefield artifact collection. The letter stated that KORTLANDER had purchased shell casings from the SBA public auction of Pitsch’s repossessed battlefield artifacts. The shell casings were part of the original Pitsch collection used as security to the SBA.

**AFTER THE 2005 RAID**

95) In March, 2005, KORTLANDER was under contract with a fundraising and lobbying company in Washington D.C to fund a strategic plan KORTLANDER and other had developed, for a new \$30- million museum and visitor center at Garryowen. The plan was to benefit the National Park Service and would have involved the Crow Indian Nation. (See strategic plan – Exhibit D.) However, in subsequent weeks, upon learning of the federal raid on Garryowen, the fundraising and lobbying company abandoned the project, because of the negative publicity, and because they did not want to taint their name by representing someone who was under federal investigation. This cost KORTLANDER the \$15,000 non-refundable retainer he had tendered to obtain their services.

96) In the months and years that followed, federal agents contacted people who had done business with KORTLANDER. In the interviews, some customers were told plainly that KORTLANDER had engaged in criminal activity. Others were intimidated and encouraged to speak negatively about KORTLANDER. This had the immediate effect of destroying KORTLANDER's reputation and business, as word of the federal raid and investigation spread rapidly through the museum and collector community.

97) Federal agents further spoke publicly and privately about the investigation, impugning the reputation of KORTLANDER, stating and implying that KORTLANDER was engaged in various criminal activities. This all further damaged KORTLANDER's reputation and businesses.

98) One of the first disasters of KORTLANDER's post-raid experience was that a six-digit line of credit at a local bank (Little Horn State Bank) was 'called.' The United States Attorney convened a federal grand jury and issued a subpoena for records from Little Horn State Bank. Immediately following the publicity of the raid and the issuance of the subpoena, the bank gave notice that the note would not be renewed, thus terminating the line of credit to Kortlander. Rescinding the line of credit financially destroyed KORTLANDER. He was forced to scramble and utilize non-commercial friendships to obtain the funds he needed to repay the called bank loan.

99) The called note at Little Horn State Bank had several immediate and residual effects, all attributable to the tortuous actions of federal agents. Repaying the bank placed an unnecessary strain on business and personal friendships, while jeopardizing KORTLANDER's business credit worthiness. He had to impose on personal friendships, placing a half-million dollar second mortgage on the Town of Garryowen that still must be repaid and continues to accrue interest. He no longer has any operating lines of credit through any

bank, directly as a result of the publicity and statements by federal agents following the March, 2005 raid.

100) All of KORTLANDER's complex business activities were scrutinized in an exhaustive federal audit. The federal agents using Federal Grand Jury subpoenas and seized computers examined every aspect of KORTLANDER's life. Every corporation was up to snuff on its bookkeeping, payroll taxes, and every other aspect of its business activity; there was NO UNLAWFUL PRACTICE discovered in a complete federal criminal audit.

#### **HERBERT HOOVER PRESIDENTIAL LIBRARY**

101) The HERBERT HOOVER PRESIDENTIAL LIBRARY (HHPL) contacted KORTLANDER and the Custer Battlefield Museum in 2007, requesting that a museum-to-museum loan be arranged. For six months, beginning in March 2007, ten historic Native American artifacts were loaned by KORTLANDER and the Custer Battlefield Museum to the Herbert Hoover Presidential Library, including 'John Sitting Bull's eagle feather war bonnet.'

102) The HHPL is one of only seven Presidential Museums that is funded and operated by the federal government through The National Archive and Records Administration. The federally administered HHPL arranged to have the borrowed items shipped and INSURED, with a declared value of \$40,000 on the war bonnet. Of course, it is against federal law for a financial



consideration to be placed upon eagle feathered items, but in this case it was an agency of the federal government that requested and insisted on insuring the loan of the eagle feather war bonnet.

**HERITAGE AUCTIONS, Dallas, Texas**

103) The cost of defending these Plaintiffs throughout the prosecution including the much threatened federal indictment, alleging nine serious felonies (totaling a possible 130 years in federal prison), plus many misdemeanors, was significant. The attendant publicity destroyed KORTLANDER's businesses, also costing him his operating lines of credit. It also caused him to incur thousands of dollars in attorney's fees.

104) KORTLANDER was advised to secure significant amounts of money for a defense fund, in anticipation of a federal indictment. Looking for additional financing, KORTLANDER determined to sell the Township of Garryowen, including much of HIS personal property. In 2006, he contacted a nationally known auction company – Heritage Auctions (located in Dallas, Texas) – for that purpose.

105) A representative of Heritage Auctions traveled to Garryowen to inspect the premises and to review items of KORTLANDER's personal property that would also be sold. Arrangements for the auction were finalized, but although much of KORTLANDER's personal property was auctioned for

sale, an auction for the facilities, premises, and other personally owned items never occurred.

106) Federal agents contacted Heritage Auctions, interfering with KORTLANDER's contractual relationship. The agents used their federal cloak of intimidation, innuendo and outright lies to discredit KORTLANDER, and thus effectively blocking the proposed sale of Garryowen and many of KORTLANDER's assets.

107) In 2008, KORTLANDER filed a federal lawsuit against Heritage Auctions for breach of contract, fraudulent business practices (RICO), and conversion. BLM Agent Brian Cornell traveled to Dallas, Texas, in June, 2008 to continue his pursuit of KORTLANDER. This was also while Heritage Auctions was engaged in the civil action with KORTLANDER. While Agent Cornell was in Dallas, he told Heritage Auctions CEO Steve Ivy and his employees and attorneys that:

A) KORTLANDER was illegally selling items donated to the Custer Battlefield Museum through their auction for KORTLANDER's personal benefit; and that

B) KORTLANDER was consigning a rare book for sale by Heritage Auctions, which was stolen property. The book, Machiavelli Discourses, 1st English edition (printed in 1636), had been in KORTLANDER's collection

since he bought the book in 1988 from a retired Los Angeles County Marshal and long-time school friend; and that

C) KORTLANDER was trying to sell eagle feathers and other feathers from protected species that were illegal to sell. (This was a ludicrous assertion that was repeated in federal court to obtain a second search warrant to seize items containing eagle feathers from the Custer Battlefield Museum in 2008.)

108) These statements attributed to federal agents (assumed to be Cornell) were false, but Heritage Auctions used the information to justify their failure to perform, as they had contracted to do. Further, as a direct result of the tortuous, libelous, and slanderous statements and assertions of federal agents, Heritage counterclaimed against KORTLANDER, alleging five million dollars (\$5,000,000) in damages. The result was a serious degradation of KORTLANDER's case against Heritage, all to KORTLANDER's financial damage, and directly attributable to the willful misrepresentations, lies, and malicious efforts to malign and convict him by federal agents.

109) The U.S. Bureau of Land Management through its Special Agent Brian Cornell had again acted unlawfully to damage KORTLANDER, in his personal reputation and financially in his businesses, by making false statements about him personally and about his business practices and activities,

and the status of the criminal investigation being conducted by the BLM and other federal agencies.

### **JASON PITSCH AFTER THE 2005 RAID**

110) In 2009, Jason Pitch had been released from prison, but was still on probation when he began to reappear around Garryowen. In a published reference to a native grave site on property owned by the Pitsch family, Pitsch documented his invasion of the Limber Bones burial site in a magazine article with photographs in May 2009 (the Pitsch article was published in Greasy Grass, by the Custer Battlefield Historical & Museum Association). The Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) made the very activities described in Pitsch's article illegal and felonious, punishable by fines and imprisonment of up to five years.

111) KORTLANDER's report of this incident was referred to Pitsch's federal probation officer, Carlos Jones. Jones mentioned to KORTLANDER that he had seen 'large jars of beads' in Pitsch's home, and now surmised that Pitsch was obtaining beads from the Native American grave sites he had been digging. Jones, in turn, brought the matter to the attention of Brian Cornell. Cornell dismissed the documented evidence of the crime on lands within the jurisdiction of the BLM, and advised that nothing was going to be done. Cornell is the same BLM agent, who determined that allegations (possibly from

Pitsch) that KORTLANDER was selling buttons (NOT artifacts from desecrated Indian burial sites), was sufficient reason to set up an investigation, sting and entrapment of KORTLANDER.

### **HEALTH AND PHYSICAL SUFFERING**

112) KORTLANDER suffers from a chronic disease – Ehlers-Danlos Syndrome – which was diagnosed during the course of KORTLANDER’s subjection to the federal investigation following the raid. Ehlers-Danlos Syndrome (EDS) is a group of inherited connective tissue disorders caused by a defect in the synthesis of collagen (a protein in connective tissue). The collagen in connective tissue helps tissues to resist deformation (decreases its elasticity). In the skin, muscles, ligaments, blood vessels, and visceral organs, collagen plays a very significant role, and with increased elasticity, secondary to abnormal collagen, pathology results.

113) Depending on the individual mutation, the severity of the syndrome can vary from mild to life-threatening. There is no cure and treatment is supportive, including close monitoring of the digestive, excretory, and, particularly, the cardiovascular system. Corrective surgery may help with some of the problems that may develop in certain types of EDS, although the condition means that extra caution is advised and special practices observed.

114) KORTLANDER has been diagnosed with the most severe type of the disease and therefore his life expectancy is severely compromised, and his condition has been aggravated by the stress and threat of federal criminal prosecution. Following the 2008 raid, KORTLANDER was afflicted with shingles and heart palpitations that required hospitalization. The result of his condition is that he is unable to independently obtain health insurance and must depend upon State sponsored insurance coverage for his health care.

115) As a result of KORTLANDER's federal investigation, which aggravated his physical conditions, he has been deemed to be uninsurable. He has not been able to renew the \$1.5 million life insurance policy that was been in place for the past decade. This is because of the financial impact of the malicious BLM investigation. This will have significant financial implications to his mentally impaired adult son.

116) KORTLANDER should have been enjoying the fruits of his ambitious and successful business enterprise, and instead has had his health place in jeopardy aggravated by the malicious, willful acts of agents and agencies of the United States of America. The result has been personally disastrous for KORTLANDER, his business enterprises and those personally dependent on him.

## **LEGAL EXPENSES**

117) Following the federal raid on his business in 2005, KORTLANDER was forced to retain the services and assistance of several lawyers and law firms. Months and years after the raid, KORTLANDER was repeatedly threatened verbally and in writing with criminal indictments and prison.

118) To apply more pressure on him, KORTLANDER was presented with a draft federal indictment, and was told that he MUST plead to federal felonies or face the certain full force and wrath of the United States including IRS investigation and prosecution. KORTLANDER, through his attorney, was repeatedly advised that he would be indicted during the next term of the federal grand jury, if he did not agree to plead guilty immediately. This happened several times over a span of years. KORTLANDER did not agree to plead guilty to any charges, because he had done nothing illegal.

119) In March 2005, the BLM raided KORTLANDER and his Garryowen businesses and residence. There were many items seized during the raid. Extensive, but lawfully possessed artifacts were seized. In addition, computers were seized and searched, and the information therein utilized to thoroughly investigate the businesses, associations and activities of Chris KORTLANDER (and the Custer Battlefield Museum). KORTLANDER's

employees were interviewed and threatened with criminal charges, if they did not cooperate in the investigation. Customers and museum patrons across the country were contacted and interviewed, being advised that federal agents were conducting a criminal investigation into the person and businesses of KORTLANDER.

120) At various times through the nearly five years following the raid, KORTLANDER was threatened with up to nine felonies; that was reduced in ensuing negotiations down to six felonies, down to three felonies, down to a single felony and finally multiple misdemeanors. The entire experience was designed by the federal agents and the United States attorney to terrorize KORTLANDER into a guilty plea for the nearly five years following the 2005 raid.

### **THE SECOND RAID (2008):**

#### **The Investigation:**

121) James Brubaker is a criminal artifact dealer, a rare book thief and a twice-convicted felon. He was convicted for counterfeiting U.S. currency (\$100 bills), and for the interstate transportation of stolen property. He had been sought for a string of thefts of maps and rare books from western U.S. and Canadian libraries. On some occasions, Brubaker made donations of some feathers to the Custer Battlefield Museum.



122) Brubaker was involved in many unknown relationships with other Indians, including two men related by marriage: An Indian named Alan Wolfleg, and a British-bred Canadian named John Hellson. These three formed the basis of initial allegations that the Custer Battlefield Museum and its feathered items were for sale, submitted by Special Agent Cornell in his affidavit to obtain a search warrant in September 2008.

123) Brubaker, Hellson, and Wolfleg are an interesting gang of thieves and ne'er-do-wells. Hellson and Wolfleg are related by marriage. Wolfleg is a Canadian Blackfoot Indian, a business schemer, with absolutely no history of successful dealings. Hellson is a recognized authority on Indian artifacts, but was also convicted in 1981 of one of the largest thefts of maps, rare books, and documents ever from various museums and libraries in the Western U.S. and Canada.

124) Most recently in 2002 – 2006 Hellson was riding around in the car while James Brubaker stole rare books, maps and documents from libraries and museums in several museums in the western United States and Canada. Hellson told investigators that he was just a passenger when he was with Brubaker, and did not know that Brubaker was involved in thefts on those occasions.

125) In 2006 and 2007, Brubaker, Hellson, and Wolfleg were all in the sights of U.S. federal officials for stealing literally thousands of maps and documents, and then selling them on EBay. Asked if they had ever done business with KORTLANDER, all three were willing to implicate KORTLANDER, albeit without a shred of confirming evidence, as a buyer and seller of eagle and migratory bird feathers. Lighter sentences or no charges at all were the result of giving government investigators what they wanted in the way of testimony targeting KORTLANDER. Only Brubaker was charged, and he was convicted and sentenced to 2½ years in federal prison.

126) Of course, James Brubaker's credibility as a witness is severely compromised by his own felony convictions, and because of his reputation as a liar and a thief. Further, no documents prepared by KORTLANDER exist that detail the offers for sale that have been attributed to KORTLANDER. This is because KORTLANDER never made any offer(s) to sell the Custer Battlefield Museum or items that it owned. By 2008, Brubaker was singing like a canary to save his own hide on the second conviction. Charitably, Brubaker was posturing his own testimony to improve his chances for a favorable sentence before a federal judge.

127) In 2008, Cornell took statements from these individuals who reportedly said that KORTLANDER was attempting to sell the Town of

Garryowen, and Cornell then embellished those statements to mean that Kortlander was selling eagle feathers and migratory bird feathers.

128) The Application for the Search Warrant states that it was based upon information obtained as a result of the execution of the Search Warrant, March 31, 2005. Information from the first (March 31, 2005) Search Warrant was used to obtain the November 2008 Search Warrant, thus being the product of the 'poisonous tree'.

129) The BLM and Special Agent Cornell alleged that in 1999 and again in 2004 that KORTLANDER offered to unlawfully sell artifacts including "warbonnets" in a deal supposedly brokered by John Hellson of Canada. When contacted by Plaintiffs, Hellson denied making any statements supporting the conclusions ascribed to him. He has reduced his declaration to an affidavit.

130) Hellson specifically addressed his relationship with Allen Wolfleg, who was also cited by Cornell. He asserts that his relation to Wolfleg is by marriage. Hellson describes Wolfleg, a Canadian Blackfeet Indian, as known by all to be a blowhard pseudo businessman. Wolfleg has started and proposed seemingly hundreds of business endeavors over the many years Hellson has known him, without going forward with any business enterprise and as such is considered to be something of a cross between a con-man and charlatan.

131) Cornell's affidavit to the Court, in 2008, describes an offer for the sale of the Garryowen property, including the Custer Battlefield Museum and the contents thereof that would be in violation of the BGEPA and the MBTA. (See exhibit "E" attached) Reviewing the referenced document from KORTLANDER to Hellson, there is no reference to the Custer Battlefield Museum or any items the museum owned, while several businesses at or near Garryowen are specifically mentioned. There is no evidence to conclude or even imply that the museum or any of the contents thereof were being offered for sale to or through Hellson or anyone else.

**Heritage Auction:**

132) Likewise, Cornell asserted to the Court that KORTLANDER had signed a contract to sell Garryowen. "along with the complete collection of artifacts in the museum." The 2007 Contract with Heritage Auctions does NOT contain any reference to the museum, nor was there ever any agreement to auction or sell museum owned artifacts or any feathers, headdresses, war bonnets, or anything else that would be unlawful. (See exhibit "F" attached)

133) In 2010 the US Fish and Wildlife Service, responding to KORTLANDER's FOIA requests, released several documents related to their part in the investigation of the allegations that KORTLANDER was selling artifacts containing migratory bird and eagle feathers. In at least one internal

report, the USFWS agent wrote that the “investigation has not revealed any ‘clear cut’ instances of KORTLANDER buying or selling eagle feathers, eagle parts or other migratory bird parts in violation of the BGEPA (*Bald & Golden Eagle Protection Act*) or the MBTA (*Migratory Bird Treaty Act*).” (See Exhibit “G” attached)

134) The report goes on to suggest that plaintiff Kortlander be contacted “in order to have KORTLANDER ‘proffer’ truthful statements ... reveal[ing] knowledge, culpability and possible documents of KORTLANDER’s purchase and sale of Migratory birds.” In other words the investigators had nothing.

135) The highly redacted report concludes: “As of the date of this report, it is the opinion of SA (*redacted*) that no federal wildlife charges be filed against KORTLANDER unless additional information and evidence can be located which actually show KORTLANDER has received money or paid someone cash or provided some type of monetary benefit in exchange for receiving or selling any of the eagle feather bonnets.”

136) Heritage Auctions was represented by two men in its negotiations with KORTLANDER. Initial contact was with Gary Hendershot. It was Hendershot who signed the 2007 contract for Heritage Auctions. (see Exhibit “H”). In late, 2007, he was replaced by Douglass Brown (see Exhibit “I”), who dealt with Plaintiffs until the commencement of the lawsuit by KORTLANDER

against Heritage Auctions. These were the only two individuals KORTLANDER dealt with at Heritage Auctions until such time as KORTLANDER initiated his lawsuit against Heritage Auctions for breach of contract.

137) On July 15, and 16, 2008, Brian Cornell and other USFWS Special Agents went to the offices of Heritage Auctions in Dallas, Texas, in an effort to obtain evidence that KORTLANDER was selling museum assets, including anything in violation of the BGEPA and the MBTA.

138) At the time of Cornell's visit to Heritage Auctions, the Dallas based company was engaged in civil litigation with Plaintiff(s). As a result of Defendants' (including Special Agent Cornell) disclosures and interaction with Heritage Auctions, Heritage Auctions counterclaimed in their civil action, alleging wrongdoing arising from information received from the federal agents in the sum of \$5,000,000.00 all to the harm and damage of KORTLANDER and the other Plaintiffs.

139) Reports written by USFWS agents following the July 15 and 16, 2008 interviews with Heritage Auction (HAG) officials reveals a lack of evidence supporting their investigation of assertions that KORTLANDER was selling the museum or its contents. (see exhibit "J" attached) "HAG advised the SA's they were never clear on what items were being offered for sale as a

part of the Custer Battlefield Museum, KORTLANDER's personal items from his residence, or what was 'included' in the Town of Garryowen."

140) The USFWS report goes on to state that Heritage Auctions "retain[s] experts to review items which may cause legal questions ... [who] are knowledgeable about the laws regarding selling migratory bird feathers and parts ... [who] would have rejected any ~~sell~~ [sale] regarding this type of items. HAG stated the items they had in their possession did not contain any questionable parts. Therefore, nothing from the KORTLANDER collection was ever rejected [due] to them being made of illegal feathers."

141) The agents reported that, "HAG stated if items were never actually given to them, then they could not say for certain if they were for sale." The report concludes with the statement: "The interview with HAG did not confirm KORTLANDER was attempting to sell items containing migratory bird feathers." The report also did not disprove the allegations which the report had characterized as "Unsubstantiated".

142) The evidence is that Cornell and the BLM did know that there was no foundation for the assertions that KORTLANDER was offering any of the feathers or feathered items for sale to anyone. The representations to the Court in Cornell's affidavit that statements had been made by any responsible person at Heritage Auctions is refuted by the email communications within Heritage

Auction following the visit by federal agents on July 15<sup>th</sup> and 16<sup>th</sup>, 2008. (see exhibit “K” attached)

143) It is apparent from the reports and the emails, that it was Cornell who was pushing to find or even create evidence that KORTLANDER was selling the museum and its contents, in violation of the BGEPA and the MBTA. There was NO evidence that the KORTLANDER or anyone was engaged in any unlawful activity.

144) Given that KORTLANDER clearly knew that he was being investigated by federal agents, and that he knew that his every move would be subject to the review and scrutiny of these federal agents, and given that KORTLANDER was understood to be knowledgeable of the laws concerning the BGEPA and the MBTA, it would strain anyone to believe that KORTLANDER would then conduct any sale or offer of sale likely to subject him to further criminal repercussions. The allegations raised by Cornell and the BLM, taken in context are clearly knowingly false, and intended only to mislead the Court into believing that probable cause existed to allow a Search Warrant to be issued for the seizure of museum items on display at the Custer Battlefield Museum.

145) Cornell clearly knew that the criminal activity he alleged was unsupported, even refuted by the evidence. He made his affidavit, acting in



behalf of the United States, knowing the truth, but submitting statements he knew to be false and misleading. .

146) The failure to allege a crime is further evidenced by the decision of the United States Attorney NOT to file any charges in relationship to those items seized pursuant to the September 2008 Search Warrant. This is an example of the ongoing violation of the Constitutional rights of the Plaintiffs by the Defendant(s) in a continuing course of conduct authorized and carried out in concert agents of the BLM, the Interior Department of the United States.

**No Probable Cause for the 2008 Search Warrant:**

147) The statements attributed to various sources are clearly a 'spinning' and/or distortion of facts, as the sources have denied ever making the statements attributed to them, and no documentation or evidence has ever been put forth to support the assertions. But the truth was lost while the story was spun to the BLM's purpose of garnering a conviction at any cost.

148) ALL the items seized in 2008 were also present and on public display in the Custer Battlefield Museum when the March 2005 raid took place.

149) The investigation and raids of Garryowen represent more than a mere conspiracy to damage KORTLANDER. The actions of BLM Special Agent Brian Cornell, supervised by BLM Special Agent in Charge Bart Fitzgerald, and the other agents and agency officials amounted to an abuse of

resources for personal and political purposes that had little, even nothing, to do with their charged purpose of protecting Indian artifacts on federal lands. KORTLANDER became the victim of a federal government that focused in its policy and practice on the careers of federal agents which could be enhanced with a conviction obtained by threats, intimidation and coercion of a high profile individual: KORTLANDER.

150) There never was any evidence of any crime, as had been alleged to provide probable cause to obtain the September, 2008 Search Warrant. Absent probable cause, the Search Warrant fails. However, the United States wrongfully continues to retain possession of the items seized in the execution of that Search Warrant, denying Plaintiffs the lawful use of said seized items to their economic loss and damage.

**LOSS OF BUSINESS:**

151) Plaintiff Historical Rarities did hundreds of thousands of dollars of business each year, dealing with collectables and artifacts. The unlawful actions of the federal government directly impacted upon Plaintiffs' reputation in the collectables and artifacts business community. The result was that Plaintiffs' business ceased and dried up, as federal agents proceeded to contact and question each of Plaintiffs' customers, none of whom ever made any

complaint to any federal agency, nor had experienced any loss whatsoever in their dealings with Plaintiffs.

152) A portion of the KORTLANDER's business revenue was based upon the money paid by the U.S. Post Office for rental of a mail facility on the Garryowen premises. Kortlander, had been a principal customer of the facility, spending hundreds of dollars monthly for shipping services associated with Historical Rarities. This business was lost to the post office at that location (Garryowen, MT 59031) and in 2011, the U.S. Post Office indicated its intention to close that Post Office, ending its facility lease and thus costing KORTLANDER and Plaintiffs approximately \$12,000 a year in revenue.

### **CONCLUSIONS**

153) For more than four-and-a-half (4½) years the BLM and the federal government investigated, harangued, slandered, threatened, and intimidated KORTLANDER with the full weight of the federal government. The federal government never had enough evidence to obtain even an indictment. But the lies and misrepresentations of Cornell and others unlawfully and wrongfully denied KORTLANDER his most fundamental Constitutional rights. And when KORTLANDER asked to know about the nature of the information and accusations against him, and to know and thus confront the witnesses against him, that information is again being withheld.

154) The assertions made by federal agents and by the United States Attorney prosecuting KORTLANDER show either a gross misunderstanding of the laws of the United States as they apply to eagle feathers and the feathers of migratory birds, OR they reflect the malicious statements of agents intent on frightening KORTLANDER and others into giving testimony and confessions. Testimony and confessions, that serve only to enhance the careers of the federal employees involved and while pursuing the apparent goals of the federal agencies. Justice was never the goal of this investigation.

155) Brian Cornell travelled all over the country and into Canada, talking to those who had ever done business with KORTLANDER. He talked to those who bought from KORTLANDER and to those who sold to KORTLANDER. Cornell also talked to everyone he could, who had ever donated anything to the Custer Battlefield Museum.

156) It should come as no surprise that confronted with an armed federal agent, THOSE CORNELL INTERVIEWED TOLD HIM THEY WOULD NOT HAVE BOUGHT FROM KORTLANDER IF THE ITEMS HAD NOT COME FROM THE BATTLEFIELD. It seems obvious that the statements reported by Cornell may have been affected by the fact that a United States federal law enforcement officer, investigating KORTLANDER was asking the questions and interpreting the answers.

157) The evidence gathered for the various search warrants was entirely the product of (a) entrapment by an ambitious 'sting' operation, (b) based upon the testimony and reports of known felons and stalkers with obvious prejudice towards KORTLANDER, and/or (c) contrived by an overzealous agent, Cornell, and others so as to 'spin' facts into a scenario to reach a desired end, rather than realizing the truth of the matters being examined and serving justice.

158) The actions of Cornell, Fitzgerald, and unknown others toward KORTLANDER have severely and maliciously attacked the very fundamental Constitutional rights of KORTLANDER, and thus every American. Similarly, KORTLANDER has been the victim of an overzealous investigation and prosecution intended to coerce a guilty plea where no guilt lies.

159) While no mere change in the rules can guarantee protection from dishonest federal agents and dishonest or complicit prosecutors, the recognition of the practice of malicious prosecution of innocent Americans and willfully ignoring exculpatory information in a timely manner needs to be addressed with all the resources of this federal government if confidence in the American system of justice is to be restored in this land.

**EQUAL PROTECTION:**

160) There appears to be a wide spread practice in federal law enforcement, to use bullying, force and intimidation to accomplish apparently

politically correct or desired ends. The United States enjoys the status of sovereign with its inherent immunity, to protect its law enforcement agents as they misuse the system. Against these Plaintiffs, the federal government, through its agents, brought the full weight and power of the United States to stop the sale of the artifacts, and especially Indian artifacts. The only problem is that there were no artifacts illegally being sold. The business operations of the Plaintiffs were microscopically investigated and scrutinized, and yet not indictable crime could be found. There was no crime.

161) The 5<sup>th</sup> Amendment to the Constitution provides for due process stating that “No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury...” The very purpose of this Amendment is to protect against the abuse of government authority in legal proceedings.

162) Here, the United States will claim that the Plaintiffs were never charged and that there never were any legal proceedings. However, this seems inconsistent with the obtaining of search warrants from federal judges, as well as the filing of applications for search warrants in federal court. The custodial questioning of KORTLANDER, while denying him the opportunity to come and go about even his own premises belies the innocence of the actions of BLM law enforcement that were directed toward him.

163) The actions of BLM and federal law enforcement towards Plaintiffs was postured towards the end of destroying KORTLANDER and the Plaintiffs financially. The ability to do business, a business built over years was destroyed by the heavy handed actions of the federal government.

164) The actions denied Plaintiffs due process, thus denying them equal protection under the Constitution.

**ILLEGAL SEARCH AND SEIZURE:**

165) The Search Warrants, were unsupported by probable cause, based upon the representations and misrepresentations of agent(s) of the United States. The misleading and untruthful statements were made even though the truth was known by the agents, but willfully ignored.

166) The actions of the federal agents amounted to an unlawful search and seizure, resulting in an unlawful taking of the property by the United States. The procedural misuse of the judicial system by these agents, was unwarranted and without probable cause. The result was the severe damage to the reputations, social relationship and economic well being of the Plaintiffs, especially KORTLANDER.

**RIGHT TO SPEEDY TRIAL:**

167) The Sixth Amendment to the Constitution declares: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial..."

The federal government, however, didn't want to be bound by the Constitution, so this prosecution with its subsequent damage to the reputations, social relationships and economic damage of the Plaintiffs never was charged in an indictment. In doing so, the federal government attempts to sidestep its responsibility to its citizens and the attendant limitation on its power under the 6<sup>th</sup> Amendment.

168) The right to a speedy trial is well established, but the policy and practice of federal law enforcement agencies of executing search warrants without ever charging a crime has become wide spread. The result is what amounts to a 'thumbing of the nose' attitude to the Constitution, while using unbridled power of the federal government to obtain non-judicial justice. This is wrong!

**DAMAGES:**

169) KORTLANDER and the various business entities at Garryowen with which he is associated have been variously damaged in their person (or corporate person), their security, reputation and ability to operate in an ongoing and legal manner within the United States of America. The total character and extent of the wrong doing of the federal agents and agencies involved is still unknown to KORTLANDER and the various businesses represented herein. This uncertainty is directly a result of the common and continuing course of



conduct over time of those operating under color of the United State of America. Claims by the various damaged parties herein may be as of yet uncertain and subject to upward revision, and frequently apply to more than a single entity.

I) Christopher KORTLANDER

- ❖ Garryowen: Loss of sale, \$7,000,000
- ❖ Prospective museum development: \$30,000,000 in 2005.
- ❖ Attorney's fees: \$100,000
- ❖ Interference with contract and lawsuit with Heritage Auctions:  
\$10,000,000
- ❖ Loss of business: \$2,500,000 (\$500,000 per year for five plus years }
- ❖ Loss of business financing: \$1,000,000
- ❖ Interference of acquisition of Elizabeth Custer Collection: \$250,000
- ❖ Loss of tenant at Garryowen: \$100,000
- ❖ Health:
  - Loss of life insurability: \$1,500,000
  - Change in life expectancy: \$10,000,000
- ❖ Loss of reputation, social and business relationships: \$10,000,000
- ❖ Damage to assets and collection: \$2,000,000

II) Historical Rarities, Inc.

- ❖ Attorney's fees: \$100,000
- ❖ Interference with contract and lawsuit with Heritage Auctions:  
\$10,000,000

- ❖ Loss of business: Historical Rarities -- \$2,500,000 (\$500,000 per year for five plus years}
- ❖ Loss of business financing: \$1,000,000
- ❖ Loss of reputation, social and business relationships: \$10,000,000
- ❖ Damage to assets and collection: \$2,000,000

III) Custer Battlefield Museum, Inc.

- ❖ Prospective museum development: \$30,000,000 in 2005.
- ❖ Attorney's fees: \$100,000
- ❖ Loss of business: Custer Battlefield Museum -- \$500,000 (\$100,000 per year for five plus years}
- ❖ Loss of business financing: \$1,000,000
- ❖ Loss of reputation and relationship with donors: \$10,000,000
- ❖ Damage to assets and collection: \$10,000,000

IV) Elizabeth Custer Museum and Library, Inc.

- ❖ Prospective museum development: \$30,000,000 in 2005.
- ❖ Attorney's fees: \$100,000
- ❖ Loss of business financing: \$1,000,000
- ❖ Interference of acquisition of Elizabeth Custer Collection: \$250,000
- ❖ Loss of reputation and relationship with donors: \$10,000,000

Damage Totals:

KORTLANDER:

Property Damage: \$58,950,000  
Personal Injury: \$21,500,000  
Total: \$79,950,000

Historical Rarities, Inc.:

Property Damage: \$15,600,000  
Personal Injury: \$10,500,000  
Total: \$25,600,000

Custer Battlefield Muscum:

Property Damage: \$31,600,000  
Personal Injury: \$10,000,000  
Total: \$41,600,000

Elizabeth Custer Museum and Library:

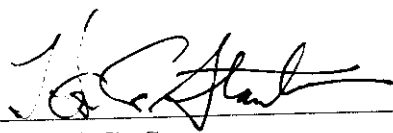
Property Damage: \$31,350,000  
Personal Injury: \$10,000,000  
Total: \$41,350,000

PRAYER:

170) WHEREFORE Plaintiffs pray for judgment against the Defendants for their damages set forth above, plus their reasonable costs and fees, including their reasonable attorney's fees as provided by statute.

171) Plaintiffs further pray for such equitable, injunctive and protective relief as the Court shall deem just and equitable.

Dated: September 14, 2011

  
\_\_\_\_\_  
Harold G. Stanton,  
Attorney for Plaintiffs