

1 FUTTERMAN & DUPREE LLP
MARTIN H. DODD (104363)
2 JAMIE L. DUPREE (158105)
160 Sansome Street, 17th Floor
3 San Francisco, California 94104
Telephone: (415) 399-3840
4 Facsimile: (415) 399-3838
martin@dfdlaw.com

5 *Attorneys for Receiver*
6 J. Clark Kelso

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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

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MARCIANO PLATA, et al.,
Plaintiffs,
v.
ARNOLD SCHWARZENEGGER, et al.,
Defendants.

Case No. C01-1351 TEH

**DECLARATION OF WILLIAM
PROCTOR IN SUPPORT OF MOTION
OF RECEIVER J. CLARK KELSO FOR
ORDER ADJUDGING DEFENDANTS IN
CONTEMPT FOR FAILURE TO FUND
RECEIVER'S REMEDIAL PROJECTS
AND/OR FOR AN ORDER
COMPELLING DEFENDANTS TO FUND
SUCH PROJECTS**

Date: September 22, 2008
Time: 10:00 a.m.
Courtroom: Hon. Thelton E. Henderson

1 I, William Proctor, declare as follows:

- 2 1. I am currently employed by the URS/Bovis Lend Lease joint venture under contract with
3 the Receiver. I am the Program Manager for the Receiver's capital improvements
4 program. The facts set forth herein are based on my own personal knowledge and, if
5 called as a witness, I could competently testify thereto.
- 6 2. I have an A.S. degree in Architectural Technology from the Pitt Technical Institute at
7 East Carolina University. I have more than 38 years of experience in the design,
8 construction and program /project management for correctional facilities across the
9 United States, including a number of jails and prisons within the State of California. I
10 have extensive experience in developing effective and credible project management
11 plans, budgets and schedules, design review and coordination, constructability analyses,
12 value engineering, contractor management, project controls systems and claims
13 resolution. I have particular expertise in complex and politically sensitive correctional
14 facility construction projects, including projects that are the subject of litigation and/or
15 under court supervision.
- 16 3. A program management team, lead by URS/BLL – Joint Venture and supported by
17 specialty consultants has been engaged to coordinate the planning and implementation of
18 the Receiver's facilities capital program. Eight major concurrent activities, in various
19 states of completion, are underway: (1) Site analysis and selection, (2) environmental
20 impact analysis and reports, (3) engineering analysis of existing infrastructure systems,
21 (4) facility planning, (5) design and construction delivery planning, (6)
22 operational/transition planning, (7) program management planning and (8) funding.
- 23 4. As a core component of the plan to bring the level of prison health care services up to
24 constitutional standards as quickly as practicable, the Receiver is supervising the
25 construction of new CDCR health facilities to house approximately 6% of CDCR's
26 existing inmate population, (approximately 10,000 inmates) whose medical and/or mental
27 health condition requires separate housing to facilitate appropriate access to necessary

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1 health services. It is not too much to say that the capital projects are essential to the
2 Receiver's remedial plans and if they are delayed in any way, the Receiver's ability to
3 bring the prison health care system up to constitutional standards will be severely, and
4 adversely, impacted.

- 5 5. Seven facilities of approximately 1500 beds each are being planned, each of which will to
6 be located near urban centers throughout the state. The facilities will range in size from
7 800,000 square feet to 1,600,000 square feet, so that the total additional space to be
8 constructed will be approximately seven million square feet, the equivalent of 70 Wal-
9 Mart stores. The proposed California Health Care Facilities ("CHCF") will include both
10 medical and mental health beds, sharing efficient centralized support services. Each will
11 feature multiple bed types (*i.e.*, unlicensed and licensed) supporting the movement of
12 patients across multiple levels of care, minimizing the need for transfers to other CDCR
13 institutions. The CHFCs will bring the most medically-complex patients to the most
14 qualified providers, and will be equipped to offer comprehensive ambulatory care,
15 chronic care and case management services. Each facility will be designed for patients
16 requiring handicapped accessibility and will provide dental facilities for the resident
17 population.

18 Medical

- 19 6. Approximately half the housing to be constructed will be for medical services. Of the
20 medical services housing, approximately 75% will consist of open-space dormitories for
21 "specialized general population" patients who have functional impairments or chronic
22 conditions requiring ready access to health care services (*e.g.*, vision, hearing, mobility
23 impairment, pregnancy, frailty due to age or medical condition). Approximately 18% will
24 consist of assisted-living type housing for "low acuity" patients requiring RN availability
25 8-16 hours/day for assessment, monitoring and/or management. These patients may need
26 services such as IV hydration for less than three days, straightforward IV antibiotics,
27 straightforward wound care regimen or supervision or limited assistance with activities of
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1 daily living (“ADL”). Seven percent of the beds will consist of nursing-home-type
2 housing for “high-acuity” patients with needs, such as complex or high-risk medication
3 regimen, blood transfusion, complex wound care regimen, IV hydration for more than
4 three days, and total dependency or extensive assistance with ADL:

5 Mental Health

- 6 7. The remaining half of the housing will be for mental health services. Of the mental
7 health patients to be housed, 85% will be Enhanced Out Patient (“EOP”) population, of
8 which approximately 80% will housed in open-space dormitories and 20% in high
9 custody rooms requiring structured treatment activities, medication management by a
10 psychiatrist and weekly individual therapy. The remaining 15% of the total mental health
11 population will be housed in individual rooms for patients who may be a danger to
12 themselves, staff or other patients and who require 24 hour care.
- 13 8. In addition to medical and mental health beds, the Receiver is also overseeing the
14 construction of clinical space that will comply with the remedial plans in the *Armstrong*
15 and *Perez* cases, pursuant to the coordination agreements reached between the Receiver,
16 the Special Master in *Coleman* and the court representatives in *Armstrong* and *Perez*.
- 17 9. Construction planning is underway, on a schedule to complete and open the new facilities
18 as quickly as reasonably possible, depending on the time required to evaluate
19 environmental impacts, certify environmental impact reports, and assuming funding can
20 be obtained. To reduce the complexity of acquiring sites, the Receiver has determined
21 that the new facilities shall be located on the grounds of existing institutions under the
22 control of CDCR, in communities that have already accepted the presence of correctional
23 facilities, and which are near urban centers with access to larger pools of medical/mental
24 health professionals and custody staff. Because of the limited capacity of existing CDCR
25 facilities to provide infrastructure or other supporting services, the new health care
26 facilities are being planned as “stand-alone” facilities.
- 27 10. In order to build the new facilities as quickly as possible, the Receiver is proceeding with

1 the planning of all seven, concurrently, with the intention of proceeding with the design
2 and construction on the fastest possible schedule. In order to carry out his plan, it is
3 necessary for the Receiver's program management team to proceed with multiple
4 concurrent activities, including:

- 5 a) Identifying seven or more adequate sites, on property currently controlled by CDCR,
6 near urban centers.
- 7
- 8 b) Preparing environmental impact analysis and reports for seven or more sites, in
9 compliance with CEQA, the California Environmental Quality Act.
- 10 c) Evaluating and preparing engineering design for the infrastructure systems required to
11 support the new facilities, including (but not limited to) domestic and fire protection
12 water, waste-water, storm drainage, gas, electrical and communications services,
13 roads, and other necessary systems.
- 14 d) To program and plan seven new secure, self-contained facilities for mental health and
15 sub-acute medical services to provide minimum constitutional levels of care.
- 16
- 17 e) To plan and implement design and construction of the new facilities, as fast as
18 reasonably possible, including reliance upon waivers of state procurement regulations.
- 19 f) To plan and implement project management services to carry out the Receiver's
20 capital program, provide schedule and budget controls, and to provide accountability
21 for the expenditure of public funds.
- 22
- 23 g) To provide detailed planning information to support the Receiver's request for capital
24 funding.
- 25 h) To plan for the staffing, operating policies and procedures, furniture and equipment
26 procurement and other activities necessary to assure the Receiver is prepared to open
27 the facilities as quickly as possible following the completion of construction.
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1 11. The Receiver is pursuing an integrated project delivery ("IPD") approach, which the
2 Receiver views as the most appropriate method of delivering the CHCFs in an expedited
3 manner and at reasonable costs. Under the Receiver's IPD approach, a team of design and
4 construction professionals will work together in a tightly integrated and efficient manner
5 to design and construct the CHCFs. The Receiver believes that such an approach will
6 greatly reduce the time and cost of both design and construction by eliminating much of
7 the waste that occurs in traditional construction delivery methods.

8 12. The Receiver has selected three IPD teams to participate in an intensive preliminary
9 design phase in a collaborative and competitive process ("Co-opetition"). The three IPD
10 teams, consisting of architects, engineers, sub-consultants and sub-contractors will
11 prepare design documents for a prototype facility which will subsequently be site adapted
12 to specific sites, as soon as the CEQA (Environmental Impact Reports (EIRs)) documents
13 are approved. Based upon each IPD team's participation in and work product developed
14 during the Co-opetition, the Receiver will select and award the first available site for
15 design and construction of a CHCF to one of the IPD teams. Provided that the other two
16 teams have performed adequately in the preliminary design and validation phase and that
17 an agreement can be reached on price, schedule, and terms, the Receiver may, at its
18 discretion, give one or both of the other two IPD teams an opportunity to complete design
19 and construct future CHCFs when sites are available.

20 13. Concurrently, the Receiver is selecting "Off-Site Enabling Project" (OEP) design and
21 construction teams, which will prepare advanced planning, engineering analysis and
22 design/construction contract documents for infrastructure projects required at each site. It
23 is expected that the OEP contractors will start demolition and remediation work, utility
24 relocations, and other site infrastructure work as soon as allowable following the EIR
25 approvals, concurrent with IPD design and procurement, in order to allow building
26 construction to start on the earliest reasonably possible date.

27 14. Also concurrently, the Receiver is proceeding with site engineering analysis, and
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1 Environmental Impact Reports (EIRs) for each site determined to be a reasonable
2 candidate for one of the proposed prison health care facilities.

3 15. Multiple concurrent activities make it possible to move forward much faster than
4 traditional construction delivery approaches, but depend upon a complex matrix of
5 coordinated consultant, architect, engineer and contractor services, requiring the
6 encumbrance for contract services.

7 16. The required contracts are each closely coordinated and interdependent. A delay in any
8 single contract award tends to impact the others, resulting in unavoidable and potential
9 catastrophic delay to the Receiver's mission. More fundamentally, neither the project
10 management joint venture nor the design/build teams can be expected to pursue projects
11 of this scope, duration and complexity without assurances that a funding stream exists.
12 Nor are the design/build teams likely to commit resources for such projects if funding is
13 questionable. The teams might disband and scatter or pursue other projects if it funding
14 is not assured.

15 17. In my opinion, therefore, it is critical that both the source and amount of funding for the
16 capital projects be assured in the immediate term so that there is no interruption in the
17 Receiver's ability to proceed with the construction program.

18 I declare under penalty of perjury under the laws of the State of California that the foregoing is
19 true and correct.

20 Dated: August 13, 2008

/s/ William Proctor
William Proctor

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23 I hereby attest that I have on file all holograph
24 signatures for any signatures indicated by a
"conformed" signature (/s/) within this efiled
document.

25 _____
/s/ Martin H. Dodd
26 Martin H. Dodd
Attorneys for Receiver J. Clark Kelso

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CERTIFICATE OF SERVICE

The undersigned hereby certifies as follows:

I am an employee of the law firm of Futterman & Dupree LLP, 160 Sansome Street, 17th Floor, San Francisco, CA 94104. I am over the age of 18 and not a party to the within action.

I am readily familiar with the business practice of Futterman & Dupree, LLP for the collection and processing of correspondence.

On August 13, 2008, I served a copy of the following document(s):

DECLARATION OF WILLIAM PROCTOR IN SUPPORT OF MOTION OF RECEIVER J. CLARK KELSO FOR ORDER ADJUDGING DEFENDANTS IN CONTEMPT FOR FAILURE TO FUND RECEIVER'S REMEDIAL PROJECTS AND/OR FOR AN ORDER COMPELLING DEFENDANTS TO FUND SUCH PROJECTS

by placing true copies thereof enclosed in sealed envelopes, for collection and service pursuant to the ordinary business practice of this office in the manner and/or manners described below to each of the parties herein and addressed as follows:

- BY FACSIMILE: I caused said document(s) to be transmitted to the telephone number(s) of the addressee(s) designated.
- BY MAIL: I caused such envelope(s) to be deposited in the mail at my business address, addressed to the addressee(s) designated below. I am readily familiar with Futterman & Dupree's practice for collection and processing of correspondence and pleadings for mailing. It is deposited with the United States Postal Service on that same day in the ordinary course of business.

Andrea Lynn Hoch
Benjamin T. Rice
Legal Affairs Secretary
Office of the Governor
Capitol Building
Sacramento, CA 95814

Robin Dezember, Director (A)
Division of Correctional
Health Care Services
CDCR
P.O. Box 942883
Sacramento, CA 94283-0001

Molly Arnold
Chief Counsel, Dept. of Finance
State Capitol, Room 1145
Sacramento, CA 95814

Matthew J. Lopes
Pannone, Lopes & Devereaux, LLC
317 Iron Horse Way, Suite 301
Providence, RI 02908

Warren C. (Curt) Stracener
Paul M. Starkey
Dana Brown
Labor Relations Counsel
Dept. of Personnel Admin. Legal Division
1515 "S" St., North Building, Ste. 400
Sacramento, CA 95814-7243

Donald Currier
Alberto Roldan
Bruce Slavin
Legal Counsel
CDCR, Legal Division
P.O. Box 942883
Sacramento, CA 94283-0001

1 Laurie Giberson
Staff Counsel
2 Department of General Services
707 Third St., 7th Fl., Ste. 7-330
3 West Sacramento, CA 95605

David Shaw
Inspector General
Office of the Inspector General
P.O. Box 348780
Sacramento, CA 95834-8780

4 Donna Neville
Senior Staff Counsel
5 Bureau of State Audits
555 Capitol Mall, Suite 300
6 Sacramento, CA 95814

Peter Mixon
Chief Counsel
California Public Employees Retirement
System
400 Q Street, Lincoln Plaza
Sacramento, CA 95814

7 Al Groh
Executive Director
8 UAPD
1330 Broadway Blvd., Ste. 730
9 Oakland, CA 94612

Yvonne Walker
Vice President for Bargaining
SEIU Local 1000
1108 "O" Street
Sacramento, CA 95814

10 Pam Manwiller
Director of State Programs
11 AFSME
555 Capitol Mall, Suite 1225
12 Sacramento, CA 95814

Richard Tatum
CSSO State President
CSSO
1461 Ullrey Avenue
Escalon, CA 95320

13 Tim Behrens
President
14 Association of California State Supervisors
1108 "O" Street
15 Sacramento, CA 95814

Elise Rose
Counsel
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

16 Professor Jay D. Shulman, DMD, MA, MSPH
9647 Hilldale Drive
17 Dallas, TX 75231

Joseph D. Scalzo, DDS, CCHP
3785 N. 156th Lane
Goodyear, AZ 85395

18 Stuart Drown
Executive Director
19 Little Hoover Commission
925 L Street, Suite 805
20 Sacramento, CA 95814

John Chiang
Richard J. Chivaro
State Controller
300 Capitol Mall, Suite 518
Sacramento, CA 95814

21

22 I declare that I am employed in the offices of a member of the State Bar of this Court at
23 whose direction the service was made. I declare under penalty of perjury, under the laws of the
24 united State of America, that the above is true and correct.

Executed on August 13, 2008 at San Francisco, California.

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Lori Dotson

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