

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA :

v. : **CRIMINAL NO. 00-194-01**

ARGENBRIGHT HOLDINGS LIMITED :

**UNITED STATES OF AMERICA'S PETITION
FOR ORDER TO SHOW CAUSE CONCERNING
DEFENDANT'S VIOLATIONS OF CONDITIONS OF PROBATION**

The United States of America, by its counsel, Patrick L. Meehan, United States Attorney for the Eastern District of Pennsylvania, and John J. Pease, Assistant United States Attorney, and respectfully requests that this Honorable Court enter an order scheduling an expedited hearing at which defendant Argenbright Holdings Limited ("Argenbright") will be required to show cause why it should not be found to have violated the terms and conditions of its probation. The government submits this memorandum to supplement the report of Argenbright's outside compliance expert, which is due on October 15, 2001.

Specifically, as explained below, the government's investigation and review of Argenbright's post-sentencing operations and compliance efforts demonstrates that Argenbright, in violation of its probation and the Court-ordered compliance and audit plan: (1) has continued to hire pre-departure screeners at Philadelphia International Airport after the date of sentencing who have disqualifying criminal convictions; (2) has retained and continued to employ pre-departure screeners with criminal records after the date of sentencing even though it certified to the Court that it had re-checked and re-verified every employee's background before the date of sentencing; (3) has made new false statements to the FAA regarding employee background verifications of a significant percentage (25%) of its Philadelphia employees whose files have been

reviewed by agents of the U.S. Department of Transportation's Office of Inspector General; (4) has engaged in many new FAA regulatory violations in Philadelphia (32% of files randomly reviewed by FAA evidence new violations and false statements); (5) has failed to conduct audits in accordance with the audit program that required Argenbright to obtain independent verifications from third party sources that employee backgrounds were properly verified in accordance with FAA regulations; (6) failed to convene a meeting of its compliance management committee until nine months after the date of sentencing; and (7) has engaged in many new FAA regulatory violations at the following 13 airports throughout the United States: Washington, DC (Dulles International and Reagan National), Boston (Logan International), New York (LaGuardia), Los Angeles, Trenton, Detroit, Phoenix, Las Vegas, Columbus, Dallas-Ft. Worth, Seattle, and Cedar Rapids.

Under the terms of the court-ordered compliance program, Argenbright was required to have an independent compliance expert perform a comprehensive independent annual review of the company's progress in implementing the compliance program and submit a report to the government, to the Probation Office and to the Court on or before November 1 during each of the three years after sentencing.¹ On September 14, 2001, this Court *sua sponte* entered an order

¹ The agreed upon topics to be addressed in this report include the following: (1) Establishment of Compliance Standards and Procedures; (2) Establishment of a Compliance Officer and Compliance Infrastructure; (3) Communication of the Compliance Message Throughout the Company; (4) Exercising Due Diligence in Delegating Substantial Discretionary Authority; (5) Implementing a Compliance Auditing and Monitoring Program; (6) Providing Discipline for Violations of the Compliance Standards; (7) Company Investigations in Response to Reports of Violations; and (8) Argenbright's Commitment to Compliance Issues in Management Evaluations and Incentives. (*See Revised Corporate Compliance Program, Tab 3*).

requiring Argenbright to submit this report within 30 days. The government has not yet received Argenbright's submission and may have additional comments after it is received and reviewed.

I. INTRODUCTION

During the period January 1, 1995 through December 31, 1998, the Philadelphia district office of Argenbright Security, Inc., led by co-defendants Steven Saffer, Sandra Lawrence and Helen Fields, hired more than 1,300 untrained pre-departure screeners to work at the security checkpoints at Philadelphia International Airport over a period of more than four years. In addition, Argenbright hired dozens of criminals as pre-departure screeners because of Argenbright's willful failure to verify their backgrounds or criminal history, while falsely certifying that the verifications had been done. Argenbright's district manager Steven Saffer also encouraged and permitted screener training test scores to be falsified and phony high school graduation credentials (GEDs) to be created. Fraudulent bills were also submitted to air carrier customers, who were charged for pre-departure screener services that were never provided.

In May, 2000, defendant Argenbright Holdings Limited ("AHL"), the parent corporation of Argenbright Security, Inc. ("ASI"), ASI's Philadelphia district manager Steven E. Saffer, administrative manager Sandra Lawrence, and personnel manager Helen Fields, all entered pleas of guilty to serious felony crimes that potentially jeopardized public safety and put lives at risk.

Consistent with the terms of its plea agreement, the Court imposed the following sentence on Argenbright: (1) a criminal fine of \$1,000,000; (2) a \$350,000 restitution to air carrier victims; (3) a \$200,000 payment to cover a portion of the costs of the government's investigation; (4) a special assessment of \$800; and, most importantly, (5) a mandatory and

comprehensive corporate compliance program to ensure that these crimes and regulatory violations not reoccur.

Prior to its conviction in this case, Argenbright had no effective compliance or audit systems of any kind in place to detect and prevent the astonishing and widespread criminal activities that occurred in this case. Despite the existence of a number of red flags suggesting the existence of serious FAA compliance problems in Philadelphia in 1997 and 1998, management of Argenbright Security, Inc. failed to conduct any independent audits of the Philadelphia district office's policies and practices regarding FAA compliance during 1996, 1997 and 1998. Instead, defendants Steven E. Saffer, Sandra H. Lawrence and Helen Fields were permitted to operate independently and with little or no oversight from Argenbright Security, Inc.'s corporate or regional headquarters, thereby fostering an atmosphere of noncompliance with FAA regulations. Indeed, economic incentives for local management actually rewarded non-compliance and its effect on Argenbright's bottom line. In addition, there were no audits of any kind concerning the bills that were being submitted to airline carriers.

An effective corporate compliance program was therefore the most critical and essential part of the government's willingness to enter into the plea agreement with Argenbright. In the absence of an agreement to establish a comprehensive and effective corporate compliance program, the government could have instead charged Argenbright with hundreds of counts² of

² In its plea agreement with the government, Argenbright acknowledged that its Philadelphia management officials had made "more than 100 false statements in files subject to the review of the FAA in connection with the recruitment, hiring, training, testing and recurrent training of Argenbright Security, Inc. pre-departure screeners at Philadelphia International Airport between January 1, 1995 and January 12, 1999."

making false statements to the FAA and could have requested that the Court impose fines far in excess of the fine imposed in this case.

At the time of sentencing in this case, defendant Argenbright sought to convince this Court that it had taken a number of positive steps to address the severe weaknesses in its management and compliance structure that were exposed as a result of the crimes it committed in Philadelphia. Argenbright's new allegedly nationwide compliance plan and audit program – if fully implemented as promised – was designed to directly address the problems that occurred in Philadelphia, and included a system designed to detect and prevent future violations of FAA regulations. This Court accepted the compliance program submitted by Argenbright and ordered that Argenbright fully implement and follow the plan that it had presented at sentencing.

In fact, Argenbright's violations continued even at the time of sentencing in this case. In its sentencing memorandum to the Court filed last October, Argenbright represented that "[a]ll employee background investigations have been audited and properly completed if they were deficient. ... Non-Philadelphia company personnel have conducted a comprehensive audit of all of the Philadelphia office's training and personnel files." (Sentencing Memorandum, at pp. 2-3). To the contrary, as explained below, Argenbright failed to properly audit its files of employees before the time of sentencing and continued to retain and hire criminals after the date of sentencing. Violations of FAA regulations continued to occur both between last year's May conviction, October sentencing and afterwards. As explained in more detail below, Argenbright has violated key aspects of the terms of its probation by failing to fully implement the compliance plan and audit program ordered by this Court, and has committed many new – and serious – violations of FAA regulations of the type that were made part of the government's original prosecution.

As a consequence, the government respectfully seeks an order commanding Argenbright to show cause why it should not be found in violation of probation. Upon a finding of a violation of probation, the government will request that this Court impose additional penalties³ on Argenbright as provided in U.S.S.G. § 8D1.5 including, but not limited to, extending the period of probation from 3 years to 5 years, mandating 100% fingerprint based criminal background checks on all current and future employees, ordering Argenbright to discontinue its operations at the Philadelphia International Airport until such time as it can show that all of its employees have been trained and hired in accordance with all FAA regulations, and additional probation conditions that the Court deems appropriate and necessary.⁴

II. ARGENBRIGHT HAS VIOLATED THE TERMS OF ITS PROBATION AND COMMITTED NEW CRIMINAL OFFENSES.

As explained in detail below, the government's investigation and review of Argenbright's post sentencing operations and compliance efforts demonstrates that the company has violated the terms and conditions of its federal probation by failing to fully implement critical aspects of the corporate compliance program as ordered by this Court on October 20, 2000, and by engaging in new violations of FAA regulations.

Specifically, as explained below, Argenbright (1) has continued to hire pre-departure screeners at Philadelphia International Airport after the date of sentencing who have

³ Argenbright has already paid the maximum fine of \$1,000,000 permitted by law on its two counts of conviction.

⁴ Several months ago, counsel for Argenbright stated to the government that Argenbright would discontinue all of its operations at the Philadelphia International Airport and would permanently pull out of Philadelphia. In a newspaper story dated October 5, 2001, the *Philadelphia Inquirer* reported that Argenbright planned to abandon its Philadelphia operations on October 21, 2001.

disqualifying criminal convictions; (2) has retained and continued to employ pre-departure screeners with criminal records after the date of sentencing even though it certified to the Court that it had re-checked and re-verified every employee's background before the date of sentencing; (3) has made new false statements to the FAA regarding employee background verifications of a significant percentage (25%) of its Philadelphia employees whose files have been reviewed by agents of the U.S. Department of Transportation's Office of Inspector General; (4) has engaged in many new FAA regulatory violations in Philadelphia (32% of files randomly reviewed by FAA evidence new violations and false statements); (5) has failed to conduct audits in accordance with the audit program that required Argenbright to obtain independent verifications from third party sources that employee backgrounds were properly verified in accordance with FAA regulations; (6) failed to convene a meeting of its compliance management committee until nine months after the date of sentencing; and (7) has engaged in many new FAA regulatory violations at the following 13 airports throughout the United States: Washington, DC (Dulles International and Reagan National), Boston (Logan International), New York (LaGuardia), Los Angeles, Trenton, Detroit, Phoenix, Las Vegas, Columbus, Dallas-Ft. Worth, Seattle, and Cedar Rapids.

A. Argenbright Continued to Hire Convicted Criminals in Philadelphia After the Date of Sentencing and Continued to Employ Persons Convicted of Criminal Offenses.

One of the most startling revelations of last year's prosecution of Argenbright was that the company hired numerous persons as pre-departure screeners in Philadelphia who had been convicted of serious crimes. The compliance program proposed by Argenbright and ordered by the Court included a requirement that Argenbright conduct 100% criminal background on all employees it hires.

A review by federal investigators of the backgrounds of some of the persons who were hired by Argenbright in Philadelphia after the date of sentencing, as well as those who continued to be employed by Argenbright in Philadelphia after the date of sentencing, demonstrates that Argenbright continued to hire and retain criminals to work as pre-departure screeners in Philadelphia.

The list of known criminals hired or retained by Argenbright can be summarized as follows:

1. Persons Hired After Sentencing Convicted of Disqualifying Crimes

<u>Initials</u>⁵	<u>Date of Hire</u>	<u>Conviction</u>
R.B.	11/16/00	Unauthorized use of auto
		Receiving stolen property
S.B.	11/29/00	Theft by deception
B.B.	11/22/00	Controlled substance
D.G.	12/1/00	Burglary
		Controlled Substance
		Retail theft

2. Persons Retained After Sentencing Convicted of Disqualifying Crimes

<u>Initials</u>	<u>Date of Hire</u>	<u>Conviction</u>
R.B.	4/5/99	Obstruction of justice
		Controlled substance
R.B.	1/19/99	Controlled substance
		Controlled substance
		Controlled substance
G.G.	1/28/99	Controlled substance
		Prostitution
C.G.	2/12/99	Burglary
S.M.	9/29/00	Criminal nuisance
		Possession of controlled substance
		Controlled substance

⁵ Initials are used here to protect the privacy of the individual employees.

J.N.	9/20/99	Possession of controlled substance Resisting arrest Possession of controlled substance
R.P.	10/13/00	Forgery Retail theft
J.R.	8/2/00	Controlled substance
L.C.Z.	10/6/99	Controlled substance Controlled substance Assault
M.F.	6/27/00	Controlled substance

3. Other Convicted Criminals Hired by Argenbright After Sentencing.

In its contracts with air carriers, Argenbright pledged not to hire persons with criminal backgrounds even if the conviction was not technically considered a disqualifying conviction under FAA regulations. The following persons, whose convictions are either too old to be considered disqualifying convictions or are not in the category of disqualifying convictions, were all hired by Argenbright after the date of sentencing in this case:

<u>Initials</u>	<u>Date of Hire</u>	<u>Conviction</u>
C.C.	12/28/00	Election fraud Criminal conspiracy Theft Receiving stolen property
A.J.	12/14/00	Carrying firearm without license Controlled substance
C.R.	12/17/00	Forged drug prescription
C.A.S.	10/21/00	DUI - caused bodily injury

B. Argenbright's Management Officials in Philadelphia Continued to Falsify Employee Backgrounds and Make False Statements to the Federal Aviation Administration.

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A random selection of files of employees hired by Argenbright in Philadelphia after

the date of sentencing was made by agents of the U.S. Department of Transportation's Office of Inspector General in Philadelphia. Their limited review shows that a significant percentage (4 out of 16) of these files contain demonstrably false statements regarding employment background verifications. Some of these false statements pertain to employees with criminal histories.

<u>Employee Initials</u>	<u>Date of Hire</u>	<u>False Statements by Argenbright to FAA</u>
V.R.	11/30/2000	Argenbright verified employment dates with Slayton Farm School as 7/97 to 1/98. V.R. was not employed by Slayton Farm School.
D.G.	12/1/2000	Argenbright verified employment dates with Contractor's Incorporated as 4/89 to 4/00. Employee worked there for only 2 months. NCIC indicated D.G. incarcerated in Georgia between 1990 and 1994.
A.B.	12/7/2000	Argenbright employment dates with Tomars Textiles as 6/98 to 12/99. Actual employment with Tomars Textiles was 5/28/98 to 9/30/98. Argenbright verified dates of employment with Wackenhut Security as 9/94 to 5/97. Actual employment with Wackenhut was 7/22/93 to 11/16/95.
S.B.	11/29/2000	Argenbright verified employment dates at Snelling from 4/97 through 11/16/00. In truth, employee had only worked there from 4/98 - 8/98, 2/18/99 to 2/22/99 and 11/1/00 - 11/2/00. Applicant did have other employment, however, during that period.

C. Argenbright's Philadelphia Office Also Continued to Violate Other FAA Regulations.

A review by agents in the FAA's Philadelphia office of a random selection of 34 employee files from Argenbright's Philadelphia operation also disclosed a variety of other violations of FAA regulations, including what appear to be intentionally false statements:

Audit Conducted by Special Agent Jill Dempsey:

Of the 17 files⁶ audited by Special Agent Dempsey in Philadelphia in January and February, 2001, at least 8 contained evidence of FAA regulatory violations:

<u>Employee Initials</u>	<u>Date Hired</u>	<u>Violations</u>
C.G.	11/9/2000	(1) Failed to indicate who verified high school attendance; (2) 2 year gap within past 5 year required a fingerprint based criminal records check, which was not performed; (3) Failed to obtain and provide complete addresses of previous employers.
S.J.	10/5/2000	(1) Failed to verify employment at 2 different employers; (2) Discrepancy of one full year in high school attendance dates.
A.C.	10/5/2000	Failed to obtain complete address information for schools attended during past 10 years.
V.R.	11/30/2000	(1) Failed to obtain ten years of background and employment history from employee; (2) Failed to conduct a fingerprint based criminal records check, even though unexplained gap of more than one year existed; (3) Failed to obtain complete address information for one of the employers; (4) Failed to verify high school attendance.
L.S.	10/16/2000	Failed to obtain addresses and telephone numbers for former employers.

⁶ 14 of the 17 files that were randomly selected by Special Agent Dempsey related to employees who were hired after Argenbright entered its guilty plea in May, 2000.

Z.M.	1/3/2001	Failed to obtain addresses and telephone numbers of former employers.
J.R.	12/21/2000	No evidence in file to support claim that verified high school attendance; follow-up efforts by FAA show that attendance could not have been verified as stated in application.
B.S.	8/8/1998 ⁷	(1) Failed to conduct fingerprint based criminal background check despite two year gap in employment history; (2) Employment at Faber Coe and Gregg appears to have been falsified; (3) Failed to obtain previous employer addresses, yet certified full background had been completed.

Audit Conducted by Special Agent Katrina Banks:

Of the 17 files audited by Special Agent Banks in Philadelphia in January and February, 2001, at least 4 contained evidence of FAA regulatory violations:

<u>Employee Initials</u>	<u>Date Hired</u>	<u>Violations</u>
A.B.	6/19/2000	Contains clear evidence of false statements by Argenbright employee concerning verification of employment history. Failed to conduct a fingerprint based criminal background check. Although FAA instructed Argenbright to remove this employee from checkpoint on 1/24/01, Argenbright continued to employ this person as a screener at the checkpoint on 1/26/01, 1/28/01 and 1/29/01.
J.C.	11/27/2000	No evidence in file that five year background verification was performed.
L.T.	11/1/1998	An unverified employment gap between 4/95 and 11/98 is on her application. Although date of hire is before original prosecution of Argenbright, Argenbright has certified to the government on

⁷ This same employee's file was reviewed and criticized by FAA in its 1999 audit and investigation, which led to the original prosecution of Argenbright, and the employee remained employed through the Winter of 2000/2001.

several occasions that it had re-checked and re-verified all of the backgrounds of all of its Philadelphia employees after the January, 1999 investigation began. FAA ordered this employee to be removed from the checkpoint on 1/24/01, and was later reinstated on 2/9/01 when the background verification was properly completed.

T.B. 6/22/2000 Employment application failed to include former employer's complete address, phone number or name. FAA agents were unable to verify prior employment for this employee.

D. Argenbright Violated the Terms and Conditions of Its Corporate Compliance Program by Failing to Conduct Proper Audits and by Failing to Perform Criminal Background Checks of All Employees at All of its Locations.

1. Argenbright Has Failed to Perform Proper Audits of its Airport Locations.

Perhaps the most important aspect of Argenbright's corporate compliance program is the requirement that Argenbright's compliance auditors do real audits, which, by definition, include testing of representations contained in its employee files to determine that the FAA's regulations were followed by the office being audited.

Specifically, each Argenbright "Audit Team should collect representative sample of personnel files and contact former employers and individuals who accounted for gaps in employment history to confirm that these individuals were indeed contacted and made the representations stated in the selected files." (See Tab 2.D of Revised Corporate Compliance Program). Argenbright promised as part of its corporate compliance program that "Argenbright's checklists require more than a cursory paper review to determine whether files contain approved forms."

As of the time that it submitted its first periodic report to the government in April, 2001, it became clear that Argenbright had not done any audits involving the actual contacting of former employers to verify employee backgrounds. To the contrary, Argenbright's "audits" in more than 20 of its locations consisted of nothing more than mere cursory file reviews, which only noted places where it appeared the files were incomplete or missing information. These were not audits by any stretch of the imagination, and Argenbright's wholesale failure to perform the audits it agreed to perform is a serious violation of the terms and conditions of its probation.

Following the receipt of its April, 2001 periodic report and the FAA's discovery of new regulatory violations by Argenbright in Philadelphia, the undersigned counsel met with Argenbright's attorneys to identify the violations and to demand that immediate corrective action be taken. Argenbright failed to discover on its own the many FAA violations occurring in Philadelphia, and brought in an audit team to begin re-verifying backgrounds of its employees. An intensive search for additional criminals working for Argenbright was conducted by the U.S. Department of Transportation's Office of Inspector General and many employees were relieved of their duties. In June, 2001, the undersigned counsel obtained FAA's audit reports and workpapers from around the United States for the audits that occurred between November, 2000 and February, 2001. The FAA also ordered a second round of audits to begin in July, 2001. Copies of those audit reports were provided to the U.S. Attorney's office by FAA in August, 2001.

In its April, 2001 meeting with government counsel, Argenbright pledged to correct the deficiencies in Philadelphia and to address the problems in the other locations in which its cursory file review audits had identified problems. The cursory file review audits that Argenbright had completed by that time identified many serious deficiencies concerning

compliance with FAA regulations in numerous Argenbright locations⁸ throughout the country, and noted that confirmation that corrective actions had been taken would be necessary.

In its August 17, 2001 letter to the undersigned counsel, Argenbright's counsel confirmed that its auditors did not perform any third party verifications during their audits and noted that follow-up audits did not occur after the first round as had been expected: "[T]he Company did not perform re-verifications during any of its first quarter audits. During the second quarter, the Company focused nearly all of its efforts and attention to the recordkeeping problems in the Philadelphia International Airport location, and consequently, was not able to conduct audits as frequently as it did during the first quarter."⁹

⁸ For example, at Washington's Dulles International Airport, Argenbright employed 459 employees yet audited only 10 files on February 27, 2001. Of the 10 files audited, however, 2 employees' 5-year background verifications had not been completed. Eight out of 10 employees lacked the necessary information for their 10 year employment and background verification. At its Newark International Airport operation, Argenbright's March 20, 2001 audit showed that 57% of the files audited lacked the proper background verification information and 38% of the employee files audited lacked verification that a high school diploma was received. In Miami, Argenbright discovered in its February 21, 2001 audit of its United Air Lines operation that 86% of the employees audited had not signed the disqualifying crimes certification form, 28% did not have a high school diploma or equivalent, and 43% did not have the required local background check. A separate audit of Argenbright's American Air Lines operation in Miami disclosed that 30% of the employee files audited lacked the required 5-year employment verification, 60% of the files had no evidence of a high school diploma, and 100% of the employee files audited lacked the required criminal background check. There are numerous other examples of similar problems discovered at other Argenbright locations throughout the United States.

⁹ On May 23, 2001, as a result of its "intensive review" of employee files in Philadelphia, Argenbright notified the FAA that "thirty-nine employees have significant problems with their files" and that, as a result, "we have decided to pull the security badges from these employees." The affected airport employees were skycaps, escorts, cart drivers, baggage handlers and even a duty manager. Argenbright did not specify the nature of the "significant problems" in its communication with the FAA.

It seems clear that Argenbright's performance of its audit responsibilities during at least the first ten months of its probation is completely unacceptable. Argenbright has violated the Court-ordered compliance program by failing to perform the agreed upon audits in accordance with the audit program that was so carefully developed and considered before sentencing. As explained in more detail below, Argenbright's failures have resulted in many new examples of violations of FAA regulations. Numerous pre-departure screeners have been employed by Argenbright throughout the United States without adherence to all FAA regulations, thereby potentially jeopardizing public safety at our nation's airports.

2. Examples of Other Failures by Argenbright to Comply with Corporate Compliance Program.

Argenbright agreed to create a "Compliance Management Committee," which would "review the adequacy of the compliance program on an ongoing basis, identify potential root causes of deficiencies and recommend modifications to the program." (Sentencing Memorandum, at p. 5). However, the only meeting minutes¹⁰ provided by Argenbright show that this compliance committee met for the first time on July 10, 2001, and noted in the meeting minutes that its auditors "have done a good job" on the audits of training and personnel files.

Argenbright's failure to schedule an official meeting of its compliance management committee until July 10, 2001 – nine months after sentencing – is inexcusable. When it did finally meet, this compliance committee failed to acknowledge that the audits conducted in the first six

¹⁰ The company's April, 2001 periodic report certified that there had been 2 compliance management committee meetings prior to that time, yet did not give any dates or provide minutes of the meetings. In a letter to government counsel dated August 17, 2001, Argenbright's outside counsel stated for the first time that the compliance management committee's first meeting did not occur until July 10, 2001.

months after the compliance program in effect ignored the critical requirement that Argenbright obtain independent verifications that backgrounds were properly completed in accordance with FAA regulations. It is difficult to comprehend how a compliance committee could consider that its auditors had done a "good job" when it knew that these auditors did not conduct the types of audits that were required under the compliance program.

Argenbright also agreed as part of its compliance program that it would conduct internal audits of its billing procedures and practices in order to prevent and detect future billing fraud of the type was charged in this prosecution. (Sentencing Memorandum, at p. 8).

Argenbright agreed that it would engage the services of an independent professional organization to conduct an annual assessment of the company's billing policies, procedures and practices to ensure that third parties were being properly billed.

As of its first periodic report in April, 2001, the company had not conducted any audits of any of its billing functions. It is unknown at this time what, if any, efforts, have been made to comply with this aspect of the compliance program.

E. Argenbright Continued to Violate FAA Regulations in Other Cities in Which it Operates.

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Since the date of sentencing, the Federal Aviation Administration has conducted two rounds of audits of more than 20 Argenbright locations around the United States. The first audit began in November, 2000 and concluded in February, 2001. The second round of audits began in July, 2001 and concluded in August, 2001.

The FAA audits of a random sampling of files at Argenbright airport locations disclose that Argenbright has continued to hire pre-departure screeners and post them at airport

security checkpoints throughout the United States without first complying with all of the FAA's regulations.

The following are summaries of the FAA's audit findings:

**1. FAACAS¹¹ AUDIT SUMMARIES (Audit Initiated November 2000)
(CITIES OTHER THAN PHILADELPHIA)**

**a. Washington Dulles International (FAA case no.
2001EA720220; related FAA case no. 2001EA720213)**

FAA lead agent: Philip Eastberg; Supervisor: Bruce Parks.

Between approximately November 27 and December 8, 2000, FAACAS conducted an audit of Argenbright Security personnel employed at Washington Dulles International Airport (IAD). The FAA reviewed 44 Argenbright employment files. The FAA determined that of the 44 files reviewed, Argenbright employed 11 security screeners before completing employment history verifications, in violation of 14 C.F.R. Part 108.33. Argenbright had certified to the Metropolitan Washington Airport Authority that they properly performed the background investigation.

The FAA reported that Argenbright Security failed to carry out proper employment history verifications on employees hired as security screeners at IAD. Argenbright allowed 11 fully certified screeners to work unsupervised without the required fingerprinting and criminal history checks.

¹¹ FAACAS is an acronym for Federal Aviation Administration Civil Aviation Security.

The FAA reported that the eleven screeners and the length of time each worked without the proper background check and/or fingerprint check are as follows:¹² "Ak." (10 months), "As." (18 months), "Au." (10 months), "Bh." (10 months), "Du." (18 months), "El." (3 months), "Go." (12 months), "Ir." (12 months), "Lu." (16 months), "Me." (10 months), and "Tw." (10 months).

The FAA sought a civil penalty in the amount of \$11,000.00.

b. Detroit, Michigan (FAA case no. 2001GL720020).

Lead FAA agent: Suzanne Aszalos; Supervisor: Larry Marshall.

On November 29, 2000 the Federal Aviation Administration's Office of Civil Aviation Security (FAACAS) initiated an audit of Argenbright employment history background checks at the Detroit Metro Wayne County Airport (DTW). FAA agents reviewed 25 screener security files and determined that Argenbright Security improperly conducted background investigations on 4 individuals, in violation of 14 C.F.R. Part 108.33. Argenbright's misconduct enabled 4 individuals to perform screening functions before proper completion of their security background investigation.

On approximately December 20, 2000 American Airlines removed the 4 individuals in question from the checkpoints. In all 4 instances, the FAA determined that the background history contained unexplained gaps of 12 months or more and that, in violation of FAA regulations, Argenbright failed to initiate fingerprint based criminal record checks.

¹² Initials or abbreviated names are used throughout this memorandum to protect the privacy of the individual employees.

For example, one of the screener's application indicated that he served in the Yemen army between 1993 and 1997. However, without verifying his tour of duty with the Yemen army, Argenbright certified to the DTW authority that they completed his background investigation enabling him to receive unescorted access to DTW's sterile areas.

The FAA concluded that the 4 individuals, hired 08/20/99, 4/5/2000, 6/27/00, and 11/22/00, performed screening duties at the LCS-Blue security checkpoint, DTW, through December 18, 2000.

On December 20, 2000 the FAA sent a Letter of Investigation to American Airlines identifying the alleged violations.

The FAA reported that American Airlines immediately removed the screeners from their duties at the checkpoint, and that this constituted the second time within a year that American Airlines and its contracted security company, Argenbright Security, violated the same FAA regulations. (See FAA case number 2000GL720154).

The FAA field unit recommended a \$12,000 civil penalty against American Airlines.

c. Las Vegas, Nevada (FAA case nos. 2001WP720031; 2001WP720032; 2001WP720033; and 2001WP720034.)

FAA lead agent: Alan Haag; Supervisor: Margie Radcliffe.

On or about November 30, 2000 the FAACAS initiated an audit of Argenbright Security employee background investigations at McCarran International Airport (LAS), Las Vegas, NV. FAA agents reviewed 54 screener files and determined that Argenbright failed to properly conduct background investigations related to 31 screeners in violation of 14 C.F.R. Part 108.33.

Argenbright's misconduct enabled 12 individuals to perform screening functions at LAS prior to the proper completion of the background investigation, and enabled each to have unescorted access to sterile areas of LAS.

The FAA reported that Argenbright failed to verify periods of unemployment of more than 12 consecutive months in the most recent five years related to 31 screeners, yet Argenbright certified to LAS that they properly completed the background check for all 31 employees.

The FAA reported that, for 20 pre-departure screeners, Argenbright failed to collect a full 10-year employment history from the applicant, yet certified that the background check was complete, thereby enabling the 20 individuals to receive a security identification badge.

The FAA reported that, for 21 pre-departure screeners, the Argenbright applicant failed to explain a period of unemployment of more than twelve consecutive months. Yet, in each instance, Argenbright certified to LAS that they properly conducted the background check on these 21 individuals.

The FAA reported that, for 6 pre-departure screeners, the applicants' dates of employment or unemployment recorded on the application differed from the dates recorded as verified on Argenbright background documents.

The FAA reported that 31 employment applications reviewed violated 14 C.F.R. Part 108.33 for failing to contain required information.

The FAA audit resulted in 12 Argenbright screeners being removed from the checkpoints.

The FAA issued letters of correction to United Airlines on January 19, 2001.

d. Trenton, New Jersey (FAA case no. 2001EA710200)

FAA lead agent: Jeffrey J. Candino; Supervisor: Nora A. Zaba

On or about January 23, 2001, the FAACAS initiated an employment history verification and criminal background audit of Argenbright Security employees who performed screening functions for Shuttle-America at Trenton-Mercer Airport (TTN).

FAA agents reviewed 7 employee files and determined that Argenbright improperly conducted background investigations related to 4 of the employees reviewed, in violation of 14 C.F.R. Part 108.33, and the Air Carrier Standard Security Program, Section XIX.A.

FAA agent Candino reported that the review uncovered insufficient documentation related to applicant statements and improper/unacceptable background verification procedures performed by Argenbright. Agent Candino reported that Ronda Overton, Human Resource Manager, Argenbright, declined a request to discuss the matter with Agent Candino.

The FAA reported that Argenbright caused four employees to gain unescorted access to sterile areas of TTN before the proper completion of their background checks. In addition, Argenbright certified to the TTN airport manager that Argenbright properly conducted the background checks.

In addition, the FAA findings resulted in 4 screeners being removed from screening duties at TTN.

The FAA recommended a civil penalty in the amount of \$7,998.00 against Shuttle America for Argenbright's misconduct. The FAA reported that the regulatory violations allowed a potentially dangerous individual to be in a position to compromise aviation security.

e. Cedar Rapids, Iowa (FAA case not numbered).

FAA lead agents: Jennifer Brassel, Jennifer Conner; Supervisor: Kennis Bourne.

On or about January 9, 2001, FAACAS audited Argenbright employment files at the Eastern Iowa Airport, Cedar Rapids, Iowa (CID). FAA agents reviewed 34 employee files and determined that Argenbright granted access to a pre-departure screener before properly completing the related background investigation, in violation of 14 C.F.R. Part 108.33.

The FAA reported that the pre-departure screener's file contained an unexplained gap of twelve months or more and that Argenbright failed to conduct a fingerprint based criminal history check as required by FAA regulations. In addition, FAA agents attempted to re-verify the employment background, but were unable to do so. The employee began screening duties on September 9, 2000, approximately 4 months before the audit.

In addition, the FAA reported that Argenbright permitted one additional pre-departure screener to gain unescorted access to sterile areas of CID airport before verification was complete.

f. Seattle-Tacoma International Airport (FAA case no. 2001NM710191)

FAA lead agent: Joy Harrel; Supervisor: David Kuper.

On or about January 25, 2001, FAACAS initiated an audit of 22 Argenbright Security employment files at Seattle-Tacoma International Airport (SEA). The FAA determined that Argenbright failed to properly conduct background investigations on 3 security screeners that

performed screening functions at SEA, in violation of 14 C.F.R. Part 108.33. Argenbright certified to the SEA airport authority that the background checks were completed, enabling the three employees to gain unescorted access to sterile areas of SEA.

The FAA reported that three Argenbright employees received Security Identification Display Area (SIDA) badges and subsequently unescorted access to the SIDA, when their 10-year employment history investigations and 5-year verifications were inadequately conducted, each in violation of 14 C.F.R. Part 108.33.

Argenbright's misconduct resulted in one employee gaining unescorted SIDA access for six weeks, another employee gaining unescorted SIDA access for more than 4 months, and a third employee gaining unescorted SIDA access for seven months, without the required fingerprint based criminal record check.

The FAA audit revealed that Argenbright failed to verify a 2-year unemployment gap related to one of the 3 employees and a 7-year unemployment gap related to a second of the three employees referenced above. Argenbright failed to verify high school enrollment related to the third employee. Argenbright violated 14 C.F.R. Part 108.33(k) and United Airlines Air Carrier Standard Security Program, Section XIX.A.

The FAA findings resulted in SEA authority disabling the screeners' security badges and forbidding access to the SIDA.

The FAA recommended a \$1,000.00 civil penalty against United Airlines for Argenbright's misconduct.

**2. FAACAS AUDIT SUMMARIES (Audits initiated July 2001)
CITIES OTHER THAN PHILADELPHIA**

a. **LaGuardia International Airport (FAA Case no. – FAA did not open case).**

FAA lead agent: None

On July 20, 2001, FAACAS agents audited Argenbright personnel files at LaGuardia International Airport. FAA agents reviewed 17 files and determined that Argenbright permitted 5 screeners to independently perform screening functions prior to completing the related background check. The FAA audit revealed that on one occasion, Argenbright failed to verify background information contained in the file of a pre-departure screener who had manned security checkpoints since March 28, 2001. A criminal history check conducted on July 26, 2001 revealed that this employee had felony gambling arrests and convictions, which would have disqualified the screener from employment. The employee was then removed from screening duties.

b. **Dallas/Fort Worth International Airport (Each effort by FAA agents treated as separate audit. FAA case no. not generated)**

FAA Lead Agent: Anthony Monreal

On June 27, 2001, FAA agent Monreal audited 9 Argenbright screener files. The audit revealed that Argenbright failed to verify employment for one pre-departure screener for the period August 1994 to August 1998. The audit revealed that Argenbright received negative fingerprint-based criminal history results on April 15, 2001. However, the screener received SIDA access on December 15, 2000, 5 months before Argenbright completed the background check.

The FAA audit revealed that Argenbright caused the airport authority to grant unescorted access to another pre-departure screener before completing a background

investigation. The FAA noted that this screener's application contained incomplete employment history information, and that the file contained an unexplained employment gap of 12 months or more with no completed criminal history check. The FAA reported that the audit revealed 2 employment gaps of 2 years each.

The FAA audit revealed that Argenbright falsely reported that they had verified a different pre-departure screener's employment with The Lilet Services Corporation for continuous employment between 11/88 and 11/00. This screener was badged on January 4, 2001.

The FAA determined that the screener was never employed by Lilet. On July 17, 2001, the Dallas Airport Authority terminated the screener's badge as a result of the FAA'S findings.

On July 13, 2001 FAA agent Bobbie Cook audited 8 Argenbright employment files of security screeners. The FAA audit determined that 3 Argenbright employees (badged on 11/14/00, 1/9/01 and 11/28/00) were granted unescorted access prior to Argenbright completing background investigations.

c. Port Columbus, Ohio International Airport (FAA case no. 2001GL750091).

Lead agent: Pamela Fording-Lapham.

On July 15, 2001 the FAA audited Argenbright personnel records related to security screeners at the Port Columbus International Airport, Columbus, Ohio. The FAA examined 40 files and determined that Argenbright failed to properly verify background information provided by the applicant in 25 instances. The FAA reported that the majority of the personnel reviewed were immigrants from Ethiopia, Somalia, and Sierra Leone. In one instance, the FAA determined that an employment gap of more than 12 months existed for one pre-

departure screener who had received unescorted access to the sterile area of the airport on approximately May 22, 2001.

d. Boston, Massachusetts – Logan International Airport (Case number not generated by FAA based on findings)

Lead Agent: Sherry Moran.

On July 27, 2001 the FAA audited 38 Argenbright screener files at Boston's Logan International Airport. The FAA reported that on 5 occasions, Argenbright failed to submit applicants to fingerprint based criminal history check when required by FAA regulations. These 5 screeners received badges on 11/06/00, 12/19/00, 12/26/00, 12/15/00, and 10/23/00. In each instance, the FAA reported that the applicant's background documents contained incomplete employment history information and that Argenbright's verification was therefore not in accordance with FAA regulations. At least one of the screeners (the one who was badged on 11/6/00) was removed from duty based on the FAA's findings.

e. Ronald Reagan National Airport (FAA Case No. not generated).

Lead FAA Agent: Chris Lane.

On July 5, 2001 the FAA audited 38 Argenbright screener files. The FAA reported that on 3 occasions Argenbright failed to properly conduct background verification before seeking unescorted access to secure areas of the airport.

f. Las Vegas International Airport (FAA case no. not generated)

FAA lead agent: Muriel Blackburn.

On June 29, 2001 the FAA audited 74 Argenbright screener files and reported that on one occasion, Argenbright permitted unescorted access to a security employee badged on or

about 3/13/01 before completing the related background check. Based on the FAA findings, this Argenbright employee was removed from screening duties.

g. Los Angeles International Airport (FAA case no. not generated).

FAA lead agent David Gonzalez.

On July 19, 2001, the FAA audited seven Argenbright screener files at LAX¹³.

The FAA reported that Argenbright permitted one pre-departure screener, who had received a security badge on or about 12/4/00, to have unescorted access prior to verifying his employment background. More specifically, the Argenbright screener claimed to have been employed by a security company and Argenbright certified to the FAA that it had verified his employment with that security company. The FAA contacted the security company during its audit, and the security company denied that it had employed the screener.

h. Phoenix Sky Harbor International Airport (FAA case no. 2001WP730283).

FAA Lead Agent: Kimberly Vick.

On July 27, 2001, the FAA audited 101 Argenbright screener files at PHX. The FAA reported that Argenbright permitted 4 pre-departure screeners (badged on 6/21/01, 6/13/01, and two on 6/9/01) to have unescorted access to secure areas before properly completing the related background investigation. The FAA reported that one of the screener's background documents indicated a discrepancy that should have triggered a fingerprint-based criminal history check that was not conducted.

III. LEGAL DISCUSSION

¹³ FAA audited other files at LAX but treated each review by an individual agent as a separate audit.

Section 8D1.5 describes the remedies available to the Court where, as here, a corporation violates the terms and conditions of its probation:

§ 8D1.5 Violations of Conditions of Probation - Organizations (Policy Statement)

Upon a finding of a violation of a condition of probation, the court may extend the term of probation, impose more restrictive conditions of probation, or revoke probation and resentence the organization.

Application Note 1 to this guidelines section provides that "In the event of repeated, serious violations of conditions of probation, the appointment of a master or trustee may be appropriate to ensure compliance with court orders."

This Court therefore has the authority under the Sentencing Guidelines to extend the period of Argenbright's federal probation from 3 years to 5 years, and may, in its discretion, impose additional appropriate conditions of probation on the corporation. The government will be prepared to discuss additional probation conditions when and if the Court determines that a probation violation has occurred.

IV. CONCLUSION

Even though it was sentenced less than a year ago for an astonishing pattern of crimes that potentially jeopardized public safety, and despite this Court's order requiring it to fully implement all of the terms and conditions of its probation, defendant Argenbright has failed to do so and in fact has committed additional violations of the type which resulted in its prosecution last year. This conduct is inexcusable and is a clear violation of the terms and conditions of its probation. For all of these reasons, the government respectfully requests that this Honorable

Court schedule an expedited hearing to determine whether defendant Argenbright has violated the terms and conditions of its probation and, if so, to determine an appropriate penalty.

Respectfully submitted,

PATRICK L. MEEHAN
United States Attorney

PETER F. SCHENCK
Assistant United States Attorney
Chief, Frauds Section

JOHN J. PEASE
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on this date a true and correct copy of the foregoing was served by HAND DELIVERY to counsel for the defendant and to the assigned U.S. Probation Officer:

John C. Dodds, Esquire
Morgan Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921

U.S. Probation Officer Thomas Maher
United States Probation Office
2400 William Green Federal Building
600 Arch Street
Philadelphia, PA 19106

JOHN J. PEASE
Assistant United States Attorney

Date: _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA :

v.

: **CRIMINAL NO. 00-194-01**

ARGENBRIGHT HOLDINGS LIMITED :

ORDER TO SHOW CAUSE

AND NOW, upon consideration of the United States of America's Petition for Order to Show Cause Concerning Defendant's Violations of Conditions of Probation, and the defendant's report to this Court in response to the Court's September 14, 2001 order, it is hereby ORDERED, ADJUDGED and DECREED that the defendant, Argenbright Holdings Limited, through its counsel and a duly authorized officer of the company, shall appear before this Court in Courtroom 13-B on the ____ day of _____, 2001, and show cause why this Court should not find that it has violated the terms and conditions of its probation, as set forth in the government's petition.

BY THE COURT:

Dated: _____

HONORABLE MARVIN KATZ
United States District Judge