

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

BANK JULIUS BAER & CO., LTD, a Swiss entity; and JULIUS BAER BANK & TRUST CO. LTD., a Cayman Island entity,

No. CV-08-0824 JSW

Plaintiffs,

v.

WIKILEAKS, an entity of unknown form; WIKILEAKS.ORG, an entity of unknown form; DYNADOT. LLC, a California limited liability company; and DOES 1 through 10, inclusive,

Defendants.

DECLARATION OF TAYLOR LINCOLN

I, Taylor Lincoln, declare as follows:

1. I am the Research Director of Congress Watch, the legislative policy and research arm of Public Citizen. Public Citizen, established in 1971, is a national nonprofit organization that advocates for openness and democratic accountability in government; for the right of

1 consumers to seek redress in the courts; for clean, safe and sustainable energy sources; for
2 social and economic justice in trade policies; for strong health, safety and environmental
3 protections; and for safe, effective and affordable prescription drugs and health care. Public
4 Citizen has members nationwide, including approximately 15,000 members in California.
5

6 2. I have served in my current position as Research Director since September 2005. I
7 have edited, authored or co-authored several ground-breaking reports for Public Citizen,
8 including reports on the lobbying campaign of the super-wealthy to repeal the estate tax; the
9 stealth effort of former Sen. Bill Frist (R-Tenn.) and the pharmaceutical industry to craft a
10 liability shield for products used to treat a pandemic illness; the sum of campaign
11 contributions from lobbyists to members of Congress; electioneering activities of 501(c)
12 non-profit groups; and a statistical tabulation of the number of former members of Congress
13 who became federal lobbyists. Before joining Public Citizen, I worked as a reporter for three
14 Washington, D.C., area newspapers. I have a master's degree in journalism from the
15 University of Maryland and a B.A. in English from the University of Michigan.
16
17

18 3. Much of Public Citizen's advocacy is conducted through original research and
19 reporting on matters of public concern. Public Citizen has become known for authoritative,
20 investigative reports whose findings are widely reported in the press and used by members
21 of Congress and other advocates in shaping legislation. These reports often rely on a
22 combination of public databases, various Internet resources, searches of news reports, and
23 information from whistleblowers and consumers. Examples of recent research reports
24 include:
25
26

- 27 • A report showing that arbitration firms and credit card companies enjoy a cozy,
28 mutually beneficial relationship at the expense of consumers they force into binding

1 mandatory arbitration. Using data that is only available for consumer disputes
2 arbitrated in the state of California, the findings provide a glimpse into how
3 arbitration traps consumers throughout the country in unfair, secret proceedings in
4 which for-profit arbitrators make the rules. Public Citizen's research uncovered
5 consumers who spent years fending off collection agencies, cleaning up identity theft
6 messes and struggling to bounce back from credit rating hits.

- 7 • Several reports tracking the major fundraisers, or bundlers, for the 2008 presidential
8 campaigns, including periodic reports showing the the number that are registered
9 federal lobbyists.
- 10 • A study showing that, in spite of a law requiring manufacturers to provide the
11 Consumer Product Safety Commission with "immediate" notification of dangerous
12 products, the agency typically delays nearly seven months after learning of
13 dangerous, defective products before telling the public.
- 14 • A study revealing that a greatly disproportionate share of medical malpractice cases
15 in the state of New York involve doctors enlisted in a special program for physicians
16 with high-risk histories.

17 4. Information concerning corporate and governmental misconduct is essential to our
18 research reports. The most useful information of this kind comes in the form of actual
19 corporate and government documents revealing the facts at issue. Many of our reports are
20 informed by leaked documents that have been previously published and reported elsewhere.

21 5. Other divisions of Public Citizen also produce research reports that depend on access
22 to sensitive government and corporate documents. Public Citizen's Health Research Group,
23 for example, produces reports concerning regulation of drugs and medical devices by the
24 U.S. Food and Drug Administration. These reports are often critical of both the federal
25 government and drug companies, and frequently rely on government and corporate
26 documents. Public Citizen's Global Trade Watch produces reports concerning trade policy,
27 particularly with regard to its impact on environmental and labor protections. These reports
28 are often highly critical of governments, multinational corporations, and international

1 institutions such as the World Bank, and frequently rely on sensitive government and
2 corporate documents that are at risk of suppression.

3
4 6. I believe that the Wikileaks has the potential to be a valuable tool for the unique type
5 of research that we conduct at Public Citizen. Both the subject matter of the website
6 (government and corporate misconduct) and the type of information posted on the site
7 (original government and corporate documents) are directly relevant to our work. Attached,
8 as Exhibit A to this declaration is the "About" page of the wikileaks.org website.
9

10 7. Public Citizen, therefore, has a strong interest, protected by the First Amendment, in
11 access to the documents posted on Wikileaks. Public Citizen's ability to perform its
12 research work is significantly enhanced by the willingness of those with information on
13 governmental and corporate misconduct to disclose that information without threat of
14 retaliation. If Wikileaks is shut down, the ability of Public Citizen and its members to access
15 that information will be significantly impaired.
16

17 8. Indeed, this Court's permanent injunction of February 15, 2008, which ordered the
18 Wikileaks.org site shut down, not only impairs, but completely forecloses, the ability of
19 Public Citizen to access the information that would otherwise be available on Wikileaks.
20 Thus, the disposition of this case has already had, and may continue to have, the effect of
21 impeding the ability of Public Citizen to protect its significant First Amendment interests in
22 the material posted on Wikileaks.
23

24
25 9. Public Citizen is concerned that its First Amendment interests will not be adequately
26 represented in this Court absent Public Citizen's intervention because Wikileaks has not
27 appeared in this action to defend itself. Moreover, even if Wikileaks does appear, there is no
28

1 reason to believe that Wikileaks would be able to adequately represent the interests of Public
2 Citizen.

3 Executed at Washington, DC, this 26th day of February, 2008.

4 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is
5 true and correct.
6

7
8
9 
Taylor Lincoln