IN THE COURT OF APPEALS FOR THE STATE OF ALASKA

DAVID HAEG	)	
	)	
Appellant,	)	
	)	
vs.	)	
	)	
STATE OF ALASKA,	)	Appellate Court No.: A-09455
	)	District Court No. 4MC-S04-024 Cr.
Appellee.	)	
_____	)	

APPELLANT'S OPENING BRIEF

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By: _____
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JURISDICTIONAL STATEMENT

Appellant Haeg appeals from the September 30, 2005 final judgment issued by McGrath Judge M. Murphy. [Exc. ___] This Court has appellate jurisdiction under AS 22.07.020(c) and Alaska Appellate Rule 217.

STATEMENT OF ISSUES PRESENTED FOR REVIEW
(Meant to deliberately fail by corrupt attorney Chuck Robinson)

1. Did the trial court err in failing to dismiss the information in this case because the court lacked subject-matter jurisdiction to proceed with the case where information is unsupported by oath or affirmation before judge or magistrate?

2. Did the trial court err in failing to dismiss the information in this case because the information on its face was insufficient to charge a crime?

3. Did the trial court err in failing to dismiss the information in violation of the Fourth Amendment to the U.S. Constitution and Article 1, Section 14 of the Alaska Constitution?

4. Did the trial court err in failing to dismiss the information in violation of the Due Process clauses of the Fourteenth Amendment to the U.S. Constitution and Article 1, section 7 of the Alaska Constitution?

5. Did the court fail to dismiss the information in violation of the equal protection clauses of the Fourteenth Amendment to the U.S. Constitution and Article 1, section 1 of the Alaska Constitution?

6. Should the information in this case have been dismissed as to Counts I through V of the information because such charges

violates defendant's equal protection under the equal protection clauses of both the U.S. and Alaska Constitutions?

7. Did the trial court err in permitting the information in this case to be amended over defendant's objection?

STATEMENT OF THE CASE

This case is possibly the most egregious example ever in the U.S. of defense attorneys's sellout of their own client to the prosecution in a highly political case. This allowed an extremely aggressive prosecution to violate nearly every one of Haeg's procedural, legal, and constitutional rights unchallenged. The subsequent snowballing cover-up of this systemic corruption is something straight out of a John Grisham book. This brief will no doubt play an important part in the ongoing clean up of corruption in Alaska.

When every crime and violation the prosecution committed "didn't matter" and every agreement made was broken after the prosecution got everything they bargained for but before Haeg ever received a thing, Haeg became suspicious something was wrong, fired his first attorney (Brent Cole) after secretly taping him for weeks, hired a new attorney (Chuck Robinson), and, after becoming suspicious of him, hired a third (Mark Osterman). By the time Haeg hired Osterman he was so cautious that he secretly taped every single conversation had. The story these transcripts tell is one of the most chilling things most of you will ever read. (See Transcripts 1 & 2) Without the ever-expanding Federal investigation happening at this very time into Alaska's corruption most of you who have not been involved would likely have a difficult time believing it.

At first Osterman is totally for Haeg, stating things like "the sellout is the biggest I have ever seen – you didn't know your attorneys were going to "load the dice so the [State] would always win"; agreeing that Robinsons points of appeal were no good; that he and Haeg were going to sue them; etc. etc. etc. Then, about a month later his story has completely changed, stating things like, "I can't affect the lives and livelihoods of your first attorneys", and even under oath stating he "changed his mind" about Robinson's points of appeal (that are so outrageous it is shocking). Osterman feels he is so secure he first tells Haeg he will charge $12,000.00 for the whole appeal because it's $3000.00 to $5000.00 per point of appeal and then, after he has all $12,000.00 up front and isn't even close to finishing, tell Haeg that Haeg owes him another $28,000.00 because he charges $8000.00 per point of appeal. This is all on tape.

This took place at Haeg's hearing on whether or not he could represent himself and is the first place the real truth of what has happened and is happening to Haeg was placed on the record – and now this Court of Appeals has conveniently decided this hearing, including the sworn testimony, will not be part of the record in Haeg's case. This decision by this court is just one of many impossible decisions made to continue the now desperate cover-up of what happened to Haeg at the hands of a corrupt

judicial system (please do an internet search of "systemic corruption" so you can follow along as this story continues to unfold). Haeg would like to apologize in advance for not having time to completely perfect this brief – but will do the best he can in the time allowed.

I. Facts

This opening brief is written and submitted under formal protest and in violation of Haeg's U.S. and Alaska Constitutional Rights guarantying him equal rights, opportunities, protection, and due process under the law. The Alaska Court of Appeals has refused to stay or grant an extension to Haeg's appeal pending the outcome of a post-conviction relief procedure even though not doing so prejudices Haeg unbelievably. This prejudice arises from the fact that this appeal is based upon points and record produced at trial by Robinson, Haeg's second attorney - who Haeg now has irrefutable proof was actively representing interests in direct opposition to Haeg's. In other words Haeg has direct evidence Robinson, instead of representing Haeg, was covering up Cole's sellout of Haeg to the prosecution.

Thus it is an enormous waste of Haeg's time and money along with the courts to pursue this appeal that is based upon a record with nothing of substance – and was merely a smoke screen to hide the unbelievable sell-out of Haeg before trial. Haeg finds it extremely chilling that this Court of Appeals will not stay his

appeal so he may conduct a POST CONVICTION RELIEF proceeding to document on the record the unbelievable and undeniable evidence that Haeg has of a gross and fundamental breakdown in the justice – when this court, the Alaska Supreme Court, and even an overwhelming number of other courts, including the American Bar Association, have ruled this is the proper procedure.[1]

Even more frightening is that the trial court has ruled they will not accept Haeg's constitutionally guaranteed PCR application and this Court of Appeals refuses to grant Haeg's request to order the trial court to accept one. Haeg is being deliberately and intentionally forced to proceed with an appeal that has been set up to fail and not be allowed to conduct a PCR that would not fail. This is all undeniably to prevent Haeg from obtaining justice and exposing the sellout that occurred before trial and the subsequent cover-up.

Haeg has refused to amend and/or add to his points on appeal because if he does so with these salient issues (Ineffective assistance of counsel, prosecutorial misconduct, vindictive prosecution, corruption, etc.) he is barred from then bringing them up again in a PCR where he can utilize the staggering evidence not on the record to make his case.

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[1] ABA Criminal Justice Section Standard 22-1.4 & 22-2.2

Since it would ruin any chance for a successful PCR for Haeg to amend and argue his salient points in this appeal yet if he fails to brief this appeal this Court of Appeals will rule he has abandoned it, Haeg is left with nothing but to show the points of appeal were deliberately picked by Robinsons so Haeg's appeal would fail. Haeg will also show Robinson hid the numerous issues that would positively and overwhelming reverse Haeg's illegal conviction while exposing the incredible injustice started by Cole. Haeg would like to add that the statue of limitations for appealing is past and if this court rules he has abandoned it he will not be allowed to appeal again. Haeg also feels it fundamentally unfair of this Court of Appeals to have refused to rule on his motion for reconsideration for almost 2 months – so Haeg must now file his brief without having these extremely important and pertinent issues ruled on by this court. In direct effect this Court of Appeals has done everything in its power including breaking its own rules, to continue covering up the absolutely unbelievable actions of Haeg's own attorneys working with the State to obtain and maintain an illegal conviction and sentence of Haeg. Haeg wishes to point to this singular and extremely prejudicial treatment of him, in violation of his constitutional right to equal opportunities and protection under law, as positive and irrefutable evidence of this Court of Appeals corruption. Haeg asks this court, and those he will be

appealing to, how any defendant can possibly obtain fundamentally fair procedures in this environment.

Haeg will now show just how absolutely unbelievable Robinson's points of appeal really are. While reading this keep in mid that Robinson told Haeg, "You are so sure to win on appeal I recommend not even putting on any evidence at trial".

Robinson's Statements of Points on Appeal in Haeg's Case

1. Did the trial court err in failing to dismiss the information in this case because the court lacked subject matter jurisdiction to proceed with the case where information is unsupported by oath or affirmation before judge or magistrate?

This first point of Robinson's is stunning. In Alaska an information "shall be signed by the prosecuting attorney"[2] and "any information may be filed without leave of court"[3]

> *Subject matter jurisdiction* refers to the nature of the claim or controversy. The subject matter may be a criminal infringement, medical malpractice, or the probating of an estate. Subject matter jurisdiction is the power of a court to hear particular types of cases. In state court systems, statutes that create different courts generally set boundaries on their subject matter jurisdiction. One state court or another has subject matter jurisdiction of any controversy that can be heard in courts of that state. Some courts specialize in a particular area of the law, such as probate law, family law, or juvenile law. A person who seeks custody of a child, for example,

[2] Criminal Rule 7(c).
[3] Criminal Rule 7(a).

must go to a court that has authority in guardianship matters. A divorce can be granted only in a court designated to hear matrimonial cases. A person charged with a felony cannot be tried in a criminal court authorized to hear only misdemeanor cases.

State law will determine the subject matter of particular courts within the state. Court responsibilities are delineated somewhat differently from state to state and names of court varies. Basically, however, there will be a statute that creates a court, like "Family Court", and then sets out what the subject matter of that court is. Family Court will typically have jurisdiction over things like divorces, adoptions, juvenile matters, etc. In some states, it may even have jurisdiction over certain classes of criminal statutes (like those involving family members). Other court will have jurisdiction over criminal matters, but maybe one type of court's jurisdiction will be limited to misdemeanors (or less) and another court will hear the more serious offense (and/or cases where a jury trial is demanded). In civil actions, there will typically be limits based on the type of case and the amounts in controversy. For example, small claims' court jurisdiction will typically be limited to cases of relatively litte value (in my state $3,500). The short answer to you question: Subject matter jurisdiction is conferred by statute. Why does it matter? Because anything done by a court lacking subject matter jurisdiction is void. Is that a big problem? Usually not, there aren't that many close calls and most courts are aware of the limits of their jurisdiction. [4]

The **only** time an information **must** be sworn to is if a **warrant** or **summons** is signed.[5] No warrant or summons was issued **in** Haeg's case. Jurisdiction can be established without a

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[4] Subject Matter Jurisdiction as stated in: http://www.answers.com/topic/subject-matter-jurisdiction

[5] Criminal Rule 9(a).

summons or warrant by voluntarily appearing to answer in court – as to Haeg did.[6]

It is extremely important right here to carefully observe that **no where** does Robinson, in any case filings before submitting Haeg's points of appeal, mention **subject-matter** jurisdiction. In fact, in his 5/6/05 reply, he specifically states "the court lacks jurisdiction over the defendant"; "court lacks jurisdiction over a criminal defendant"; "deprives a trial court of jurisdiction over a defendant"; "deprives the court of jurisdiction over the defendant", etc. etc. etc. It is crystal that Robinson was arguing the court would lack jurisdiction over **Haeg** – in other words **personal** jurisdiction.

The reason for this change from "personal jurisdiction" during Haeg's proceedings through sentencing to "subject-matter" jurisdiction during appeal is one of the most twisted, unbelievable, perverse, and chilling examples of the power and control a criminal defense attorney holds over his own client that has ever been recorded in the U.S.

Haeg hired Robinson after firing Brent Cole (Cole) because of Haeg's suspicions Cole had sold him out after a plea agreement, which had been in place for 3 months and on which Haeg

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[6][See Robinson's Motion to Dismiss Information; State's 4/25/05 Opposition; Robinson's 5/6/05 Reply; and Magistrate/Judge Murphy's 5/9/05 Denial]

had placed nearly 1 million dollars detrimental reliance and a 5 hour interview with the prosecution, was broken by the State (by amending the information so the charges were far more severe than those already filed) **5 business hours** before Haeg was to get what he agreed to. Cole told Haeg "that's the way it is" "suck it up" and that "there is nothing I can do" to force the State to honor the agreement. When the State then demanded more for the same agreement Haeg had already paid, for Haeg refused – knowing that if he paid more there was absolutely nothing to prevent the State from continuing to ask for more. In essence Haeg knew the State was holding him hostage by using what he had already invested for the original agreement to extort more and more from him.
Immediately after hiring Robinson Haeg demanded something be done to enforce the original agreement. Robinson tells Haeg over and over "it's water under the bridge and there's nothing I can do", "there is a 'dispute' between Leaders [prosecutor] and Cole", and "the agreement was fuzzy".

Haeg, a month after hiring Robinson, and against Robinson's advice, even hires a private investigator to look into exactly what happened to the original agreement. Just after this Robinson tells Haeg "I found something that will no doubt win" and "why would you want a plea agreement now and end up with a conviction on your record when this will no doubt win?"

The "no doubt" winner is, of course, that the State did not have jurisdiction "of the defendant" because the information was not sworn to. Robinson tells Haeg the most important part of this "tactic", however, is that Haeg must **never** bring up to the court there was a plea agreement – because this would "admit" that Haeg had "voluntarily" submitted to jurisdiction of the court.

Even after this Haeg requests Robinson ask Leaders for what the State now wants for a plea agreement. The demand now has over doubled – to nearly 2 million dollars – and still with no assurance the extortion would not continue.

Robinson files the motion to dismiss utilizing his "tactic" – which Magistrate/Judge Murphy denies just 8 days before trial – Haeg, in panic, asks Robinson what they should do. Robinson assures Haeg "Murphy's from the bush – she doesn't know what she's talking about – we'll win on appeal"; "being convicted is no big deal – you'll be able to use your guide license and plane pending appeal"; and "it's such a done deal I advise not spending the money to put on any evidence at trial". The State, of course, wins at trial – using all Haeg's statements made for the plea agreement they broke to do so. See information, amended information, and second amended information and Alaska Evidence Rule 410 – which prohibits anything said during plea negations to be used for anything if plea negations fail. This also violates

both constitutional rights that no one will be compelled to testify against themselves. In other words the prosecution compelled Haeg to talk through the ruse of offering a plea agreement they never intended on keeping. The prosecution also got Haeg and his wife to give up an entire years combined income for this agreement – but waited until the year was past before breaking the agreement. This effectively sent Haeg to trial broke and with the prosecution holding all the cards.

In the 2 months between trial and sentencing Haeg starts researching the law more and more. During a status hearing before sentencing Prosecutor Leaders tells the judge that because Haeg broke a plea agreement the State required Haeg's sentence be "enhanced".

Haeg, in absolute exhaustive research of Robinson's "tactic", finds the very **last** time it has succeeded was in two (2) **1909** Oklahoma cases – both concerning alcohol during prohibition.[7]

In the nearly 100 years since these two (2) cases Haeg cannot find a single case reversal because the information wasn't sworn to. Either States have not required informations to be sworn to or it has been ruled "harmless error" – and did not require reversal. After Haeg points this out, Robinson tells

[7] See *Ex parte Flowers 1909* OK CR 69 101 P. 860 2 Okl.Cr. 430 and *Salter v. State, 2 Okla*. Crim. 464, 479, 102 P. 719, 725 (1909).

Haeg he found "a couple fresher cases" that support his "tactic" that there was no jurisdiction because the information had not been sworn to citing *Gerstein v. Pugh*, 420 U.S. 103 (1975) and *Albrecht v. U.S.*, 273 U.S. 1, 8 (1927).

Haeg researches these seminal U.S. Supreme Court cases word by individual word. The U.S. Supreme Court in *Gerstein v. Pugh* ruled:

> "In holding that the prosecutor's assessment of probable [Page 420 U.S. 103, 119] cause is not sufficient alone to justify restraint of liberty pending trial, we do not imply that the accused is entitled to judicial oversight or review of the decision to prosecute. **Instead, we adhere to the Court's prior holding that a judicial hearing is not prerequisite to prosecution by information**. Beck v. Washington, 369 U.S. 541, 545 (1962); Lem Woon v. Oregon, (1913). Nor do we retreat from the established rule that illegal arrest or detention does not void a subsequent conviction. Frisbie v. Collins, 342 U.S. 519 (1952); Ker v. Illinois, 119 U.S. 436 (1886). Thus, as the Court of Appeals noted below, although a suspect who is presently detained may challenge the probable cause for that confinement, **a conviction will not be vacated on the ground that the defendant was detained pending trial without a determination of probable cause."**

Haeg, to his complete and total horror, finds the U.S. Supreme Court ruling in *Albrecht v. U.S.* 273 U.S. 1 (1927) even worse:

> **"The claims mainly urged are that, because of defects in the information and affidavits attached, there was no jurisdiction in the District Court and that rights guaranteed by the Fourth Amendment were violated**. Several important questions of practice are presented which have not been passed upon by this Court, and on which there has been diversity of

opinion in the lower courts, due in part to language in the opinions in U.S. v. Morgan, 222 U.S. 274, 282, 32 S. Ct. 81, and in U.S. v. Thompson, 251 U.S. 407, 413-414, 40 S. Ct. 289." ... "As the affidavits on which the warrant issued had not been properly verified, the arrest was in violation of the clause in the Fourth Amendment, which declares that 'no warrants shall issue but upon probable cause, supported by oath or affirmation.' See Ex parte Burford, 3 Cranch, 448, 453; U.S. v. Michalski (D. C.) 265 F. 839. But it does not follow that, because the arrest was illegal, the information was or became void. The information was filed by leave of court. Despite some practice and statements to the contrary, it may be accepted as settled that leave must be obtained, and that, before granting leave, the court must, in some way, satisfy itself that there is probable cause for the prosecution. This is done some- [273 U.S. 1, 6] times by a verification of the information, and frequently by annexing affidavits thereto. But these are not the only means by which a court may become satisfied that probable cause for the prosecution exists. **The U.S. attorney, like the Attorney General or Solicitor General of England, may file an information under his oath of office, and, if he does so, his official oath may be accepted as sufficient to give verity to the allegations of the information.** See Weeks v. U.S. (C. C. A.) 216 F. 292, 302, L. R. A. 1918B, 651, Ann. Cas. 1917C, 524." ... "The reference to the affidavits in this information is not to be read as indicating that it was presented otherwise than upon the oath of office of the U.S. attorney. The affidavits were doubtless referred to in [273 U.S. 1, 8] the information, not as furnishing probable cause for the prosecution, but because it was proposed to use the information and affidavits annexed as the basis for an application for a warrant of arrest. **If before granting the warrant, the defendants had entered a voluntary appearance, the reference and the affidavits could have been treated as surplusage, and would not have vitiated the information.** The fact that the information and affidavits were used as a basis for the application for a warrant did not affect the validity of the information as such. Whether the whole proceeding was later vitiated by the false arrest remains to be considered." ... "The invalidity of the warrant is not comparable to the invalidity of an

> indictment. A person may not be punished for a crime without a formal and sufficient accusation even if he voluntarily submits to the jurisdiction of the court. Compare Ex parte Bain, 121 U.S. 1, 7 S. Ct. 781. But a false arrest does not necessarily deprive the court of jurisdiction of the proceeding in which it was made. **Where there was an appropriate accusation either by indictment or information, a court may acquire jurisdiction over the person of the defendant by his voluntary appearance.** That a defendant may be brought before the court by a summons, without an arrest, is shown by the practice in prosecutions against corporations which are necessarily commenced by a summons. **Here, the court had juris- [273 U.S. 1, 9] diction of the subject-matter; and the persons named as defendants were within its territorial jurisdiction."**

Haeg, in confusion and panic, calls Robinson – who tells Haeg he is not interpreting the cases correctly – that these cases require reversal of a conviction because a court lacks jurisdiction when the information isn't sworn to.

Haeg, now in confusion, panic, and shock, asks Robinson to subpoena Cole to his sentencing. Haeg tells Robinson that come hell or high water he wants Cole at his sentencing in person to testify under oath to all he [Cole] had Haeg do for the plea agreement – irretrievably canceling an entire years hunts representing the combined yearly income of both Haeg and his wife; nearly 5 your interview, from which the State obtained the only probable cause for over half of the charges Haeg was convicted of; and flying witnesses in from as far away as Illinois – then, when the State breaks the plea agreement just 5 business hours before it was to be concluded, telling Haeg "suck

it up – there's nothing I can do to enforce it." (See Exhibit 2 – Coles 56 questions) Haeg tells Robinson "I want to look Cole in the eye when I get sold out at sentencing".

Haeg pays to have the subpoena delivered, pays for Cole's witness fees, pays for Cole's airline ticket to McGrath (where the sentencing was held), pays for Cole's hotel, and Cole never shows up.

Not only did Cole fail to show up to answer the 56 carefully written questions under oath but Robinson fails to ask any of the four (4) other witnesses present a single one of the questions about all Haeg had done for the plea agreement - questions which were also typed and numbered by Jackie Haeg. Every time Robinson would fail to do this Haeg would point to the questions in Robinson's hand and he would motion for Haeg to be quiet. When Haeg was allowed to speak Robinson told him "things are going so well I wouldn't say anything" and, because Haeg was so stressed, tired, and bewildered after being up for 24 hours straight, he mumbled to the court "I'm so screwed up I don't know what to say" (Haeg, his wife Jackie, their kids Kayla 7 & Cassie 4 [age at time of sentencing], former Ak State Trooper Wendell Jones, retired U.S. Airforce F-15 captain Tony Zellers, Tom Stepnosky, and Drew Hilterbrand [all witnesses] got up at midnight, got everyone cleaned up, drove 4-1/2 hours to Anchorage to arrive at 7:00 a.m., caught the 8:00 a.m. flight from Anchorage to McGrath,

arrived at the court to start at 11:00 a.m., witness testimony whether or not to "enhance" Haeg's sentence goes from 11:00 a.m. to 10:00 p.m., and Haeg is finally allowed his "allocution" at nearly midnight – when he could barely speak).

After all of Haeg's immense efforts, even to the extent of subpoenaing Cole, the Judge heard not a single word there had been a plea agreement or of all Haeg had done for it before the State prosecution broke it. In fact the one time it surfaced that Haeg had not guided during the whole previous year the State claimed: "we had no idea why he did that but we would have been interested if he had". In other words the State lied to the Judge about why Haeg and his family quit guiding but were watching to make sure he did not do so – to make sure he was hurt severely by the agreement but also to make sure he didn't get any benefit from it. Again Robinson did nothing to let the judge know that Haeg and his family had nearly bankrupt themselves – and give a 5-hour confession – all for an agreement the State reaped every last reward, including using all Haeg's statements, without having to give Haeg and his family a single thing they promised.

Judge Murphy sentences Haeg to a 10 year license **revocation** (not allowed by law)[8] with 5 years suspended (in addition to the year already given up and passed), 570 days in jail with 535 suspended, $19,500.00 fine with $13,500.00 suspended, and forfeiture of Haeg's PA12 airplane **and** refuses to stay the revocation pending appeal **and** refuses to allow Haeg the use of his aircraft – both of which Robinson specifically told Haeg **before** trial would not happen. Robinson immediately told Haeg he could **not** appeal his sentence – only the conviction – violating *Alaska Rules of Criminal Procedure 32.5 and Appellate Procedure, Rule 215* - no doubt to avoid risking Haeg realizing the plea agreement never came up or giving Haeg another shot at getting Cole to the sentencing. Judge Murphy fails to tell Haeg he can appeal his sentence – violating *Alaska Rules of Criminal Procedure 32.5 and Appellate Procedure, Rule 215(b).*

If Haeg and wife, Jackie, to save everything into which they had both invested their total life product, were motivated **before** sentencing, the motivation **after** sentencing increased by an order of magnitude. Haeg would create lists of cases, defenses,

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[8] *AS 8.54.720(f)(3)*, which governs sentence limits regarding guides licenses in convictions of *AS 8.54.720(a)(15)*, states, "the court shall order the department to **suspend** the guide license...for a specified period of not less than three years, or to **permanently revoke** the guide license...of a person who commits an offense set out in (a)(15)...of this section".

tactics, and authorities; Jackie would print them; and then Haeg would read around the clock.

Haeg started compiling all concrete evidence – including taping all conversations with Robinson – as Haeg had surreptitiously done with Cole after the plea agreement was broken by the State. In other words virtually all Haeg's allegations are on tape – from Robinson's and Cole's own lips. Haeg, now knowing full well the U.S. Supreme Court rulings in Gerstein and Albrecht make impossible any defense relating to the fact the information wasn't sworn to – bluntly asks Robinson if he still intends on using Gerstein and Albrecht to support Haeg's main points of appeal. Robinson, at first totally speechless, stammers "well... Gerstein and Albrecht may not support a defense they didn't have personal jurisdiction but they would support a defense the trial court didn't have subject-matter jurisdiction."

Haeg and his wife focus on this – finding this is even far more fantastic then claiming there was no personal jurisdiction. Not only does whether or not the information was sworn to have nothing **whatsoever** to do with subject-matter jurisdiction it is legally and factually **indisputable** the trial court had subject-matter jurisdiction since the subject-matter of Haeg's case was misdemeanor crimes.

> *Alaska Statute AS 22.15.060. Criminal Jurisdiction* **(a)** The district court has jurisdiction **(1)** of the following crimes: **(A)** a misdemeanor, unless otherwise

> provided in this chapter; **(B)** a violation of an ordinance of a political subdivision; **(C)** a violation of AS 04.16.050 or AS 11.76.105 ; **(2)** to provide post-conviction relief under the Alaska Rules of Criminal Procedure, if the conviction occurred in the district court. **(b)** Insofar as the criminal jurisdiction of the district courts and the superior court is the same, such jurisdiction is concurrent.

State **law** determines subject-matter jurisdiction – and the subject-matter of Haeg's case was misdemeanor crimes.

Haeg was charged by the McGrath district court – located in the 4th district – with misdemeanor crimes committed in the 4th judicial district. By **law** district courts in Alaska have subject-matter jurisdiction of **misdemeanor crimes** – just as sure as superior courts in Alaska have subject-matter jurisdiction of **felony crimes**. About here Haeg and his wife Jackie fully realize Robinson too has been intentionally raping their family over and over and over. Haeg and wife also realize why Robinson said a great many confusing things.

When he can do so without physical violence, Haeg asks Robinson exactly what was to keep the prosecution from bringing up the fact there was a plea agreement to scuttle the "tactic" that the court didn't have jurisdiction because the information wasn't sworn to (remember Robinson had told Haeg before trial that he must never bring up there had been a plea agreement or all that he had done for it because if it was brought up it would prove Haeg had "submitted" to the jurisdiction of the court).

Robinson could not answer Haeg. Haeg asked Robinson if that had not already happened before sentencing when Prosecutor Leaders stated, on the record, that since Haeg had broke a plea agreement his sentence should be enhanced (remember it was the State who had broken the plea agreement by filing far more severe charges than agreed to). Again Robinson could not answer. In other words the prosecution was still using the agreement to get more and more but Robinson would not allow Haeg to get anything for the extreme price he had paid for it.

Haeg finally realized there must be something very significant about the plea agreement. Haeg is right. Haeg finds that if a defendant places what is called "detrimental reliance" on a plea agreement constitutional due process (another term for fundamental fairness) requires it must be upheld. Detrimental reliance has been established with as little as $350.00. A defendant helping the prosecution has been ruled to establish it. Giving up rights, especially constitutional rights such as the right against self-incrimination, establishes detrimental reliance. Plea agreements are looked at just like commercial contracts – if you pay for it you get it. The one difference in plea agreements is stunning – since they involve defendant's constitutional rights the agreement is **constitutionally** guaranteed - not just contractually guaranteed.

Haeg, when he had given up his constitutional right against self-incrimination with the 5-hour interview the prosecution demanded, had purchased a constitutionally guaranteed agreement. Haeg and his wife, when they give up nearly $1 million combined income by not guiding for the year demanded to be given up for the agreement, had bought a constitutionally guaranteed agreement. Cole, when he lied to Haeg that there was no way to enforce the agreement, and to "just suck it up" was conspiring with Prosecutor Leaders to systematically strip Haeg of his constitutional rights to a fair trial while at the same time bankrupting Haeg. (See Appendix A)

Robinson, after Haeg hired him, could only keep this conspiracy hidden by making sure the plea agreement never surfaced, or, if it did, to make sure no one knew that Haeg had relied on it to his detriment. Enter the absolutely brilliant idea of Robinson's. First tell Haeg that he had found a "no doubt it will win" "tactic" that "the trial court lacked jurisdiction because the information wasn't sworn to." Then, after Haeg has gotten comfortable with trial because the original plea agreement was "fuzzy" and "water under the bridge", the "tactic will no doubt win, and the State prosecution now wanted to double the price for a plea agreement by asking for another guide year to be given up, tell him "the only way we are going to fail is if you talk about the plea agreement".

In other words the man Haeg and his family were paying $250 per hour to protect them was in reality intentionally and maliciously stabbing them in the back by telling them they had to give up the **already** paid for and constitutionally guaranteed agreement for something that had not even the **very** slightest chance of winning – and, in fact, made it 6 times worse. Haeg whets the knife of his mind on some other comments of Robinson's: "This tactic is such a sure thing I recommend not even putting on evidence at trial"; "You know Dave this tactic is so good we might have to take it all the way to the U.S. Supreme Court"; "Cole didn't show up at sentencing because he wasn't relevant to guilt" (guilt phase is over at sentencing and Robinson's billings show a 20 minute "confer" between he and Cole the day before sentencing); "You will have your plane be able to guide when we are on appeal" (so Haeg wouldn't realize he would be facing the years of appeal on a hopeless issue with no income – go bankrupt, give up and/or kill himself).

Haeg, continuing to read voraciously, finds constitutional violation after constitutional violation. These violations include the State perjury on the search warrant affidavits to move all the evidence found from 19D [the Unit in which the Wolf Control Program was being conduced and where Haeg was not licensed to guide] to 19C [the Unit where Haeg is licensed to guide and where the Wolf Control Program was not being conducted]

so they could change the focus of the case from an alledged violation of the Wolf Control Program [which by law could not affect Haeg's guide license] to a Big Game Guiding violation [even though it was not the guide season and there were no clients. There was even a third unit (19A) which was closer to the location of the alleged evidence then 19C – Haeg also has never been licensed in 19A.] Both Cole and Robinson had told Haeg "this doesn't matter". This is a stunning, bold, and horrendously malicious act by the State prosecution – commit **perjury** so that Haeg can be convicted of something that will end he and his families life as they know it. Maximum penalties for a violation of the Wolf Control Program are a $5000.00 fine and 5 days in jail – leaving Haeg's guide license unencumbered. Just a slightly different penalty than the $6,000,000.00 hit Haeg has received (See Appendix B).

Even more interesting is that the court specifically used this perjury at sentencing to justify Haeg's unbelievably harsh sentence by stating on the record the reason was, "since most if not all the wolves were killed where he [guides]". So Haeg's entire prosecution, from search warrants to sentencing, was based on deliberate and immensely prejudicial fraud. After sentencing Haeg even obtained a letter written by Trooper Gibbens to Lieutenant Steve Bear that candidly admits this was all perjury.

Haeg found that Alaska Rules of Evidence Rule 410 should have kept the State prosecution from using his statements made during plea negotiations for anything after they broke the plea agreement (and even if Haeg had broke the agreement) – yet all three informations the State used in prosecuting him used his own statements as the only probable cause for over half the charges, as primary probable cause for all the rest, and, after being perverted and corrupted by the perjury, for their entire case at trial (See Evidence Rule 410).

> *Rule 410. Inadmissibility of Plea Discussions in Other Proceedings*: (a) .....statements or agreements made in connection with any of the foregoing pleas or offers, is not admissible in any civil or criminal action, case or proceeding against the government or an accused person who made the plea or offer if: (i) A plea discussion does not result in a plea of guilty or nolo contendere..... *Alaska Rules of Evidence Commentary 410*: To foster negotiations the rule provides that nothing that is said during plea bargaining may be used against the accused in any proceeding, whether criminal, civil or administrative."

Haeg found the constitutional due process that **must** be followed when the State deprives someone of property used to provide a livelihood. Haeg had an **absolute** right to an adversarial hearing in which the State prosecution had to prove its reasons for taking his and his wife's property were valid (remember the perjured search warrant affidavits which, if exposed, would have ended any possible prosecution and absolutely precluded the State from taking Haeg's property), Haeg had an

absolute right to notice of the right to this hearing – including an **absolute** right to notice the State intended to forfeit his property so he could prepare a defense against this. Rom even admits none of this happened in his opposition of 11/8/06. Haeg had an **absolute** right to a hearing in which he could argue that he should be allowed to bond his property out pending resolution of his case. When Haeg asked the Trooper when he could get his property back because he had his first clients of the year arriving the **next** day the Trooper said "never". In other words Haeg and his wife were deprived of their primary means to put food in Kayla and Cassie's mouth because of a single Troopers ex parte (one sided) word to a judge who turned out to be the Troopers friend. Haeg and wife have been deprived of the primary means to provide a livelihood in this way to this day – nearly 3 years later. Never has the State legally established jurisdiction to seized, hold, or forfeit their property. Haeg wasn't even **charged** until **8 months** after it was deprived. Then it was over another 2 years before it was illegally forfeited. The Alaska Supreme Court – backed up by the U.S. Supreme Court has ruled constitutional due process demands that in "days if not hours" of such an "ex parte" deprivation of property used to provide a livelihood a hearing **must** be held to examine the reasons.

It is complete common sense. A family could be financially ruined without anyone even being charged. An exact example to

compare to Haeg's situation is fishermen in Bristol Bay. If the State could seize and hold a fisherman's boat for the 3 week season the fisherman, without trial and on a single Troopers word, is forced to give up a whole years income – even though he may not even be guilty.

> *F/V American Eagle v. State*, 620 P.2d 657 (Alaska 1980) "[W]hen the seized property is used by its owner in earning a livelihood, notice & an unconditioned opportunity to contest the state's reasons for seizing the property must follow the seizure within days, if not hours, to satisfy due process guarantees even where the government interest in the seizure is urgent." ... "As a general rule, forfeitures are disfavored by law, and thus forfeiture statutes should be strictly construed against the government". The State failed to follow **any** of the "ensemble of procedural rules" specifically required. They never gave Haeg or his wife any of the constitutional guarantees specifically mandated by both the Alaska Supreme Court and the U.S. Supreme Court."
>
> *Waiste v. State* 10 P.3d 1141 (Alaska 2000)."An ensemble of procedural rules bounds the State's discretion...and limits the risks and duration of harmful errors. ... Waiste and the State agree that the Due Process Clause of the Alaska Constitution requires a prompt postseizure hearing upon the seizure of a fishing boat potentially subject to forfeiture. ... The State argues that a prompt postseizure hearing is the only process due, both under general constitutional principles and under this court's precedents on fishing-boat seizures... This court's dicta, however, and the persuasive weight of federal law, both suggest that the Due Process Clause of the Alaska Constitution should require no more than a prompt postseizure hearing. ... Avoiding the burden of a hearing. The State alludes to the "extensive preseizure inquiry" that Waiste's proposed rule would require. But given the conceded requirement of a prompt postseizure hearing on the same issues, in the same forum, "within days, if not hours," [Fn. 46] the only burden that the State avoids by proceeding ex

> parte is the burden of having to show its justification for a seizure a few days or hours earlier. The interest in avoiding that slight burden is not significant. ... The State does not discuss the private interest at stake, and Waiste is plainly right that it is significant: even a few days' lost fishing during a three-week salmon run is serious, and due process mandates heightened solicitude when someone is deprived of her or his primary source of income. ... As Justice Frankfurter observed, "fairness can rarely be obtained by secret, one-sided determination of facts decisive of rights. . . . No better instrument has been devised for arriving at truth than to give a person in jeopardy of serious loss notice of the case against him and opportunity to meet it." As the Good Court noted, moreover, the protection of an adversary hearing "is of particular importance [in forfeiture cases], where the Government has a direct pecuniary interest in the outcome." ... An ensemble of procedural rules bounds the State's discretion to seize vessels and limits the risk and duration of harmful errors. The rules include the need to show probable cause to think a vessel forfeitable in an ex parte hearing before a neutral magistrate, to allow release of the vessel on bond, and to afford a prompt postseizure hearing. That ensemble is undeniably less effective than a prior, adversarial hearing in protecting fishers from the significant harm of the erroneous seizure and detention of a fishing boat. (Alaska Supreme Court)[9]

Haeg, before he was ever even charged had been severely and illegally crippled by the State though the violation of his and his wife's constitutional rights. Not **one** single right that the Alaska Supreme Court has ruled is part of the **mandatory** "ensemble" that protects defendants was complied with. Haeg,

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[9] See *Cleveland Bd. of Educ. V. Loudermill*, 470 U.S. 532, 543, 105 S.Ct. 1487, 84 L.Ed.2d 494 (1985); *State v. F/V Baranof*, 677 P.2d 1245; *Stypmann v. City & County of San Francisco*, 557 F.2d 1338 (9th Cir. 1977); & *Lee v. Thorton*, 538 F.2d 27 (2d Cir.1976).

irrefutably, is entitled to the return of his property and suppress as evidence according to Alaska Rules of Criminal Procedure Rule 37(c):

> *Rule 37. Search and Seizure. (c) Motion for Return of Property and to Suppress Evidence*. A person aggrieved by an unlawful search and seizure may move the court in the judicial district in which the property was seized or the court in which the property may be used for the return of the property and to suppress for use as evidence anything so obtained on the ground that the property was illegally seized.

It shows the depth of Alaska's corruption when he and his wife have now filed sixteen (16) different times, in exact accordance with Rule and Law and every court refuses to make a decision. It is a virtually unbeatable system – the Troopers and Department of Law illegally take all a families business property and then the courts deny them justice until they go broke and go away (which happens pretty quick when your primary means of providing a livelihood has been taken away). If you hire an attorney the process only accelerates and grows more secure – now you are paying someone $250 per hour that is telling you there is no law that protects against this. (See Appendix D).

Haeg continues to research and happens on the stunning **specific** constitutional guarantee of effective assistance of counsel. All constitutions guarantee the right to counsel – yet for that constitutional guarantee to have any meaning it must also be **effective** assistance. If an attorney committed an

unreasonable act according to prevailing professional norms that had a reasonable probability of affecting the outcome of the trial the defendant's conviction is overturned. This "unreasonableness" has ranged from not investigating a specific defense, not utilizing the strongest defenses, having a conflict of interest that divides an attorneys loyalty, not knowing the law, etc. etc. Haeg looks in vain for a single case where a single attorney anywhere ever in the U.S. has intentionlly lied to a client over and over to strip him of almost every defense and constitutional guarantee so the prosecution can have their way with him. *There has not been a single case like this ever recorded in U.S. history.*

The closest anything in all the U.S. comes is *U.S. v. Marshank*, 777 F. Supp. 1507 (N.D. Cal. 1991); the closest anything comes in Alaska is *Smith v. State*, 717 P.2d 402 (1986):

> "[D]efense counsel who did not inform defendant of his right to persist in plea of not guilty to second charge provided defendant was ineffective assistance of counsel; and counsel was ineffective for not withdrawing or making disclosure to the court of defendant's desire to continue with his plea of not guilty. Defendant was denied effective assistance of counsel by attorney who did not tell him that he was under no obligation to change his plea of not guilty on second rape charge from not guilty to no contest in accordance with agreement with prosecutor that defendant would be tried on first charge and, if convicted on that charge, would plead guilty or no contest to the second charge."
>
> *Osborn v. Shillinger,* 861 F.2d 612 (10th Cir. 1988): Counsel "so abandoned his 'overarching duty to

> advocate the defendant's cause,' *Strickland,* 466 U.S. at 688, 104 S.Ct. at 2064, that the state proceedings were almost totally non-adversarial." Id at 628. A defense attorney who abandons his duty of loyalty to his client and effectively joins the state in an effort to attain a conviction or death sentence suffers from an obvious conflict of interest... . In fact, an attorney who is burdened by a conflict between his client's interests and his own sympathies to the prosecution's position is considerably worse than an attorney with loyalty to other defendants, because the interests of the state and the defendant are necessarily in opposition. Here, counsel "did not simply make poor strategic choices; he acted with reckless disregard for his client's best interests and, at times, apparently with the intention to weaken his client's case. Prejudice, whether necessary or not, is established under any applicable standard."
>
> *Wilson v. Mintzes*, 761 F.2d 275 (6th Cir. 1985). "[C]ounsel's loyalty to his own interests rather than those of his client adversely affected his performance in terms of appearance before the jury as well as his tactical conduct of the case." *Id.* at 287.

Does anyone think an attorney lying to their own client so they and the prosecution can strip the combined life product of a man and woman with daughters ages 5 and 8 is unreasonable? Does anyone think if Haeg's plea agreement had been enforced this could have had an effect on Haeg's trial? There is absolutely no doubt that **any** one of the defenses and rights above would have ha a huge impact. If most of them had been exercised the State would have had virtually **no** case whatsoever. If others had been exercised due process would have demanded Haeg's conviction be reversed with prejudice (in the real world they take very great

offense to prosecutors suborning known perjury from Troopers to obtain a conviction).

Under no circumstances should Haeg have been convicted as a big game guide same day airborne hunting big game like he was somehow doing so with a client. This is just the short list of rights and defenses that would have no doubt changed the outcome of Haeg's case. Look at the size and enormity of the cover up of the fact Haeg had paid in full, to the tune of nearly $1 million dollar detriment reliance and 5 hour interview, for a plea agreement the State broke and then used the statements. Does anyone think if the judge had known this it is possible it could have made a difference? Remember the paid for deal was for the year already given up – Haeg got sentenced to **5 additional years**.

Another thing Haeg found is that was of immense interest – and explained a great many things – is that a successful defense of ineffective assistance of counsel (IAC) is required before a criminal defendant can sue his attorney for malpractice. So if his conviction is not reversed on this issue he can never sue his attorney – no matter what the attorney did to him. It was also extremely interesting to Haeg that in addition to the rule that required a successful IAC claim before filing a malpractice claim is that as a matter of law a successful IAC claim is prima facie proof of malpractice. In other words prove IAC and you have

already proven malpractice. Haeg starts to see the ramifications of exposing what Cole has done to him.

Haeg asks Robinson if he ever thought of an IAC claim based upon Cole's lying to Haeg about everything.

> MR. ROBINSON: Lying to your client is not IAOC (Yet Bonnie Burger, Robinson's paralegal, states she thought this would be – in front of Robinson and into Haeg's two tape recorders)-- Paying so much for a plea agreement and Cole not showing up for it isn't IAOC...
>
> MR. HAEG: Have you ever thought of it?
>
> MR. ROBINSON: Have I thought of what?
>
> MR. HAEG: An IAOC against Brent Cole?
>
> MR. ROBINSON: No I haven't thought of it.
>
> MR. HAEG: It never crossed your mind?
>
> MR. ROBINSON: No. You're not **paying** me for an IAOC claim -- I'm not **supposed** to defend you in an IAOC claim against Brent Cole.[10]

In other words the approximately $30,000 Haeg paid Robinson to advocate without conflict of interest did **not** include utilizing the mightiest of constitutional defenses.

Another eye opener for Haeg was in this same taped conversation:

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[10] Taped meeting with Chuck Robinson, Bonnie Burger, David Haeg, Jackie Haeg, & Greg Stoumbaugh of 1/5/06.

MR. ROBINSON: I don't know whether the U.S. Supreme Court would agree with it but our Supreme Court understands - that unless you can show that you're not guilty of the offense to begin with you really can't do anything against Brent.

MR. HAEG: Wanna bet?

MR. ROBINSON: Well no you can't do anything against him – you might be able to do something about your conviction. You can't do anything against him because as far as a malpractice suit is concerned because there has to be proof of innocence. I'll pull that Smith case for you. -- It's a screwed up rule – that's a screwed up rule but that's the rule in Alaska.[11]

Haeg had never mentioned going after Cole or a malpractice claim before this. In other words Robinson equated an IAC claim to an attack on Cole for malpractice.

An IAC claim, conducted during a post conviction relief (PCR) proceeding, is the **only** way Haeg could document his sellout by Cole. Appeals can **only** be supported by what is on the official court record.

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[11] Taped meeting with Chuck Robinson, Bonnie Burger, David Haeg, Jackie Haeg, & Greg Stoumbaugh of 1/5/06.

Haeg then realizes he cannot trust another attorney in Alaska because both Cole and Robinson will pressure anyone he hires now to protect everything they worked their whole lives for. Haeg and his wife desperately search for nearly a month for an attorney to represent them from outside Alaska. Each time they explained what had happened the attorneys would politely say that they could not help.

Finally Haeg decided if he couldn't find an attorney outside the State maybe he could find one close by and, by showing him that he couldn't be fooled anymore, ensure the attorney's loyalty. With this in mind Haeg went through the phone book, starting with the very closest. Haeg ended up being able to hire Mark Osterman (Osterman) in Kenai, not far from where Haeg lives in Soldotna.

Haeg, now completely paranoid, tapes every single word ever between him and Osterman for their entire relationship. Osterman after looking at the case, Cole's & Robinson's files, and the boxes if caselaw Haeg provided tells Haeg:

> MR. OSTERMAN: the sellout is the biggest I have ever seen and when the Court of Appeals sees it they will have to reverse your conviction -- you will have a huge malpractice claim -- you shouldn't have to suffer because of your attorneys actions -- you didn't

know your attorneys were going to load the dang dice so the State would always win.

Osterman tells Haeg that Robinson's points on appeal are no good – they don't cover the salient issues and that IAC is the best issue.

Osterman then states: I want all $12,000.00 for the whole appeal up front because I don't want you running out of money half way through and not being able to pay me. The court will require I finish the appeal even if you run out of money. We all charge $3000 - $5000 per point on appeal.

Haeg demands that if he hires Osterman that he be intimately involved with **every** aspect of writing the appeal – Osterman agrees – stating, I want all your input, research, and help in drafting this brief.

Haeg leaves the boxes of files, caselaw, and research with Osterman, along with a cashiers check for $12,000.00.

A week goes by with no word from Osterman, Haeg calls and leave messages, finally his call is returned and Osterman tells Haeg that Haeg can't come in and bother them when they are working on his appeal. Haeg demands to see the work done, Osterman refuses, saying it will just slow them down. This goes on for over a month – finally Haeg tells Osterman that if he doesn't see what's written Osterman is fired. Osterman reluctantly gives Haeg a very nearly complete brief. It is based

almost exactly on Robinson's points of appeal, has absolutely nothing of the sellout of Haeg (property seized illegally, illegal search warrants, all Haeg did for plea agreement, State breaking plea agreement, Cole failing to enforce the plea agreement, Cole lying to Haeg that he can't enforce the plea agreement, Robinson covering for Cole, going to trial with only perjury and Haeg's illegally used statements, Robinson's tactic another sell out, etc. etc).

Haeg is in stunned disbelief. He demands to know what happened. Osterman tells Haeg: I can't affect the lives and livelihoods of your other attorneys, I changed my mind about Robinson's tactics, and you owe me another $28,000.00 because I charge $8000.00 per point on appeal. Haeg fires Osterman and motions this Court of Appeals to proceed pro se (by himself). Haeg's case is remanded to the district court to see if Haeg knowingly and intelligently waives his right to counsel and if he is competent to represent himself. Magistrate Woodmancy refuses Haeg's written request to videotape the proceeding in exact compliance with statue and Rule, because the request was hand written in black ink and not typed. The rule says a motion hand written or typed in black ink complies. [See Rule 513.5]

> *Alaska Rules of Appellate Procedure, Rule 513.5. Form of Papers*. (b) **Form in General.** Except as provided in subsection (a), all documents presented for filing with the clerk must be: (2) in clear and

> legible black typeface **or hand-printing in black ink.....**

Woodmancy refused to allow more then **one single question** of Trooper Gibbens under oath – even telling Haeg what that question was. Haeg is allowed to place Osterman under oath and question him. Osterman states under oath all of the above – including he that Haeg has good reason to believe his first two attorneys conspired with the State to strip him and his wife of everything. Osterman says the additional money $28,000 at $8000.00 per point was all just a big mistake when he is cornered by the fact Haeg has him on tape **before** hiring him that it was $12,000 **total** at 3-5 thousand per point.

Osterman, when Haeg is only about half done with him under oath on the record, claims he has an appointment. Magistrate Woodmancy (Judge Murphy was transferred to Homer) grants Osterman's request, stating on the record Haeg preserves his right to recall Osterman. Haeg and his wife Jackie testify under oath about all they had done for the State and then to be stabbed in the back by both the State and their own attorneys. This is the **first** testimony of the unbelievable breakdown in justice that has **ever** been placed on the official record. Woodmancy states on the record Haeg has delusions of conspiracy and Jackie (Haeg's wife) has been brainwashed by Haeg. Woodmancy requires Haeg to

have a mental competency test at the Alaska Psychiatric Institute.

Licensed psychologist Dr. Tamara Russell, Psy.D, examines Haeg. Haeg is supposed to be examined for 1 hour but after he explains what is happening to him Dr. Russell continues talking for an additional hour. Dr. Russell says the situation Haeg is in parallels exactly what she has seen in many medical malpractice situations – with multiple doctors blatantly lying to save each other's careers. She said that in tight knit Alaska the doctors have figured out it is far better for them as a whole not to have extremely costly scandals in the medical community – so they band together and freeze out the unlucky patient who then bears the burden of everything. Dr. Russell's report gives full and unqualified approval for Haeg to represent himself. (See exhibit 1 - Dr. Russell's Evaluation of 8/24/06).) Haeg's motion to recall Osterman is **denied**. The State files a fourteen (14)-page **opposition** to Haeg's motion to represent himself so Osterman will have to remain Haeg's attorney. Haeg's business attorney, Dale Dolifka (Dolifka), tells Haeg this is impossible – the State would never try to prevent a criminal defendant with a private attorney from proceeding pro set – for the State will always win against a pro se defendant on appeal. Dolifka (who has been Haeg's business attorney for over 20 years and kept Haeg afloat through this entire ordeal) tells Haeg this is just more proof of

how seriously wrong everything is. Haeg motions for reconsideration of motion to recall Osterman – this **again** is denied, even though Woodmancy guaranteed his right.

Haeg files a 26 page reply basically stating it will be over Haeg's dead body before Haeg is forced to relinquish the defense of his family to someone who has admitted on the record is raping Haeg's family just as surely as the other attorneys were.

By this time it should be overwhelmingly obvious to everyone that Haeg, through a conspiracy between his attorneys, the State and the courts, has been physically, intentionally, knowingly, maliciously, and forcefully denied his right, guaranteed by **two (2)** constitutions, to any effective assistance of counsel.

Haeg files felony complaints against Troopers Mitchell Doerr and Brett Gibbens for perjury and tampering with witnesses (The Troopers stated that they had witnesses complaining Haeg was flying over them numerous times at 300 feet to harass them. Haeg was in shocked awe of this and demanded he be allowed to listen to the tape recordings of the witness. On the tape-recording the witness states Haeg flew over numerous times at either **1000 or 1200 feet**. The Troopers then tells the witness "that's pretty high – you sure it was not 200 or 300 feet?" The witness replies, "Yeah over the trees I guess it would have been 300 feet." Haeg asks all you pilots that will be reading this to think about the ramifications of this. Any plane can fly over a

congested city if they are at 1000 feet or above. If they fly over at 300 feet they will likely be charged with Felony Assault III and Reckless Endangerment. Is it just coincidence that Rom and the troopers, including Gibbens, just convicted big game guide Edward Byron Lamb of ten counts of Felony Assault III and two counts of Reckless Endangerment with an aircraft? In dismissing Haeg's complaint Rom states the troopers were merely trying to clarify the witness statements. How much did the troopers try to clarify the witnesses in Mr. Lamb's case?)

Complaints are assigned to Prosecutor Roger Rom (Rom) and Prosecutor James Fayette (Fayette) – the very attorneys representing the State prosecution **against** Haeg on his appeal. (the chief of the civil rights division of the FBI was speechless when told this) In the investigation conducted not a single witness Haeg provided was contacted. Both Troopers were exonerated even though the Troopers themselves proving the perjury irrefutably recorded the damning evidence. In regard to Trooper Gibbens the prosecutors stated: "to convict Trooper Gibbens of perjury a jury would have to believe that you were truthful when you told him where you thought the kill sites were located" and "your testimony against Gibbens would be regarded as incredible." Yet Gibbens taped a retired U.S. Airforce F-15 pilot telling him the same thing, continues this perjury at Haeg's trial after being told, – and then, **after** Haeg has been

sentenced with the full impact of the perjury, freely admits in a letter to Trooper Lt. Steve Bear that Haeg was correct (Haeg wishes to humbly acknowledge Lt. Bears help in securing justice). Gibbens own report, wrote at the time, even had the GPS coordinates confirming where the sites were not where he testified. Multiple Alaska Department of Fish and Game personnel form around the State confirmed the coordinates via the GPS coordinates alone. So these Troopers are allowed to commit class B felonies with impunity to file misdemeanor charges against Haeg to strip him and his family of everything they have in life.

Haeg, know trying to think if there is any other record of all he had done for the plea agreement, other than his and Jackie's testimony at the pro se representation hearing, remembers the letters they had Cole file with the court explaining all they had done. Haeg and Jackie examine the court record and the memo from Cole admitting these is there but Haeg and Jackie's letters are now missing.

Haeg attends Alaska Bar Association fee arbitration hearing he leveled against Cole. Cole, under oath, commits blatant perjury at least 17 times – at time shaking so bad he can barely read the transcripts of the secretly recorded conversations, which prove his sellout of Haeg. These conversations between him and Cole while Cole was still his attorney proved this beyond any

doubt. It was also proved beyond any doubt by Cole's own detailed billing records, letters, and emails.

Cole's lone witness, during these proceedings, attorney Kevin Fitzgerald, who represented Haeg's codefendant Tony Zellers (Zellers), also commits blatant perjury numerous times to cover up what had been done. His perjury is shockingly proven when compared to his testimony on the record while earlier representing Zellers. Fitzgerald's testimony on the record while representing Zellers also shockingly proves Cole's perjury. At the Alaska Bar Association both Cole and Fitzgerald's perjury is tailored to cover up the fact Cole sold Haeg to the State prosecution by intentionally and knowingly sabotaging all Haeg's numerous constitutional rights and defenses through a series of blatant lies about the law – when Haeg was specifically asking about them.

Fitzgerald and Cole then testify under oath no one would never try to enforce a plea agreement that was broken by the prosecutor, no matter how much detrimental reliance a client had put on it, because this would make an enemy out of the prosecutor (Cole and Fitzgerald work together a lot and both are former prosecutors). This is an absolute and complete perversion of fundamental breakdown of the **adversarial** process that our justice system demands on to function properly. (See Strickland Caselaw – Appendix A)

Nearly one third of the tapes, made by the Alaska Bar Association, recording this 4-day proceeding them came up blank. Haeg probably doesn't have to tell anyone these were the ones documenting the perjury. Luckily Haeg had recorded these proceedings with three (3) of his own tape recorders. In fact he wishes he would have video taped it – because when Cole was forced to read the transcripts of the recordings made while he was still Haeg's attorney and proving he had just committed perjury, the pages would shake so hard at times he had to stop reading. It would also have been appropriate to video Coles and Fitzgerald's expressions when one of the two tape recorders had operating malfunctioned and Haeg, instead of trying to fix it, merely pulled a third out of his bag, ready to go, and hit record. Haeg tried to get the sign in and sign out log of the building to see if Cole or Fitzgerald reentered the building after each proceeding but was told by Rom and Fayette's department he could not have them. These critically important proceedings are the very ones this Court of Appeals refuses to make part of the record of Haeg's case – even though in the interest of justice all evidence shall normally be considered.

> *Alaska Bar Rule 40(r) Confidentiality*. All records, documents, files, proceedings and hearings pertaining to the arbitration of any dispute under these rules will be confidential and will be closed to the public, **unless ordered open by a court upon good cause shown**, except that a summary of the facts, without reference to either party by name, may be publicized in all

> cases once the proceeding has been formally closed.....

It is also incomprehensible that this Court of Appeals has ruled Haeg's representation hearing, in which much sworn evidence was taking in direct and absolute support of Haeg's claims, will also not be allowed to be part of Haeg's record. Haeg's appeal is systematically being stripped of all record of the intentional injustice he and his family have been subjected to.

It is impossible that the trial court has ruled, on the record, that it will not accept even an **application** for PCR. This is the only proper way for Haeg to address his claims of IAC – and is the only way that will allow him to place on the record all the horrible injustices that have happened to him. He will be able to examine, under oath, **everyone** involved – and thus have a fundamentally fair shot at justice. Haeg has an indisputable right, under *Alaska Rules of Criminal Procedure, Rule 35.1*, to this procedure. This rule is backed up by U.S. Supreme Court holdings that the due process clause of the U.S. Constitution requires this opportunity to challenge his conviction.

Because the trial court has ruled it will not even accept an application combined with this courts refusal to order the acceptance of a PCR application Haeg is intentionally, knowingly, intelligently and effectively denied this constitutional right.

This courts refusal to correct Haeg's sentence from a license revocation to a license suspension is impossible. The law clearly allows revocation **only** if it is for life. The law clearly states anything less then life is a suspension. Even Rom admits this.

> *Alaska Rules of Criminal Procedure, Rule 35(a)* states: Correction of Sentence. The court may correct an illegal sentence at **any** time. The pre-printed generic form check box states revocation – a simple mistake.
>
> *Alaska Rules of Criminal Procedure, Rule 36* states: Clerical mistakes in judgments, orders, or other parts of the record, and errors in the record arising from oversight or omission, may be corrected by the court at any time and after such notice, if any, as the court orders. For purposes of this rule, the record includes electronic information maintained about the case.

It is crystal Haeg has the right to correct this **oversight**. For you to force Haeg to burn down $100,000.00 in property because of a clerical oversight smells more then just a little fishy.

This courts refusal to rule on Haeg's motion for the return of he and his wife's property is also impossible. Haeg and his wife were constitutionally guaranteed a hearing "in days if not hours" when they were deprived of their property that was used to provide a livelihood for their family. That was nearly 3 years ago. The State never complied with a **single** one of the ensemble of due process the Supreme Court has ruled is **mandatory**.(See Appendix D)

Haeg and his wife have irrefutable and absolute right to the return of the property they use to put food in their daughters mouths. The State cannot even contest this fact. This courts refusal by claiming Haeg had never filed a **motion** in the district courts, is impossible. The record in your possession at the time, along with the affidavits included, documented the **fifteen (15)** motions Haeg had **already** filed in the district court.

Your ruling denying Haeg's motion to stay his appeal pending a PCR procedure impossible. All courts, including this one, have ruled that staying the appeal is the proper procedure. The rational is one of absolute common sense. How can a court require someone to move forward with an appeal which has no record to support it? Not only is the appeal destined to fail but the appeal may not have to happen at all or will be duplicated after a PCR and either the case is settled there or the decision in the PCR is then appealed to the very same court that already handled the original appeal. It is a waste of time, effort, and money, dooming the appeal to failure – and leaves the PCR as the only other option. Since this option has been denied Haeg he will have essentially exhausted his remedies – other then being able to appeal this doomed appeal – which is the reason Haeg is preserving this appeal by writing this brief.

Haeg has given you affidavits from he and his wife that his conviction and sentence are the product of fraud. If anything in

their affidavits is false they surely will be prosecuted for class B felony perjury.

If Haeg's appeal/PCR fails he will still be required to have his license suspended for the same amount of time. Exactly why do you require he and his family pay this immense penalty if there is even a chance Haeg should not have to pay it? Who will repay Haeg and his family for this injustice? Did you fail to read the affidavits Haeg and his wife submitted to this court? Do you really believe this is justice? Or is this just another way to break Haeg before the forgoing nightmare of constitutional violation, crimes, and corruption is exposed?

Another great concern of Haeg's, after the above impossible conduct, is that if Haeg brings an issue up on appeal or any court decides Haeg could have brought issues up on appeal he is precluded from ever addressing it in PCR. In other words, if a court rules Haeg **could** have brought IAC in his appeal he will not be allowed to bring it up in PCR. The overwhelming majority of courts, including all Alaska courts, ruled IAC may only be brought up in PCR. Yet Haeg, because of the above singular treatment of him, would not be at all surprised if this is arraigned if he succeeds in getting an order forcing the district court to accept a PCR application. To Haeg it is clear the Alaska judicial system must stop him from reaching justice at all costs.

This courts refusal to rule on Haeg's motion for reconsideration of the above rulings before requiring him to submit this brief is also impossible. The motion for reconsideration was filed on November 27, 2006. Haeg's brief is due January 22, 2007 or nearly 2 months later. Yet this Court of Appeals still has not made a ruling and Haeg now believes this court will not ever do so – violating *Alaska Rules of Appellate Procedure, Rule 503(d)* "As soon as practical after expiration of the seven-day period [for the State to respond after the motion is filed], the motion will be considered."

Haeg would like to examine more of Robinson's points on appeal:

2. Did the trial court err in failing to dismiss the information in this case because the information on its face was insufficient to charge a crime? [12]

> *Alaska Rules of Criminal Procedure, Rule 7(a)* Use of Indictment and Information. An offense which may be punished by imprisonment for a term exceeding one year shall be prosecuted by indictment, unless indictment is waived. Any other offense may be prosecuted by indictment or information. Any information may be filed without leave of court.
>
> *Alaska Rules of Criminal Procedure, Rule 7(c)* - Nature and Contents – Defects of Form Do Not Invalidate. (1) The indictment or the information shall be a plain, concise and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting

[12] [See Criminal Rule 7(a) & 7 (c)]

> attorney. It need not contain a formal commencement, a formal conclusion or any other matter not necessary to such statement. Allegations made in one count may be incorporated by reference in another count. It may be alleged in a single count that the means by which the defendant committed the offense are unknown or that the defendant committed it by one or more specified means. (2) An indictment or information must include: (A) the defendant and offense information required by Criminal Rule 3(c);(B) search warrant information as required by Criminal Rule 37(e)(2);(C) the victim information certificate required by Criminal Rule 44(f); and (D) if the defendant is charged with an offense listed in AS 18.66.990, whether the prosecution claims that the alleged offense is a crime involving domestic violence as defined in AS 18.66.990(3) and (5). (3) The defendant's social security number may not appear on an indictment or information. This subsection applies to an indictment or information filed on or after October 15, 2006. (4) Error in a citation or omission of a citation to the statute, regulation, or ordinance that the defendant is alleged to have violated shall not be ground for dismissal of the indictment or information or for reversal of a conviction if the error or omission did not mislead the defendant to the defendant's prejudice. No indictment is insufficient nor can the trial, judgment or other proceedings thereon be affected, by reason of a defect or imperfection in matter of form in the indictment which does not tend to prejudice the substantial rights of the defendant.(5) When an indictment is found, the names of all witnesses examined before the grand jury must be inserted at the foot of the indictment, or endorsed thereon, before it is presented to the court.

The 15 page informations filed by Prosecutor Leaders easily met every requirement. It is a plain, concise and definite written statement of the essential facts constituting the offense charged. Leaders signed it. Nowhere could Haeg prove anything prejudicial to him because the information was insufficient.

What Haeg could prove over and over and over, however, and that was unbelievably prejudicial, was that four (4) full pages of the information was taken directly from Haeg's 5 hour interview that was given for the plea agreement the State broke. This is gross, direct, and reversible error of the constitutional right against self incrimination and Alaska Rules of Evidence 410:

> *Rule 410. Inadmissibility of Plea Discussions in Other Proceedings*: (a) .....statements or agreements made in connection with any of the foregoing pleas or offers, is not admissible in any civil or criminal action, case or proceeding against the government or an accused person who made the plea or offer if: (i) A plea discussion does not result in a plea of guilty or nolo contendere..... *Alaska Rules of Evidence Commentary 410*: To foster negotiations the rule provides that nothing that is said during plea bargaining may be used against the accused in any proceeding, whether criminal, civil or administrative."

The statements made during plea-bargaining were used as the **only** probable cause for over half the charges against Haeg and as primary probable cause for all the rest. Even stranger still is that Robinson told Haeg there never was a brief – just points. Haeg had been in Robinsons office with material Haeg demanded be in the brief and watched Robinson type it **into the brief**. Haeg **still** has the written material he brought with to Robinson's office but dispute it was constitutional error that prejudiced Haeg horrifically. When he fired Robinson Haeg asked for what he had **watched** Robinson write for the brief. Robinson stated he had

not started the brief – even though it was only days before it was due. Now Robinsons claims the only thing he ever wrote was the Points on Appeal. Is it possible Robinson thought the brief he wrote to sabotage Haeg would only be more proof of his criminal actions?

Exactly why would Robinson utilize the useless tactic that the information was insufficient and not utilize the unbelievably unbeatable tactic that the informations use Haeg's statements in violation of the Evidence Rule 410 and the constitutional right against self-incrimination?

3. Did the trial court err in failing to dismiss the info in violation of the U.S. Constitution Amendment 4 and Article 1, Section 14 of the Alaska Constitution?

The U.S. Constitution Amendment 4 and Article 1.14 of the Alaska Constitution both deal with the probable cause needed, including being supported by oath or affirmation, to seize persons and property **before** appearing in court. As already crystal, once Haeg voluntarily appeared in court all needed for the information to be sworn to vanished.

4. Did the trial court err in failing to dismiss the information in violation of the Due Process clauses of the Fourteenth Amendment to the U.S. Constitution and Article 1, section 7 of the Alaska Constitution?

This question fails for exactly the same reason given for #3. As is crystal in Gerstein and Albright[13] - it is not a violation of due process for an information not to be sworn to.

5. Did the court fail to dismiss the information in violation of the equal protection clauses of the Fourteenth Amendment to the U.S. Constitution and Article 1, section 1 of the Alaska Constitution?

6. Should the information in this case have been dismissed as to Counts I through V of the information because such charges violates defendant's equal protection under the equal protection clauses of both the U.S. and Alaska Constitutions?

These two questions are excellently put to sleep by both Leaders 4/25/05 opposition and Judge Murphy's 5/9/05 denial of these exact questions. The only way there might be any validity is if someone would have first told the court about the State's intentional perjury to move all the evidence from the Wolf Control Program Unit (where Haeg has never been licensed to guide) to Haeg's Guide Use Area (where obviously Haeg, before the State took his guide license for 6 years used to be licensed to guide).

7. Did the trial court err in permitting the information in this case to be amended over defendant's objection?

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[13] *Gerstein v. Pugh*, 420 U.S. 103 (1975) & *Albrecht v. U.S.*, 273 U.S. 1, 8 (1927)

As made crystal the first amended information, combined with Haeg's voluntary appearance, established personal, subject-matter, and territorial jurisdiction over Haeg. The filing of the second amended information by the State to correct obvious typographical error where the statute citations on the cover pages didn't match the statute citations in the information (kind of like Haeg's license revocation instead of suspension – caused only because the pre-printed **box** said revocation instead of suspension) never prejudiced Haeg. The fact Haeg was being prosecuted for the more severe charges was made more than abundantly clear on the record at Haeg's arraignment.

> *Criminal Rule 7. Indictment and Information.* *(e) Amendment of Indictment or Information*. The court may permit an indictment or information to be amended at any time before verdict or finding if no additional or different offense is charged and the substantial rights of the defendant are not prejudiced.

This brief is of unbelievable importance to all Alaskan's and indeed all American's – because backed with irrefutable evidence it lays bare a level of integrated corruption and acceptance of it rarely, if ever, brought to light. It is easily on par with what appears to have been recently found in the Alaska State Legislature – yet even more disturbing is, that what Haeg has run into involves active, intentional, and knowing collusion/conspiracy between prosecutors, troopers, defense attorneys, and possibly judges – to intentionally strip

defendants of all their absolute rights to fundamentally fair procedures and trial.

This is an absolute abomination and perversion of the most basic constitutional mandate that there must be a separation of the powers of government to act as a check and balance. It is even a greater abomination and perversion of the adversarial process that must be in place to guarantee justice in a criminal prosecution. What would the founding fathers, who gave their very lives to create a nation of justice from injustice, think when the very advocate they guaranteed a defendant have, so the rest of the rights they put in place can be rallied, is the very one actively sabotaging these rights? It is a concept almost impossible to comprehend. It is like going to a doctor when you're ill and he intentionally injecting you with strychnine and cyanide. And, because you are giving thousands to the trusted professional you would never ever think of looking for a cure on your own. You would try to keep working so you could keep paying the trusted professional to find a cure – not even having the foggiest clue the trusted professional was the one keeping you sick. Even more scary than this is that attorneys, because they formally trained to manipulate people and twist the truth in a profession even more foreign to the average public than the medical field, are virtually guaranteed never to be found out. If judges are involved what can the defendant do, even if by some

miracle they realize what is going on? The courts can just refuse to rule, not follow prior rulings, bounce responsibility between courts, and refuse to follow rule, law, and constitution. Sound familiar?

Haeg would like to quote some of the recordings he made of the attorneys (many while the attorneys are under oath) proving what he described above is in fact what has happened to him.

> MR. FITZGERALD: ...there would be substantial pressure brought to bear on either the prosecution or the Judge with regard to a very serious sentence... -- You would never try to enforce a plea agreement, no matter how much detrimental reliance your client had on it, because you would never want to make an enemy out of the prosecutor -- The State was goanna bend over backwards to make sure that for political reasons -- if these gentleman were goanna be addressed very sternly. -- ...there would be a huge motivation on the part of the State to make an example of you [Haeg]. -- when you wear a black robe you can do -- almost anything you want to."
>
> MR. COLE: I just saw this as just terrible publicity toward the governor -- the troopers looked at you as a bandit -- I thought there would be a huge backlash. -- suck it up -- judges like attorneys to keep their

clients under control and to not say things -- I don't think you [Haeg] can get it [property] back when it was subject to a search warrant. -- I cannot explain to you the discrepancy between what the letter says and what my recollection says -- in my own mind I cannot resolve it.

MR. ROBINSON: We can't do anything about the deal -- Cole and Leaders say it was fuzzy. -- The defense that the info wasn't sworn to is so good I recommend putting on no evidence at trial. -- You will have your guide license and plane to use while you appeal. -- Lying to your client isn't IAOC -- You're not paying me for an IAOC claim -- I have no obligation to use IAOC for you. -- You really can't do anything against Brent [Cole].

MR. ROBINSON: I guess you don't quite understand how the system...

MR. HAEG: No I don't. What would have happened to me Mr. Robinson if I would've lied under oath right there?

MR. ROBINSON: Well you're not in the fold David.

MR. HAEG: I just want you to tell me what would have happened to me.

MR. ROBINSON: You may or may not have been charged with perjury but the point is that you are not in the fold. If you're in the fold.

MR. HAEG: What's the fold?

MR. ROBINSON: The group you know...

MR. HAEG: Ok what's the group?

MR. ROBINSON: The group they protect and don't do anything against.

MR. HAEG: Oh so they can just troop -- trot in Trooper after Trooper to lie against me like Gibbens did also?

MR. ROBINSON: I know but it's the 'good old boys system'. It's the American way.

MR. HAEG: Well how do you get through the good ol' boy system Mr. Robinson?

MR. ROBINSON: I don't know.

(See Transcript #1 Arthur Robinson)

(See Transcript #2-Mark Osterman)

Haeg has been treated by the Alaska Judicial System with such fundamentally unfairness it is almost impossible to describe. He has yet to find a case even remotely as unjust. Haeg offered his services, equipment, and many hundreds of gallons of fuel at $8.00 per gallon to help the State of Alaska belatedly address what is undoubtedly one of the greatest

disasters to ever happen to one of Alaska most depended upon renewable resources.

The State then called him back when he was out of State to see if he would go out and make sure more wolves were killed so the program, which taken in the first **4** months of a **6** month program, had only accounted for 4 of the 55 wolves wanted. The State told Haeg there was a real concern that if significantly more wolves were not taken in the last 2 months the program would be seen as ineffective and halted.

Haeg came back to Alaska and attended the Alaska Board of Game (BOG) February/March meeting that was held in Fairbanks – so he could again testify, as he had been doing every year for the past 5 years, about the unchecked devastation of the moose and caribou resources by uncontrolled numbers of wolves. While at the BOG meeting Haeg is told again by several of the sitting BOG members that if more wolves are not taken before the program ended in 2 months there was a great likelihood it would be seen as ineffective and scrapped for future years and that it was far more important for Haeg to be out killing wolves then testifying at the BOG meeting. Haeg was even told by one sitting BOG member that if Haeg ended up taking wolves outside the open area to just make sure to mark the GPS location as inside the area.

In other words the very people who created the Wolf Control Program, which was said to be the only hope for saving a much

depended upon resource, were saying it was finished if more wolves were not taken.

Haeg would like this Court of Appeals and everyone else reading this brief, to carefully read the open letters and affidavit that Master Guide Jim Harrower wrote before he became so disenchanted and angry he left the State of Alaska for California. Mr. Harrower was one of the finest gentlemen to ever live in Alaska – let alone one of the finest big game guides ever. Mr. Harrower's guide area touched Haeg's guide area – with Haeg's area in a direct line between Mr. Harrower's area and the village of McGrath.

Once you read Mr. Harrower's letters and affidavit you should have a pretty good understanding of the situations seriousness. Haeg was "all in" with his guide business – just as Mr. Harrower was. Haeg and wife had invested their combined life product in it – because it was their dream – making a family involved living from a beautiful lodge in the middle of even more beautiful wilderness. Haeg and wife were actually more "all in" then Mr. Harrower – having just completed their new lodge and having to still raise 2 grade-school daughters – with Mr. Harrower already having had a long and successful career out of his lodge – with kids long since raised and gone. Such things are very few and very precious – and not lightly are

they taken away. Please read closely the Haeg's brochure showing this (Enclosed).

So that is the intent with which Haeg entered into the Wolf Control Program – charged, by the Board of Game itself, with the awesome responsibility to save the program and thus everything his family had.

Just how fundamentally fair was it for the prosecution, alleging evidence of misconduct, to then commit perjury before a judge and jury, to intentionally, maliciously, and illegally move the alleged evidence from the Game Management Unit (GMU) where the Wolf Control Program was being conducted (and where Haeg has never been licensed to guide) to the GMU where Haeg's lodge is located and where he is licensed to guide – claiming that since it was a horrendous and blatant violation of the unbelievably strict guiding and fair-chaise laws it could have nothing to do with a possible Wolf Control Program violation? It is interesting to Haeg that the Wolf Control Program was intentionally set up to be entirely separate from any game violations – since it utilized methods of control generally considered to be the ultimate violation of fair-chase. In other words it would keep people who participated from the terrible penalties associated with the same activities in game or guiding violations – a Wolf Control Program violation could not have affected Haeg's guide license.

How fundamentally fair was it for the prosecution to violate the entire "ensemble" of due process guaranteed when they deprived Haeg and wife of the property they used to provide a livelihood for their children?

How fundamentally fair was it for the prosecution to promise a deal to Haeg if he and his wife gave up guiding for a whole year – and then break the deal after the guiding year given up for the deal was past?

How fundamentally fair was it for the prosecution to lie about all this to hide it from the judge?

How fundamentally fair was it for the judge to specifically utilize the prosecutions perjury as the reason for Haeg's draconian sentence?

How fundamentally fair was it for **all** Haeg's attorneys to join the prosecution in order to keep all of this from notice of the court?

And last, but certainly not least, how fundamentally fair is it for this Court of Appeals to blatantly continue this cover up by making impossible rulings and by denying Haeg the common sense and obvious rulings he and his family need to expose this gross and fundamental breakdown in justice? It is as if constitutions and the laws supporting them no longer rule in Alaska.

Haeg considers this Court of Appeals without jurisdiction to issue any more orders adverse to him – for how can a court maintain jurisdiction when they have such a clear, obvious, and blatant bias conflict of interest against him? This bias/conflict of interest/corruption is obvious enough that it has already started official inquiry.

Accordingly, and in strict compliance with Alaska Appellate Rule 408(b) Haeg formally and respectfully asks this Court of Appeals of Alaska to issue a certificate transferring his case to the Supreme Court of Alaska.

> *Alaska Appellate Rule 408(b)* - Transfer of Appellate Cases. (b) "When the court of appeals certifies to the supreme court that a case should be decided by the supreme court, pursuant to AS 22.05.015(b), a copy of the certificate, and of the order of the supreme court accepting or rejecting it, shall be served on all parties. Unless the supreme court orders to the contrary, pleadings from the parties addressing the question whether or not the supreme court should accept the certificate, will not be received. Requests that the court of appeals issue such a certificate should be addressed to the court of appeals, must be accompanied by proof of service on all parties, and must state clearly and concisely why the case fits within the statutory standards. The court of appeals may in its discretion request responses from the other parties. A decision of the court of appeals refusing to issue such a certificate may not be the subject of a petition for hearing in the supreme court."
>
> *AS 22.05.015. Transfer of Appellate Cases* - (b) The supreme court may take jurisdiction of a case pending before the court of appeals if the court of appeals certifies to the supreme court that the case involves a significant question of law under the Constitution of the U.S. or under the constitution of the state or

> involves an issue of substantial public interest that should be determined by the supreme court."

Haeg and his family have paid an unspeakable and terrible price as a result of this deceptively evil and pervasive corruption – much more so mentally and physically then even the staggering financial cost. It is absolute this must be stopped at all costs before it continues to savage more Alaskans families.

Haeg would like to specifically show how he has been treated as compared with published cases:

1. Perjured Search Warrants:

> ***McLaughlin v. State***, 818 P.2d 683, (Ak.,1991). "Search warrant based on inaccurate or incomplete information may be invalidated only when misstatements or omissions that led to its issuance were either intentionally or recklessly made."
>
> ***Lewis v. State***, 9 P.3d 1028. (Ak.,2000). "Once defendant has shown that specific statements in affidavit supporting search warrant are false, together with statement of reasons in support of assertion of falsehood, burden then shifts to State to show that statements were not intentionally or recklessly made."

How could Trooper Gibbens not be intentionally or recklessly moving all the alleged evidence he found from the Wolf Control Program Game Management Unit (GMU) to the same GMU where Haeg guides?

2. Lack of due process in seizing and depriving Haeg's property used to provide a livelihood. (See Appendix D)

3. Use of perjured testimony denying due process. (See Appendix (See Appendix E)
4. Perjury at trial. (See Appendix E)
5. Breaking immunity agreement. (See Appendix B)
6. Breaking of Plea Agreement. (See appendix B)
7. Ineffective assistance of counsel. (See Appendix A & F)
8. Prosecutorial vindictiveness. (See Appendix E)

The potential and capacity for prosecutorial abuse is heightened at the preindictment stage of the federal criminal process, which historically has been carried on largely in secret. A defendant's rights may be irreparably prejudiced at this phase of the criminal process without the defendant, his lawyer, or the court ever finding out. It is, therefore, necessary for federal prosecutors at the preindictment stage to be particularly scrupulous in their conduct. – Judge James F. Holderman. (See Appendix F)

Haeg would like to point out the leading IAOC case – Strickland has stated that in deciding a IAOC claim the defendant's action must be looked at in a determining the reasonableness of counsels actions. Haeg, with all his attorneys, wished to aggressively pursue any and all defenses, never wishing to forgo **any**. Thus his counsel lies to him to prevent him from utilizing these defenses are just that more egregious.

Strickland v. Washington, 466 U.S. 668 (1984) held: "The reasonableness of counsel's actions may be determined or substantially influenced by the defendant's own statements or actions. Counsel's actions are usually based, quite properly, on informed strategic choices made by the defendant & on information supplied by the defendant. In particular, what investigation decisions are reasonable depends critically on such information." "And when a defendant has given counsel reason to believe that pursuing certain investigations would be fruitless or even harmful, counsel's failure to pursue those investigations may not later be challenged as unreasonable. In short, inquiry into counsel's conversations with the defendant may be critical to a proper assessment of counsel's investigation decisions, just as it may be critical to a proper assessment of counsel's other litigation decisions." ... "[T]he evil ... is in what the advocate finds himself compelled to refrain from doing, not only at trial but also as to possible pretrial plea negotiations and in the sentencing process. It may be possible in some cases to identify from the record the prejudice resulting from an attorney's failure to undertake certain trial tasks, but even with a record of the sentencing hearing available it would be difficult to judge intelligently the impact of a conflict on the attorney's representation of a client. And to assess the impact of a conflict of interests on the attorney's options, tactics, and decisions in plea negotiations would be virtually impossible. Thus, an inquiry into a claim of harmless error here would require, unlike most cases, unguided speculation." (emphasis in original). *Holloway v. Arkansas*, 435 U.S. 475, 490 -491 (1978).

In addition and the leading authority *U.S. v. Cronic*, 466 U.S. 648 (1984) has stated that anytime an attorney actively pursued conflicting interests prejudice is assumed. Haeg can prove over and over and over all his attorneys were actively pursuing interests in direct conflict with his.

U.S. v. Cronic, 466 U.S. 648 (1984) - "An accused's right to be represented by counsel is a fundamental component of our criminal justice system. Lawyers in criminal cases 'are necessities, not luxuries.' Their presence is essential because they are the means through which the other rights of the person on trial are secured. Without counsel, the right to a trial itself would be 'of little avail,' as [466 U.S. 648, 654] this Court has recognized repeatedly. 'Of all the rights that an accused person has, the right to be represented by counsel is by far the most pervasive for it affects his ability to assert any other rights he may have.'" - " The special value of the right to the assistance of counsel explains why "[i]t has long been recognized that the right to counsel is the right to the effective assistance of counsel." *McMann v. Richardson*, 397 U.S. 759, 771 , n. 14 (1970). The text of the Sixth Amendment itself suggests as much. The Amendment requires not merely the provision of counsel to the accused, but "Assistance," which is to be "for his defense." Thus, "the core purpose of the counsel guarantee was to assure `Assistance' at trial, when the accused was confronted with both the intricacies of the law and the advocacy of the public prosecutor." *U.S. v. Ash*, 413 U.S. 300, 309 (1973). If no actual "Assistance" "for" the accused's "defense" is provided, then the constitutional guarantee has been violated. To hold otherwise "could convert the appointment of counsel into a sham and nothing more than a formal compliance with the Constitution's requirement that an accused be given the assistance of counsel. The Constitution's guarantee of [466 U.S. 648, 655] assistance of counsel cannot be satisfied by mere formal appointment." *Avery v. Alabama*, 308 U.S. 444, 446 (1940) (footnote omitted). Thus, in McMann the Court indicated that the accused is entitled to "a reasonably competent attorney," 397 U.S., at 770 , whose advice is "within the range of competence demanded of attorneys in criminal cases." Id., at 771. In *Cuyler v. Sullivan*, 446 U.S. 335 (1980), we held that the Constitution guarantees an accused "adequate legal assistance." Id., at 344. And in *Engle v. Isaac*, 456 U.S. 107 (1982), the Court referred to the criminal defendant's constitutional guarantee of "a fair trial and a competent attorney." Id., at 134. But if the process loses [466 U.S. 648, 657] its character as a confrontation between adversaries, the

constitutional guarantee is violated. As Judge Wyzanski has written: "While a criminal trial is not a game in which the participants are expected to enter the ring with a near match in skills, neither is it a sacrifice of unarmed prisoners to gladiators." ... ""More specifically, the right to the assistance of counsel has been understood to mean that there can be no restrictions upon the function of counsel in defending a criminal prosecution in accord with the traditions of the adversary fact finding process that has been constitutionalized in the Sixth and Fourteenth Amendments." 422 U.S., at 857. "Whether a man is innocent cannot be determined from a trial in which, as here, denial of counsel has made it impossible to conclude, with any satisfactory degree of certainty, that the defendant's case was adequately presented." *Betts v. Brady*, 316 U.S. 455, 476 (1942) (Black, J., dissenting). See also Jones v. Barnes, 463 U.S. 745, 758 (1983) (BRENNAN, J., dissenting) ("To satisfy the Constitution, counsel must function as an advocate for the defendant, as opposed to a friend of the court"); *Ferri v. Ackerman*, 444 U.S. 193, 204 (1979) ("Indeed, an indispensable element of the effective performance of [defense counsel's] responsibilities is the ability to act independently of the Government and to oppose it in adversary litigation"). ... prosecutorial misconduct should be evaluated not on the basis of culpability but by its effect on the fairness of the trial). Conversely, we have presumed prejudice when counsel labors under an actual conflict of interest, despite the fact that the constraints on counsel in that context are entirely self-imposed. See Cuyler v. Sullivan, 446 U.S. 335 (1980).

MR. COLE: I can't piss Leaders off because after your case is finished I have to still be able to deal with him."

MR. ROBINSON: "You're not paying me for an IAOC claim against Brent Cole" – "I don't have an obligation to file and IAOC claim."

MR. OSTERMAN: I can't affect the lives and livelihoods of your other attorneys" – after he had said he would do so and Haeg had given him **full payment** up front.

How more clear of *U.S. v. Cronic*, 466 U.S. 648 (1984) case can you have?

The real issue here is what, very exactly, will it mean if a pro se appellant with no college education secures the return of his own property and reverses his own conviction when the 3 "professional" attorneys he hired for nearly $100,000 could not?

Think long and hard about that. It is not surprising at all then that Haeg must not get his property back. It is not surprising at all Haeg can never get PCR, even though it is a right, written down in the rules, that everyone is supposed to enjoy.

It makes sense that Haeg's conviction cannot be reversed due to IAOC – not when a successful IAOC claim **must** happen before you are allowed to sue an attorney for malpractice – **and** a successful ineffective assistance of counsel claim is prima facie evidence of malpractice?

It is just a chance coincidence that Haeg had been talking to the very same U.S. Attorneys that are pursuing the corruption in the Legislature long before that investigation ever became public?

Haeg and his wife have literally been forced to make themselves attorneys in the last 3 years. They did this by round-the-clock research nearly 7 days a week. When Haeg and wife tell you they are being intentionally and maliciously deprived of numerous constitutional rights by a variety of entities it is not rumor – they have absolute proof. The proof they have however, would be nothing compared to the proof they would get by being able to question everyone under oath – as is a right to do in post conviction relief. Haeg has already asked for affidavits from everyone involved, as is required before being allowed to subpoena and question under oath in post conviction relief and **all** have refused to provide one.

Exactly what does this mean? They will not provide an affidavit and then the court has told Haeg he cannot conduct a post conviction relief proceeding to get them under oath – even though that is a right, guaranteed in writing, granted to every American (except, apparently, Haeg). Is this just another strange coincidence?

Haeg wonders how much different is it for the government to knowingly use perjury to convict him of something he never did – to throwing someone in jail and keeping them there without ever having to give them a trial?

Haeg will continue forward until such point as the judicial system denies him remedy. Haeg feels this may be close with his

trial court refusing to accept a post conviction relief application and this Court of Appeals refusal to order them to. When this happens Haeg will do as founding fathers did in precisely the same situation – throw a party. Except this time it will not be called the Boston Tea Party – it will be called the Alaskan Tea Party.

> **The Declaration of Independence of the Thirteen Colonies**
> **In CONGRESS, July 4, 1776**
>
> "The unanimous Declaration of the thirteen U.S. of America,
>
> When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.
>
> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. --That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, --That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under

absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security. —Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain [George III] is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the consent of our legislatures.

He has affected to render the Military independent of and superior to the Civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For Quartering large bodies of armed troops among us:

For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing Taxes on us without our Consent:

For depriving us, in many cases, of the benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offences:

For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty and perfidy scarcely

paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.

Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the U.S. of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by the Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of

> divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor."

A Statement of the Specific Relief Requested

1. Haeg formally requests oral arguments and that as soon as scheduled he be notified of the date set. In addition Haeg requests to be allowed to video tape these proceedings along with having witnesses attend.

2. Haeg requests this court NOT to reverse his conviction unless it is for Ineffective Assistance of Counsel – so he may sue his attorneys for malpractice. Haeg does not want his conviction overturned by this court otherwise.

3. Haeg respectfully asks this court rule on his long overdue motion for reconsideration - to immediately correct his sentence from a license revocation to a license suspension; to immediately stay the suspension/revocation of his guide license pending appeal and/or a PCR proceeding; to immediately order the return of all his and his wife Jackie's property, used to provide a livelihood for their family; and to order the Kenai District/Superior Court to accept a PCR application from Haeg.

If anyone is still in doubt as to what has really happened please do a search of "subject-matter jurisdiction" on the internet. Then after the shock wears off that Haeg was told to sacrifice the nearly $1 million dollars in detrimental reliance (along with the 5 hour interview) on a plea agreement for this

defense (there isn't even a need to swear to anything to establish subject-matter jurisdiction) consider this – when Osterman correctly stated on tape that Haeg "didn't know his attorneys were goanna load the dice so the State would always win" would this mean Haeg's attorney's were strengthening the States case or **sabotaging** Haeg's? Now do another search of subject-matter jurisdiction on Yahoo instead of Google – because a month after Osterman took Haeg's case he was telling Haeg that "he changed his mind about Robinson's tactic" and by the way, Haeg "owed him another $28,000.00."

For you guides reading this it would be much like purchasing a $1 million dollar brown bear hunt on Kodiak Island and then being told by your guide it was a waste of time hunting there – it would be a sure thing to hunt on Kalgin Island – but one catch is that to be successful on Kalgin for brown bear you could never tell anyone you had given up a $1 million dollar hunting trip on Kodiak for brown bear (for these of you who don't know there has never been a brown bear on Kalgin Island).

Then when you find out that Kodiak is full of bears and Kalgin never had one, the Big Game Commercial Services Board says you can't put your guides under oath and have them answer questions and/or read the bear survey numbers for both islands. Exactly what does this mean - especially when taking a brown bear

meant the difference between your family losing virtually every physical possession or not?

In the darkest days (probably when it was realized Robinson, a trusted fried of Haeg had known since a teenager, was raping Haeg's family while charging them $250.00 per hour) Haeg slept under his desk while, Jackie on tranquilizers and anti-depressants, still managed to sleep in bed. Both had thoughts of suicide as they realized no matter what they did or what "tactic" the attorneys came up with the State was going to take everything.

Haeg started to realize that he would never win by fighting their fight, although he was still foolish enough to hire Osterman and if he was to win innovative "tactics" were mandatory. Enter Haeg's ability to read at well over 2000 word per minute with nearly 100% comprehension. Also enter Haeg's realization this would still not be enough – that the systemic corruption would still shut him down, no matter how compelling the evidence, by refusing to make rulings (sound familiar?) or making impossible rulings (also familiar?).

Haeg realized that by switching the tables he may be able to do the impossible (obtaining fundamentally fair procedures) – by not allowing the systemic corruption determine the price it would pay to deprive him of fundamentally fair procedures (due process). Haeg realized the way to meet this problem was to let

the systemic corruption know it was Haeg who was going to determine the price it had to pay to deprive him of his constitutional rights. In other words Haeg will now set the price the corruption must pay for each action against him – and it shall be very dear.

For an example, when this Court of Appeals denied all Haeg's motions of 11/6/06 most, if not all which due process demanded be granted, Haeg sent the pertinent transcripts to everyone on the Alaska Commission of Judicial Conduct, Alaska Judicial Council, Board of Governors of the Alaska Bar Association, FBI, U.S. Attorney, Department of Justice, All Alaska and U.S. Legislatures, and innumerable others, including interested media worldwide. This led to official investigations launched and the media becoming much more then just interested. These corruption investigations of Alaska's second highest court is going to "leave a mark" to say the least – especially considering the other ongoing corruption investigations.

On Saturday March 31, 2007 or exactly 3 years form when this started will be the day for the Alaskan Tea Party. It will be held at the Alaska State Troopers Aircraft Maintenance Hanger on Lake Hood where Haeg and family for a second time, will try to effect recovery of their property, used to provide a livelihood. If any of you value the right not to have your homes, cars, planes, boats, and any other property to be seized, held, and

forfeited in total and blatant violation of 2 constitutions Haeg suggests you be there. Haeg and family hope many more people show then the 200 plus they had at the party before the last attempt. It should be a pretty fun tailgate party by the lake and those on skis should be able to fly in.

Haeg wants it crystal in everyone's mind why he is willing to lay down his life for the return of his property.

When the government seizes property in the hopes of forfeiting it the rules are exactly equivalent to the arrest of a person.

> Quoting Brenda Grantland, Esq., attorney in Washington, D.C., "'Criminal' forfeitures are subject to all the constitutional and statutory procedural safeguards available under criminal law. The forfeiture case and the criminal case are tried together. The forfeiture counts must be included in the indictment of the defendant which means the grand jury must find a basis for the forfeiture" ... "In the absence of specific language to the contrary, the district court must apply the standards of Rule 65 of the Federal Rules of Civil Procedure, which requires an immediate hearing whenever a temporary restraining order has been granted ex parte."

It is almost an entirely separate criminal procedure from the case against the person connected to the property. In other words the **property** had an absolute right to an immediate hearing to make sure the "arrest" that was keeping it in "jail" was legal. It also means that the property had an absolute right to a "bail hearing" see if it could be free on "bail" pending trial. The rational is common sense. A person or property should not be

punished until proven guilty. Maybe the person or property isn't guilty – then what?

In Haeg's case he and his wife's property was put in "jail", no notice of any type of hearing was ever given, no hearing was ever given, and no notice of the case against the property was ever given so a defense could be prepared. In other words the judge said "guilty" without any trial or other due process whatsoever. This is an abomination and perversion that if left uncorrected will lead to this being done with people, if that isn't already happening, rather than just property.

Look at it from the standpoint of a Bristol Bay commercial fisherman – the State seizes his boat on April 1, 2004 utilizing a perjured search warrant and doesn't take him to trial until July 26, 2005. Exactly what happened to the fisherman who was deprived of his boat for 2 entire seasons? Before the State started trial they had already reduced him to ruble by violating 2 constitutions.

This is why Haeg is far beyond angry. This is why Haeg is giving formal notice that since the State of Alaska refuses to obey 2 constitutions and the courts refuse to make rulings forcing the State to - Haeg is no longer under their jurisdiction. He has patiently and with sufferance exhausted his remedy – as his forefathers before him had.

As explained earlier Haeg will now determine the price systemic corruption will pay to harm him and his family. The price it will have to pay after it kills a United States citizen to deny him his United States constitutional rights is incalculable.

Haeg would like everyone before making up their mind whether or not to attend the Alaskan Tea Party, to read carefully the Alaska Supreme Court rulings in *Waiste v. State* 10 P.3d 1141 (Alaska 2000) and *F/V American Eagle v. State*, 620 P.2d 657 (Alaska 1980) (See appendix D). These are the absolute **rules** in Alaska. In other words all seizures must be accompanied by this "ensemble" - if not the seizures are invalid and the property must be returned.

Next read State Assistant Attorney General Rom's 11/8/06 opposition to Haeg's 11-6-06 motion – where Rom admits, under penalty of perjury, not a single constitutional guarantee was followed – not one. (These motions and all others are now located on the website: **www.alaskastateofcorruption.com**) It should be crystal why every court Haeg and wife have filed in for the past 6 months has refused to rule on their 16 Criminal Rule 37(c) motions for return of property. It should also be clear why Haeg included the Declaration of Independence in this brief. Haeg has absolute proof the U.S. and Alaska state constitutions are being intentionally violated and, after this is patiently and

persistently pointed out to the government and nothing is done, the people are authorized to act. Haeg is acting, not only for his family, but also for all of you who otherwise will be ground up in the future by this corruption. This is a vital opportunity with such rare and undeniable proof to push this ever-present corruption as far back as possible – it must not be wasted. It took Haeg and wife 3 years and nearly $3 million dollars to figure out how they "load the dice". How many others didn't have the 3 years and 3 million dollars to figure out how they got treated with such fundamentally unfairness? If nothing is done how many more will be added? Haeg would like to examine 3 cases in detail:

> ***State v. Scott***, 230 Wis. 2d 643, 602 N.W. 2d 296 (Ct. App. 1999). The Wisconsin Court of Appeals has concluded that defense counsel was ineffective for failing to request specific performance of a plea agreement negotiated with the prosecution. Indeed, she never told defendant that the later possibility was open to him. The court of appeals agreed with defendant that this inaction on counsel's part was ineffective assistance. Counsel's failure to move to enforce the plea agreement & her failure to even tell defendant about this possibility, the court ruled, "is tantamount to & constitutes deficient performance." Id. at 303. Even though the sentencing court is not bound by the prosecutor's recommendations, the court also found that defendant was prejudiced by defense counsel's inaction. Because counsel neglected to inform defendant of the possibility of enforcing the agreement, the court concluded that defendant "was deprived of a proceeding that was fundamentally fair. Therefore, the fairness of the process itself is suspect. [Defendant] was prejudiced by his counsel's ineffectiveness."

U.S. v. Marshank, 777 F. Supp. 1507 (1991). "Government's collaboration with defendant's attorney during investigation and prosecution of drug case violated defendant's Fifth and Sixth Amendment rights and required dismissal of the indictment. Counsel advised him to provide some incriminating information as a showing of good faith when the government had not even been aware of the information. Ultimately, defendant retained separate counsel. The initial indictment was dismissed. In the second grand jury proceedings, counsel even testified against the defendant. [There's more to the horror story, but you get the picture]. The court held that the government's conduct created a conflict of interest between defendant and counsel and the government took advantage of it without alerting the defendant, the court, or even the "oblivious" counsel to the conflicts. "While the government may have no obligation to caution defense counsel against straying from the ethical path, it is not entitled to take advantage of conflicts of interest of which the defendant and the court are unaware." *Id.* at 1519. Moreover, the government here assisted in efforts to hide the conflicts from defendant. "In light of the astonishing facts of this case, it is beyond question that [counsel's] representation of [defendant] was rendered completely ineffectual and that the government was a knowing participant in the circumstances that made the representation ineffectual." *Id.* at 1520. "Only one decision has ordered that an indictment be dismissed due to preindictment intrusion into the attorney-client relationship so pervasive and prejudicial as to be considered "outrageous."

Smith v. State, 717 P.2d 402, (Ak App., 1986). [D]efense counsel who did not inform defendant of his right to persist in plea of not guilty to second charge provided defendant was ineffective assistance of counsel; and counsel was ineffective for not withdrawing or making disclosure to the court of defendant's desire to continue with his plea of not guilty. Defendant was denied effective assistance of counsel by attorney who did not tell him that he was under no obligation to change his plea of not guilty on second rape charge from not guilty to no contest in accordance with agreement with prosecutor that

defendant would be tried on first charge and, if convicted on that charge, would plead guilty or no contest to the second charge. If defendant's attorney believed himself precluded by agreement with prosecutor from informing defendant of defendant's right to persist in a plea of no contest, attorney was under a duty to seek withdrawal from the case. Defendant received ineffective assistance of counsel from attorney who neither withdrew nor made disclosure to the court when defendant wished to persist in a plea of not guilty even though defense counsel and prosecutor had entered into agreement for defendant to be tried on one charge, with the parties bound by the results of that trial with respect to a second charge. Sen. K. Tan, Asst. Public Defender, and Dana Fabe, Public Defender, Anchorage, for appellant. Neither the agreement nor Smith's last-minute qualms about following through on it were revealed to the court on the record during the change of plea hearing. It is undisputed that Smith believed he was obligated to go through with the change of plea. In his subsequent motion to withdraw his plea, Smith asserted that his counsel was ineffective in failing to inform Smith that he could have persisted in his not guilty plea. Under the rule, however, a showing that the plea resulted from ineffective assistance of counsel is equivalent to a showing of manifest injustice. Criminal Rule 11(h)(1) provides, in relevant part: (1) The court shall allow the defendant to withdraw his plea of guilty or nolo contendere whenever the defendant, upon a timely motion for withdrawal, proves that withdrawal is necessary to correct a manifest injustice. (ii) withdrawal is necessary to correct a manifest injustice whenever it is demonstrated that: (aa) the defendant was denied the effective assistance of counsel guaranteed by constitution, statute or rule····Thus, the rule is clear that a showing of ineffective assistance of counsel will entitle the defendant to withdraw his plea, without further inquiry into the issue of manifest injustice. The fact that Smith was legally entitled to persist in his plea of innocence is, in our view, determinative of his claim of ineffective assistance of counsel. Prior to his change of plea, Smith specifically asked his counsel if he was obligated to change his plea. Smith's question obviously related to his legal rights, not to his ethical duties. Smith's attorney

> replied that he considered Smith to be bound by the agreement. Both parties agree-and, indeed, the trial court expressly found-that Smith proceeded to enter a plea of no contest in the belief that he was, in fact, obligated to do so.

After Haeg had put nearly $1 million dollars in detrimental reliance on the plea agreement – along with giving the prosecution a 5 hour statement (with which Leaders used as the only probable cause to file well over half of the charges in Haeg's case – and as primary cause for all the rest) the State broke the agreement by filing far harsher charges then agreed to – ones which could forfeit Haeg's guide license for life and **still** using all Haeg's statements for everything. (The agreement had been in place for 3 months and the State broke it **5 business hours** before Haeg was to get his part.) Cole told Haeg "there's nothing we can do – suck it up" and when Haeg asked if he could do anything Cole said "she [the judge] would have cautioned you and told you before you say anything you're represented by an attorney anything you say can, **will** be used against you, you should speak with your attorney's advice...she probably would have listened **and that would have been the end of it**...judges like attorneys to keep their clients under control and to not say things"

Cole not only lied to Haeg about his right to seek enforcement of the deal because of the overwhelming detrimental reliance but Cole even told Haeg there was nothing to do about

the State using the statements made during plea negotiations to do so. This is in addition to Cole telling Haeg that the perjury the State used to move their evidence from the Wolf Control Program Unit to Haeg's guide use area "didn't matter" and "there's no way to get your plane back." Haeg is absolutely dumbfounded at the incredible size, severity, and blatantness of the prejudice Cole caused Haeg and his family. How can Cole's actions be reconciled with the above cases?

How can the Court of Appeals – the very same one that ruled in Smith v. State, in any sense of justice whatsoever, intentionally thwart Haeg's right to post conviction relief claiming IAOC? Is it to protect the attorneys and the State? There can be no other reason not to allow Haeg to document Cole's conduct on the record in post conviction relief claiming IAOC.

This motion is supported by the accompanying affidavit. RESPECTFULLY SUBMITTED on this ____ day of January 2007.

_____

David S. Haeg, Pro Se Appellant

CERTIFICATE OF SERVICE

I certify that on the ____ day of January 2007, a copy of the forgoing document by ___ mail, ___ fax, or ___ hand-delivered, to the following party:

Roger B. Rom, Esq., O.S.P.A.
310 K. Street, Suite 403
Anchorage, AK 99501
By: _____