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Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF IDAHO

KIMBERLEY SMITH, MICHAEL B.
 HINKLEY, JACQUELINE T. HLADUN,
 MARILYN J. CRAIG, JEFFERY P.
 CLEVINGER, and TIMOTHY C.
 KAUFMANN, individually and on behalf of
 those similarly situated,

Plaintiffs,

vs.

MICRON ELECTRONICS, INC., a
 Minnesota corporation,

Defendant.

) Case No. CIV 01-0244-S-BLW

) **AFFIDAVIT OF MARK A. COX**

STATE OF IDAHO)
)
 County of Canyon)

ss.

I, Mark A. Cox, being first duly sworn, state that the following facts are true and correct and based upon my personal knowledge. If called to testify regarding these facts, I am competent to do so and would testify as follows:

AFFIDAVIT OF MARK A. COX - 1

Boise-145096.4 0026493-00046

115

1. I was employed by Micron Electronics, Inc. ("Micron Electronics") in July of 1995. From approximately July of 1995 to June of 1996, I worked for Micron Electronics as a Direct Response Group inside sales representative in Consumer sales. From approximately July of 1996 to June of 1997, I worked for Micron Electronics as an inside sales representative in Government Sales. From approximately July of 1997 to February of 1999, I worked for Micron Electronics in product marketing and product development positions.

2. From approximately March of 1999 to December of 1999, I worked for Micron Government Computer Systems, Inc., ("MGCS") briefly as a Department of Defense supervisor and then as an Air Force Sales Supervisor in Government sales. From approximately January 2000 to May 2001, I worked for MGCS as a Civilian Sales Supervisor in Government sales.

3. I no longer work for any company owned or operated by Micron Electronics.

4. My duties as a supervisor included making sure the timekeeping and overtime policies were put into practice. As an inside sales representative, I was subject to the timekeeping and overtime policies. I have read and reviewed the overtime policy in the Team Member Handbook and the overtime and timekeeping policies in Micron Electronics' Employment Policy Manual, and the policies are consistent with the practices I applied as a supervisor and followed as an inside sales representative.

5. When I was hired, I was required to sign an acknowledgment which stated that I would comply with and meet my obligations under the policies in the Team Member Handbook and later as revised by the Employment Policy Manual. I knew that it was my responsibility to familiarize myself and comply with these policies.

6. As a supervisor in Government sales, I understood that MGCS was a separate subsidiary with its own compensation plan, commissions, incentives, business hours and

customers. We serviced customers who were non-military, government/federal entities. Inside sales representatives under my supervision worked varying shifts, including 6:00 a.m. to 3:00 p.m., 7:00 a.m. to 4:00 p.m., 8:00 a.m. to 5:00 p.m. and 9:00 a.m. to 6:00 p.m. I supervised between seven and eleven inside sales representatives at a time.

7. It was my responsibility to advise the inside sales representatives on my team regarding the status of overtime hours. I informed inside sales representatives when overtime was mandatory, optional or limited, based on the time of year, volume of calls, and productivity of inside sales representatives.

8. There were a couple of occasions where inside sales representatives worked overtime against my orders. In those situations, I would still approve the overtime because it was company policy that inside sales representatives must be paid for all time worked and are not allowed to work off the clock.

9. I reviewed timesheets on a regular basis. It was an inside sales representative's responsibility to accurately record his or her time. I assumed the inside sales representatives under my supervision would not misrepresent the number of hours they actually worked.

10. I never altered an inside sales representative's timesheet for the purpose of reducing overtime hours.

11. I was never aware that any of the inside sales representatives under my supervision were working off the clock, or purposefully not recording all of the time they were working. I never told inside sales representatives under my supervision to work off the clock. It was my understanding that inside sales representatives under my supervision were complying with company policy and recording all of the time they worked. None of the inside sales

representatives under my supervision ever told me they were working off the clock or purposefully not recording all of their time.

12. I have reviewed a copy of the Plaintiffs' Second Amended Complaint. Attached to the Second Amended Complaint is a copy of a document showing a string of e-mails purportedly between Timothy Kaufmann and myself. The dates on the e-mails, August 8-9, 2000, would have been when we worked at MGCS and I was the Civilian Sales supervisor for Mr. Kaufmann. I do not have a specific recollection of writing or receiving these particular e-mails, but have no reason to dispute that there probably were e-mails written between Mr. Kaufmann and myself.

13. I also have had my deposition taken in this case, and I was asked some questions about certain portions of the August 8-9, 2000 e-mails between Mr. Kaufmann and me. It appears, based on my deposition experience and my review of the Second Amended Complaint, that Plaintiffs are trying to represent this e-mail string as stating either I or the company wanted Mr. Kaufmann not to include 1/2 hour of overtime on his timesheet. If that's what they are saying, it's simply not true. If the entire e-mail string is read, it's clear that I told Mr. Kaufmann that "if you need to be here then I/Micron will certainly pay you for your efforts." I never told Mr. Kaufmann not to record overtime that he worked. Moreover, it is important to know that during the short period of time he worked for me, Mr. Kaufmann had complained about being required to work mandatory overtime through his lunch hour when we were busy, even though it was rarely done and we paid sales representatives for the time. Further, I soon found him to be one of the least productive and unmotivated sales representatives on my sales team. Specifically, Mr. Kaufmann was not productive or efficient with his time, and he spent far too much time surfing the Internet, particularly looking at web sites relating to golf, and talking with others

about non-work issues. He also was one of the poorest performers on my sales team. I recall trying to motivate him to be more productive with his work day. It was frustrating, because he had performed well in the past and understood the requirements of the job and how to be successful.

DATED this 20th day of August, 2002.

Mark A. Cox
Mark A. Cox

SUBSCRIBED AND SWORN to before me this 20th day of August, 2002.

Deanna Broth
Notary Public for Idaho
Residing in: Boise, Id
My Commission Expires: 08/19/06

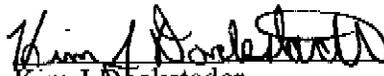


CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of August, 2002, a true and correct copy of the foregoing **AFFIDAVIT OF MARK A. COX** was served on the following individuals by the manner indicated:

William H. Thomas
Daniel E. Williams
HUNTLEY, PARK, THOMAS,
BURKETT, OLSEN & WILLIAMS
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- By Hand Delivery
- By Facsimile
- By U.S. Mail
- By Overnight Delivery



Kim J Dackstader