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STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF PAROLE

In the Matter of

██████████ ██████████

Wyoming Correctional Facility

DIN # ██████████

NYSID # ██████████

HELD AT: Wyoming Correctional Facility
Attica, New York

Parole Board Hearing

January 14, 2004

BEFORE: COMMISSIONER PATRICIA TAPPAN
COMMISSIONER GEORGE C. JOHNSON
COMMISSIONER GINO MICHAEL NITTI

PRESENT: ANTHONY MOLIK, Facility Parole Officer II
JANET CIOCIOLA, Agency Program Aide

REPORTER: MIDTOWN REPORTING SERVICE
MICHELLE M. NARDECCHIA, Hearing Reporter
(585) 325-2130

██████████ - NYSID # ██████████

2

1 EXAMINATION BY COMMISSIONER TAPPAN:

2 Q. ██████████ ██████████

3 A. Yes.

4 Q. Good morning. I am Commissioner Tappan.

5 Commissioner Johnson is on my right and Commissioner Nitti
6 on my left.

7 A. Yes.

8 Q. You are currently serving twenty-five to life for
9 murder second, two counts; six to twelve for robbery one;
10 four and a half to nine for burglary second; and two to four
11 for grand larceny auto third, two counts. Correct?

12 A. Yes, ma'am.

13 Q. And you pled guilty to all of these crimes,
14 Mr. ██████████ is that correct?

15 A. Yes.

16 Q. This offense occurred in 1977 where you went to a
17 home in a suburban area in ██████████ County, correct?

18 A. Yes.

19 Q. And I don't know how you selected this home. You
20 can answer this for me in a few minutes. You went into a
21 home, along with two other individuals; is that correct, two
22 other individuals?

23 A. Yes, ma'am.

24 Q. And you, among the three of you, shot two women
25 several times, causing their death. There were four

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3

1 children in the home from the ages of thirteen to seven
2 years old at the time of these murders. Guns were pointed
3 and personal belongings and valuables were taken from the
4 house and put into a van. And both of the women had been
5 raped prior to having been shot to death. Personal
6 property, checks, credit cards and you were chased to the
7 crimes when one of you was found with the weapon, a
8 revolver, that was found, that was taken from a neighbor of
9 those victims, whose home was also burglarized prior to this
10 offense.

11 Now, that is what the record says about the
12 crimes. Shall I just ask you what you want to say about it?

13 A. Yes. I have something to say about it. It was a
14 burglary, I was in the van with these guys. We was doing
15 burglaries.

16 Q. A series of burglaries.

17 A. Yes, ma'am.

18 Q. How were you selecting your targets?

19 A. I don't know.

20 Q. The homes.

21 A. I don't know. They just popped out of the person
22 who was driving the van. It was just, pick this house and
23 pick that house.

24 Q. You didn't live in that neighborhood, correct?

25 A. No.

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1 Q. Or anything close?

2 A. No.

3 Q. Upscale neighborhood.

4 A. Best, to my knowledge, yes.

5 Q. So, you're just going house to house to burglarize
6 the houses?

7 A. Yes.

8 Q. With two other individuals.

9 A. Yes.

10 Q. Was this something the three of you had done on
11 other occasions?

12 A. No.

13 Q. How did it happen that you went out on it this
14 time?

15 A. I met these two gentlemen, these two fellows.
16 They was in the van. I was in ██████████ ██████████ walking
17 on the street; and they said, where are you going, where are
18 you going. I'm going uptown and they gave me a ride. They
19 were talking about doing burglaries. I said, can I go with
20 you.

21 Q. Did you know these two guys?

22 A. I knew one of them.

23 Q. Into the crime scene -- you knew they were into
24 the crime scene?

25 A. Not at that time, I didn't. I haven't seen this

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5

1 guy maybe ten or fifteen years before I saw them that day in
2 ██████████ ██████████ And he gave me a ride. I was going
3 uptown. He said, listen, we are going to do something. I
4 said, do what? He said he is going to do burglaries. So,
5 he asked me, was I going with him; I said, yes. Now, by him
6 picking the houses that he picked, I went. He picked one,
7 the first house where this .32 revolver came from. Two guys
8 went into the house. I stayed in the van. When they did
9 what they did, as far as opening the house, I came. I went
10 into the first house. When we accomplished doing what I was
11 doing, as far as picking up the property we were picking up,
12 we put it in the van. We drove off and went to another
13 house. That is when he approached, I think, Mrs. ██████████'s
14 (phonetic) house, I believe; I think her name is
15 Mrs. ██████████ one of the two. That was the last house. We
16 only went to two homes, the last house.

17 Q. By the time you got to the second one, with what
18 occurred, I would think that would be enough to end it.

19 A. At the time it got to the second house, I didn't
20 realize they had guns until I heard shooting. You see what
21 I'm saying? For me hearing the shots inside the house, I
22 ran inside the house. I saw these little children
23 downstairs by me, hearing and seeing them running back and
24 forth, up and down the stairs. I stayed with the children.
25 I was frightened and I didn't -- being when the first guy

██████████ - NYSID # ██████████

6

1 came down the stairs and told me what he did, I said, what
2 did you do? He told me he shot somebody. I stayed with the
3 children. I didn't want them to get harmed. I stayed with
4 them downstairs during the process of me staying downstairs
5 with them.

6 Q. The children were running back and forth upstairs?

7 A. ██████████ (phonetic) and ██████████

8 Q. The two guys with you?

9 A. Yes, ma'am. By them running back and forth and up
10 and down the stairs, I was staying with the children. Then,
11 after they came out, I took some property out of the house
12 as well and put it in the van. I came back into the house,
13 the children were all right. I picked up, I think it was a
14 suitcase or something. I put it in the van and during the
15 process of me moving this property out of the house, I went
16 into the kitchen. I picked up a knife, I came out and I'm
17 holding it. I slashed the tires in front of the car in the
18 garage and I also stuck -- I punctured holes in the car, and
19 that was in the front of the house, outside of the house,
20 after that.

21 Q. Why did you do that?

22 A. Because I thought somebody was coming after us,
23 you know, being afraid. I just reacted, I just thought
24 about doing that. When I did that, they come running out of
25 the house. We all jumped into the van and took off. That's

██████████ - NYSID # ██████████

7

1 when I see all these guns and shit -- excuse my expressions.
2 That is when I see the guns and stuff. He passed me the
3 .32. What is this, I said? I don't want this. This was
4 supposedly what came up with the first house we went to.
5 After that I was -- I was in a state of shock, you know.
6 When they came and arrested me in ██████████ ██████████ I
7 was afraid. I didn't kill nobody. I wasn't even harmed. I
8 didn't know what was transpiring upstairs; because it was
9 one of those things, after I heard the shots, I was shocked.
10 When you never heard something like that, or being
11 affiliated with something like that, I just lost control of
12 myself. I didn't know what to do, I didn't know where to
13 go. I didn't know where I was at. I was never there. I
14 was in the wrong place, at the wrong time, with the wrong
15 people. I made a bad decision of being with them, simple as
16 that. I hate to tell you that. These people got killed. I
17 feel sorry that they got killed.

18 Q. Yes, raped and killed.

19 A. Yes. Whatever they did, I wasn't there when they
20 were upstairs, taking place. When the officers arrested me,
21 they throw it at me, they threw it at me. They knew they
22 had ██████████ and ██████████ first. I was the last person to get
23 arrested. I told the truth and whatever they asked me, I
24 told them exactly what I observed. I told them exactly
25 what, how I participated as far as acting in concert. I

██████████ - NYSID # ██████████

8

1 explained everything that I did. I didn't hide anything, I
2 told the truth. Yes, I was there with them. The point was,
3 during the time when all this rape was going on and the
4 shooters, I was not in the house. I was not aware of this
5 until I heard the shots and I've been eating this -- this
6 has been eating at me for the longest time and it's going to
7 continue to eat at me. They killed two people and for them
8 to kill two people, they look at me the same way.

9 Q. Absolutely. You are with them, you are part of
10 the plan, according to how anybody else would look at that.
11 Can't you see that?

12 A. Yes, ma'am, I can see that. But the point is, I
13 tried to express my innocence of not having the knowledge of
14 what these two clowns was doing.

15 Q. I guess you shouldn't have hooked up with them.

16 A. It's too late for that.

17 Q. Exactly, exactly.

18 A. I made a mistake and I'm paying for it.

19 Q. That is what happens when you go down the path for
20 crime. You knew you were going for burglaries.

21 A. Yeah. I didn't know they were going to kill
22 nobody.

23 Q. I'm not saying that. I'm saying, you knew you
24 were going for burglaries. Once you are on the path for
25 crimes -- people say, I was just going to exchange drugs, I

██████ ██████ - NYSID # ██████

9

1 was just going to hand over to him drugs, and the next thing
2 we know, we hear about shots being fired and people getting
3 killed. Same kind of scenario. You are part of the scene,
4 you are part of the action if you are part of that kind of
5 lifestyle, of committing crimes. Unfortunately for you, if
6 what you are saying is true, you have to own it too.

7 Looking at your criminal record, you had gotten
8 started in the criminal justice system before this. You had
9 some using motor vehicle without permission in the late
10 sixties and you spent some time in a reform school, right?

11 A. Yes.

12 Q. What got you there?

13 A. A breaking and entry, I believe.

14 Q. Breaking and entry. Then in '72 you did breaking
15 and entry and you went to the House of Corrections, this is
16 in ██████ House of Corrections there?

17 A. Yes.

18 Q. You were put on probation, counseling for drugs,
19 and then you were given pre-trial diversion and whatever.
20 Then you have another conviction here, violation of illegal
21 child act, two counts. What is that all about? You know,
22 we don't necessarily understand what other charges are from
23 other states.

24 A. Me and my children's mother were going through a
25 little discrepancy, as far as arguing and me not having a

[REDACTED] - NYSID # [REDACTED]

10

1 job at the time. I was trying -- by me getting laid off
2 from the job that I had, I couldn't get another job during
3 the time; so, I pitched myself into a community center, as
4 far as a trade school for auto mechanics. During this time
5 I was going through that for six or seven months. They were
6 supposed to place me on the job. Being that they didn't
7 place me on the job, I was starting to draw unemployment and
8 it was just one of those things. There was not enough
9 money, she fell apart at the seams and took me to court and
10 said I was not paying for child support. I was doing the
11 best I could to find a job. I was going out every day to
12 try to find a job. I couldn't find a job. I gave her all
13 the money from unemployment I was drawing, that wasn't
14 enough. We were just going back and forth to each other.
15 She took me to court.

16 Q. Was part of that assault and battery?

17 A. So she claims, but I didn't.

18 Q. Then you get into this. This is a huge escalation
19 in criminal behavior from the breaking and entry and this
20 kind of stuff that you were already into, right?

21 A. Yes.

22 Q. All right. Well, tough stuff.

23 This is a reappearance for you before the Board.
24 What have you been doing the last two years, let's talk
25 about that.

[REDACTED] - NYSID # [REDACTED]

11

1 A. I've been going to program, I go to program every
2 day.

3 Q. What kind of program have you been doing?

4 A. I'm still studying automotive. You know, for me
5 becoming automotive industry, I figure they had automotive
6 here. Further my profession in that, that's what I have
7 been doing.

8 Q. And how about -- you completed some kind of ART
9 program or AVP?

10 A. Yes, I did AVP. I did four workshops of AVP and I
11 did ART.

12 Q. Now, it says you still refuse to participate in
13 ASAT.

14 A. I'm confused. The reason I refused ASAT, I'm
15 confused about ASAT. I'm hearing things that pertain to
16 people that take drugs or whatever the case may be. I have
17 never took drugs. I use that issue there as a kid to try to
18 get out of jail, which it did get me out of jail. As far as
19 me taking drugs or smoking weed, that's not me.

20 Q. You say you haven't used drugs?

21 A. No.

22 Q. Well, they are saying you are required to take it.
23 Won't hurt, probably, to take it, just for informational
24 purposes, right?

25 A. Yes, you're right.

[REDACTED] - NYSID # [REDACTED]

12

1 Q. Information and education can never hurt any of
2 us.

3 A. You're right, you're right.

4 Q. Do you have children out there now?

5 A. Yes -- they are not children anymore.

6 Q. They are grownups. You have grandchildren, or you
7 may have grandchildren somebody, or whatever else; and the
8 more information you have about drugs, the better off you
9 can be, or maybe you can help somebody else. I cannot
10 imagine why that would hurt you. If they want you to take
11 it, I would take it, if I were you. It's not going to hurt
12 you.

13 A. Do you understand what a person has to go through
14 to do those programs? I know a lot about them. I'm, like,
15 to these kids in here, I'm, like, a counselor, you
16 understand me? They tell me all the problems they have to
17 go through in these programs to get -- excuse my expression
18 -- you are dealing with the police, you are dealing with the
19 civilians that come in and step on you. They tell you what
20 to do, to stick your face in the corner, they gave you all
21 these irritating details to do. They tell you -- they
22 confine you to your cube. They tell you they can't have
23 this, they treat you like children. I'm not a child. And
24 for them to come to me for advice, and I tell them from my
25 experience of what to do if you are in the program, stay

[REDACTED] - NYSID # [REDACTED]

13

1 there, try to absorb what they have to offer you. For me, I
2 don't have to. I don't feel they have nothing to offer. I
3 don't do drugs, I don't drink liquor or smoke cigarettes.
4 To be around a group of people that I know that are there,
5 they are younger than me, they are a pain in the butt. You
6 know what I mean? I have to concentrate on keeping my
7 composure together. I have been away for a long time.
8 People died in the family. I cannot go to funerals or wakes
9 or nothing. I lost my sister since I have been in this
10 incarceration, I lost my father. These two people I was
11 very, very close to me. Yes, I know I made a mistake, I
12 have to pay for it, I'm paying for it. For me to put myself
13 in one of those programs, again, I'm not doing it no more.
14 I did it in Attica, I did it in Sing Sing, I did it in
15 Clinton. By my working every day, trying to do the right
16 thing and stay on the right path and stay out of trouble in
17 the penitentiary, I get sick, I'm sick and they throw me to
18 the curb like a piece of shit -- excuse my expression. They
19 prevent the issue. When I was in Sing Sing I worked every
20 day for just about fourteen years. I work every place I
21 went. In Clinton I work in [REDACTED] Every place I've
22 been, I worked. I went to school, I took the AVP programs,
23 I took the ART program, I took IP program, I did all these
24 programs and for something I don't get no credit for it.
25 Once you bring to my attention is what I have in my cell, I

[REDACTED] [REDACTED] - NYSID # [REDACTED]

14

1 read it over and over and I have to, I constantly kicking
2 myself in the butt for being with these knuckleheads. My
3 life is gone, simple as that. For me to come here to
4 sympathize -- or somebody to sympathize with me, you
5 know -- I know what is there. I made a mistake. You
6 understand what I'm saying? I could never change that.

7 Q. All right.

8 A. I could never change that.

9 Q. I certainly understand, but we have consequences
10 of our behavior.

11 A. Yes, I realize that.

12 Q. Unfortunately, the consequences for yours was in
13 associating -- if it's the whole scenario, according to what
14 you said --

15 A. I can never change that.

16 Q. I realize that, calm down. I'm just suggesting to
17 you, that is one of the things DOCS looks at, what happened.
18 They suggest you take a program.

19 A. I've been taking program ever since I've been
20 down. Every place I go, I take a program, you know.

21 Q. Excuse me. I'm a lot older than you are --

22 A. Yes, you are.

23 Q. You said that quickly.

24 A. You know --

25 Q. What I want to say to you is that I don't feel

[REDACTED] - NYSID # [REDACTED]

15

1 that I know everything about everything in the criminal
2 justice system, or about drugs, or alcohol, or about
3 aggression, or anything. We constantly take programs to be
4 more aware of all kinds of things around us. So, I don't
5 see how that would hurt you.

6 A. Excuse me. You are not in this, I'm in this. I'm
7 in what I have to go through. I know what I am facing.

8 Q. So, you are going to make that choice then.

9 The other thing is based on what your convictions
10 are and what occurred in this crime. The suggestion was,
11 you take a sex offender program. Now, this says that you
12 have your name on the waiting list. Is that true or not
13 true?

14 A. Yes. I explained to her, please put me on the
15 waiting list, even though I'm not affiliated with what they
16 did. The thing is, for me to place myself in a position
17 like that, and sign my name, I feel that I am admitting to
18 something that is in my folder that I didn't do. That is
19 why I took a sperm test, a blood test and everything else.
20 The DNA -- the whole nine yards, when this thing first
21 came --

22 Q. You were not charged with the rape, you are not
23 charged and convicted with rape.

24 A. Exactly.

25 Q. Calm down.

██████████ - NYSID # ██████████

1 A. I'm calm.

2 Q. No, you are not. Just relax a minute.

3 A. I have been innocent. This has been eating at me.
4 I can still hear the shots in my ears. For us to be here
5 again, it's eating me up. This is the only time I get to
6 release because I don't speak to other people.

7 Q. You are venting with us.

8 A. I have to, this is my time, you know.

9 Q. You are right.

10 A. I don't mean to be disruptive or rude. I have to
11 get it out of me.

12 Q. You have to vent.

13 A. I have to get it out of me.

14 Q. I understand that.

15 So, you are going to make a choice, whether you
16 want to take those programs.

17 A. Yes, I realize that.

18 Q. Since your last Parole Board appearance, it looks
19 like you had one Tier II. Behavior is not a problem. You
20 learned to deal with the correctional facility and manage
21 your time and manage your behavior and whatever.

22 A. Yes.

23 Q. So, you are a decent inmate.

24 A. Yes.

25 Q. If you are released, where would you go?

██████████ - NYSID # ██████████

1 A. To my family.

2 Q. Where is your family, what are you talking about,
3 family?

4 A. I don't know where my mother live at. It's been
5 so long. I don't know. I have a sister in ██████████

6 ██████████ I have a sister in ██████████ ██████████ I
7 have a sister in ██████████ I have a fiancee.

8 Q. You stay in touch with your sisters?

9 A. Yes. I have a fiancee in ██████████

10 Q. Fiancee in ██████████

11 A. Yes.

12 Q. How long have you had this fiancee?

13 A. Since '96.

14 Q. How did you get a fiancee in ██████████

15 A. We been corresponded, I did a presentation about
16 the life in penitentiary, in Sing Sing Correctional
17 Facility. She seen me on television. We have been
18 corresponding.

19 Q. She has been living in California since that time?

20 A. Yes.

21 Q. She has been corresponding since that time, since
22 when?

23 A. I did the presentation in '97.

24 Q. She's been corresponding since then?

25 A. Uh-huh.

[REDACTED] - NYSID # [REDACTED]

18

1 Q. Have you ever seen each other?

2 A. No. They bought a tape of the presentation from a
3 C-Span --

4 Q. She knows what you look like?

5 A. Yes.

6 Q. Do you have any clue what she looks like?

7 A. Yes.

8 Q. You've written about what you are all about?

9 A. Yes, I explained everything to her, just as well
10 as I explained to her, I didn't hide anything.

11 Q. You decide to be engaged to somebody, I'd think
12 you would want to lay eyes on them first.

13 A. Yes, it was a thing where we constantly write each
14 other, we constantly speak with each other about problems
15 and stuff.

16 Q. Has she ever thought about taking a trip east and
17 checking you out?

18 A. I said not to come here. I said, whenever, as
19 long as we keep corresponding in the way we do, maybe one
20 day I will get to be in her presence.

21 Q. What does she do?

22 A. I told her not to do it.

23 Q. What does she do?

24 A. She takes care of little children. She is a nanny
25 or something like that.

██████ - NYSID # ██████

1 Q. How old is she?

2 A. Now she is thirty.

3 Q. How old are you?

4 A. I'm fifty-two.

5 Q. Pretty significant difference in age.

6 A. Yes.

7 Q. Does she have children herself?

8 A. No.

9 Q. All right. What is with the collar around your
10 neck?

11 A. I have a herniated disk in my neck, you know. I
12 lift weights, you know, from time to time and I lifted wrong
13 one day and when somebody walked across my path I woke up
14 with -- I had a stiff neck. I had a stiff neck for, like,
15 two and a half months; and, come to find out, they took me
16 to the outside hospital. I had a couple MRIs, I had to see
17 a neurologist and the whole nine yards.

18 Q. All right. I trust you with that. I trust that
19 they took care of you.

20 A. Yeah, finally, you know.

21 Q. All right. All right. Anything else you want to
22 say?

23 A. I'm just sorry this had to happen, man -- ma'am.
24 I made a mistake. I'm paying for it, that's all I can tell
25 you right now.

██████ - NYSID # ██████

20

1 COMMISSIONER TAPPAN: Commissioners, any
2 further questions?

3 COMMISSIONER JOHNSON: I have listened
4 carefully. No further questions. Thank you.

5 COMMISSIONER NITTI: When they arrested your
6 codefendants, did your codefendants give statements to the
7 police?

8 INMATE ██████ I don't know, but I did. I
9 did because it was eating at me.

10 COMMISSIONER NITTI: Did they go to trial?

11 INMATE ██████ Yeah, I believe they did.

12 COMMISSIONER NITTI: Did you testify?

13 INMATE ██████ No, I didn't go to their
14 trial. We have a severance.

15 COMMISSIONER NITTI: I figured they severed
16 the cases. The DA is part of the deal. Did the DA ask you
17 to testify?

18 INMATE ██████ No. He didn't ask me to
19 testify.

20 COMMISSIONER NITTI: Thank you.

21 EXAMINATION BY COMMISSIONER TAPPAN CONTINUED:

22 Q. You are not sure if they really went to trial?

23 A. I believe they did -- no, I believe they got found
24 guilty before I did, I believe, to my knowledge, because
25 they kept us apart. Do you know what I am saying?

██████████ - NYSID # ██████████

1 Q. I interviewed one of them already two years ago.

2 A. Don't want to see them. I don't remember -- I
3 don't want to see them.

4 Q. I know I interviewed one of them. So, they are
5 both still in, obviously. Okay.

6 COMMISSIONER TAPPAN: Anything else?

7 COMMISSIONER NITTI: No. Thank you. I am
8 sorry.

9 COMMISSIONER TAPPAN: Okay. We will review
10 everything. You certainly did the best you could to plead
11 your case.

12 INMATE ██████████ I couldn't explain it no
13 better than I could, because it's in me. I know what I did
14 was wrong. I admitted to what I did wrong, I admitted to
15 whatever transpired in that house, as far as my visibility
16 in that area, in the bottom of that house. Other than that,
17 I cannot tell you anything else.

18 COMMISSIONER TAPPAN: Okay. I hear you.

19 INMATE ██████████ I will see you in another
20 twenty-four. I know that is how it's going to be.

21 COMMISSIONER NITTI: Good luck.

22 (Whereupon an off-the-record discussion was held at
23 this time.)

24 * * *

25

[REDACTED] - NYSID # [REDACTED]

22

DECISION

1
2 COMMISSIONER TAPPAN: Denied, twenty-four
3 months. Next appearance, 1/06. Parole is denied.

4 You are currently serving an aggregate term
5 of twenty-five years to life for two counts of murder; six
6 to twelve for robbery one; four and a half to nine for
7 burglary second; and two to four for grand larceny auto
8 third, two counts. In this most horrendous crime you, in
9 concert with two others, entered a residence illegally, shot
10 two women to death; four children, ages thirteen to seven
11 years of age, were in the house at the time; and you removed
12 personal property and valuables from the home. The women
13 were brutally raped by the others as well. You and your
14 accomplices' behavior was reprehensible.

15 You have a previous criminal history of
16 larcenous behavior, which was significantly escalated with
17 these crimes.

18 You continue to refuse to participate in
19 recommended programs, including ASAT. You need to complete
20 a sex offender program as well.

21 You are not a good candidate for
22 discretionary release.

23 Unspecified guidelines, involved weapon
24 usage, death of victims, multiple victims, multiple counts,
25 a serious escalation of offenses, victims were particularly

[REDACTED] - NYSID # [REDACTED]

23

1 vulnerable.

2 (Whereupon Commissioner Johnson and Commissioner Nitti
3 concurred.)4
5 * * * * *6
7 C E R T I F I C A T I O N8
9 I, MICHELLE M. NARDECCHIA, a Shorthand Reporter in the
10 State of New York, do hereby CERTIFY that the foregoing
11 record taken by me at the time and place noted in the
12 heading hereof is a true and accurate transcript of the
13 same, to the best of my knowledge and belief.14
15
16
17
18 19
20 MICHELLE M. NARDECCHIA21
22 DATED AT: Rochester, New York
23 this 28th day of January, 2004.