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

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

No. CV-08-0824 JSW

Plaintiffs,

v.

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

Defendants.

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DECLARATION OF PETER SCHEER

I, Peter Scheer, declare as follows:

1. I am the executive director of the California First Amendment Coalition (CFAC). This declaration is submitted in support of the motion by CFAC and Public Citizen, Inc. to intervene (or, in the alternative, to participate as *amici curiae*) in this case.

2. I am a lawyer and journalist and have been executive director of CFAC since 2004. I was previously the editor and publisher of *The Recorder*, a daily legal newspaper in San Francisco, and publisher of *Legal Times*, a Washington, DC-based weekly on law and lobbying. I practiced law in Washington, DC, both in the U.S. Justice Department and in private practice, was a partner in the Washington, DC firm of Onek, Klein & Farr, and was general counsel to the National Security Archive. In 2006, I was awarded the Eugene S. Pulliam First Amendment Award by the Society of Professional Journalists. My articles on First Amendment and other issues have appeared in numerous publications, both print

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1 and online, including the *Sacramento Bee*, *Slate.com*, the *San Jose Mercury News*,
2 *Salon.com*, the *Orange County Register*, the *San Francisco Chronicle*, the *San Diego Union-*
3 *Tribune*, the *Los Angeles Daily Journal*, *The Recorder*, and *American Lawyer* magazine. I
4 received my J.D. in 1978 from Harvard Law School, where I was a member of the *Harvard*
5 *Law Review*.

7 3. CFAC is a nonprofit public interest organization dedicated to advancing free speech
8 and open-government rights. CFAC was founded and incorporated in 1988. Its offices are
9 located at 534 Fourth Street, Suite B, San Rafael, CA 94901. Its web address is
10 www.cfac.org.

12 4. CFAC is a membership organization. Its members are individuals, professional
13 associations, and corporations. Among CFAC's corporate members are many California
14 news media, including most of the large daily papers. These include the *Los Angeles Times*,
15 the *San Francisco Chronicle*, the *San Jose Mercury News*, the *San Diego Union-Tribune*, the
16 *Orange County Register*, the *Sacramento Bee*, the *Press-Enterprise*, the *Oakland Tribune*
17 and the *Fresno Bee*. Nonprint news media members include *Wired.com*.

19 5. CFAC's mission includes advocacy for the First Amendment rights of the public and
20 its members, including news organizations. Its activities on behalf of the public and its
21 members include selected litigation (cases involving issues of censorship, rights of access to
22 court and agency records, and access to legislative proceedings of state and local
23 governments), education (providing free legal information on First Amendment and
24 freedom-of-information issues), and public advocacy (through Op-Eds and other articles,
25 published both in print and online, and public speaking).

1 6. CFAC and many of its members believe that defendant Wikileaks is a valuable tool for
2 journalists. In the past year anonymous contributors to Wikileaks have posted documents to
3 the website that have become the basis for major news stories. These include news stories on
4 treatment of terrorist suspects held at Guantanamo (first published by *Wired.com*, a CFAC
5 member), the US military's rules of engagement in Iraq (the *New York Times*), and official
6 corruption in Kenya (*BBC News*), among others. Indeed, CFAC member *Wired.com* has
7 published at least six stories (excluding coverage of this lawsuit) about wikileaks.org.
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10 7. For Journalists who report on national security, technology, foreign affairs and
11 international human rights issues, Wikileaks is useful both for the records posted there and
12 for published discussions about those records from members of the informal Wikileaks
13 community. These discussions, among other things, can help journalists to assess the
14 authenticity and significance of documents on Wikileaks. Wikileaks is also important to
15 journalists (of all types: traditional media, "new" media, and bloggers) as an alternative
16 model for the distribution of information—one that potentially could be adapted for use
17 locally and regionally as well as for international news.
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20 8. CFAC and its members are also interested in Wikileaks, and its continued availability,
21 as a means for dissidents in China to disclose evidence of human rights violations and
22 official corruption--and to do so with some degree of confidence that they will not be
23 identified by Chinese authorities. CFAC has initiated a proceeding before the US Trade
24 Representative that seeks to have the World Trade Organization order an end to China's
25 extensive censorship of the internet. CFAC's position, which we hope to persuade the USTR
26 to adopt in a complaint to the WTO, is that China's censorship of the internet violates its
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1 obligations under treaties to which it became subject when it joined WTO.

2 9. CFAC seeks to intervene in this litigation to protect its own significant interests, as
3 well as the significant interests of its members, prospective members, and the public
4 generally, as guaranteed by the First Amendment, to access the information disclosed on
5 Wikileaks. As noted above, those interests are particularly compelling for CFAC's
6 journalist and corporate news-organization members, whose ability to report on important
7 matters in the public interest often depends upon the willingness and ability of those with
8 access to documents concerning governmental and corporate misconduct to come forward
9 despite fear of retribution.

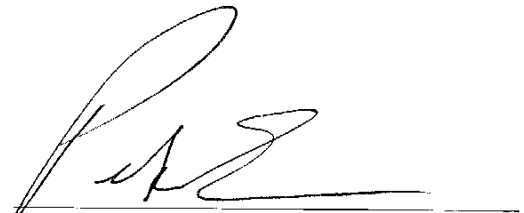
10 10. This Court's permanent injunction of February 15, 2008, which ordered the
11 Wikileaks.org site shut down, seriously impairs the ability of CFAC and its members to
12 access the information that would otherwise be available on Wikileaks.org. Thus, the
13 disposition of this case has already had, and may continue to have, the effect of impeding the
14 ability of CFAC, its members, and the public to protect their significant First Amendment
15 interests in the material posted on Wikileaks.

16 11. CFAC is concerned that its First Amendment interests, and the First Amendment
17 interests of its members (including member news media and their audiences) will not be
18 adequately represented in this Court absent CFAC's intervention because Wikileaks has not
19 appeared in this action to defend itself. Moreover, even if Wikileaks does appear, there is no
20 reason to believe that Wikileaks would be able to adequately represent the interests of CFAC
21 or its members.

22 Executed at San Rafael, California, this 25th day of February, 2008.

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



Peter Scheer