

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

GULET MOHAMED,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:11-CV-0050
	)	
ERIC H. HOLDER, JR., in his official capacity as	)	
Attorney General of the United States, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**JOINT STATUS REPORT**

In accordance with the Court order dated August 6, 2014, Dkt. 124, the parties hereby submit this Joint Status Report regarding the status of discovery disputes thus far. The parties have recently made some additional progress.

- The Parties have agreed to the text of a stipulated protective order governing the handling of Sensitive Security Information. *See* Exhibit A. The parties jointly request the entry of this Order. Defendants are not thereby agreeing to the production of any particular information, but this order would govern the handling of any information that may be produced pursuant to its terms.
- Defendants have provided Plaintiff a draft of a proposed stipulated protective order governing the handling of Law Enforcement Privileged Information. Plaintiff objects to one provision of that draft and the parties continue to discuss options to resolve the disagreement.<sup>1</sup>

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<sup>1</sup> Because most information likely to be at issue is both Sensitive Security Information and subject to the Law Enforcement Privilege, Defendants maintain that it is necessary for both orders to be in place before any privileged information could be produced.

- The parties have had substantive discussions regarding interrogatories 4, 7, 8, and 10.

*See* Dkt. 91-1. With respect to interrogatories 4, 7, and 8, the parties have discussed the production of certain privileged information pursuant to the above-mentioned protective orders, which would likely resolve the current dispute. The parties are unable to reach an agreement regarding part of the information requested in Interrogatory 8 (the religion of persons) and regarding Interrogatories 5 and 10 (the reasons why a nomination is rejected or why a person is moved between lists). In summary, the parties have agreed to resolve their discovery dispute with regard to certain interrogatories in the following manner, though the issue of whether the following information should be subject to a protective order is still being discussed:

- With regard to Interrogatory 4, the parties agree that Defendants will include as part of their answer to this interrogatory information concerning the number of lawful permanent residents (LPRs) in the Terrorist Screening Database (TSDB) and on the Selectee and No Fly Lists for the fiscal years 2012 and 2013, because the TSDB began tracking LPR status in May 2012. Defendants will provide their entire answer to Interrogatory 4 pursuant to the appropriate protective orders.
- With regard to Interrogatory 7, the parties agree that, for the fiscal years 2009 through 2013, Defendants will provide Plaintiff with the information available to them regarding the number of U.S. persons on the No Fly List who have information listed in the field available for naturalization certificate numbers. Defendants will provide this information pursuant to the appropriate protective orders.

- With regard to Interrogatory 8, the parties agree that, for the fiscal years 2009 through 2013, Defendants will provide Plaintiff with the information available to them regarding the place or places of birth of U.S. persons on the No Fly List. Defendants will provide this information pursuant to the appropriate protective orders.
- Otherwise, the parties remain largely at an impasse over the production of information subject to the State Secrets privilege, the law enforcement privilege, and/or the statute protecting Sensitive Security Information (SSI).
- Because the parties anticipate further progress on these discovery issues, the parties jointly propose to submit another status report to the Court on or before August 29, 2014.

### **Plaintiff's Statement**

Plaintiff writes separately to make two points. First, Plaintiff would like to bring to this Court's attention two recently leaked government documents, including the 2013 Watchlisting Guidance which details the factors that Defendants consider when making and processing nominations. Plaintiff will argue that this document is relevant, not only to show just how objectionable and evidence-free Defendants' watch listing process is, but also to how this Court handles Defendants' state secrets privilege. The other document leaked is titled *Directorate of Terrorist Identities (DTI): Strategic Accomplishments 2013* and it shows, among other things, that the second highest concentration of watchlisted persons is a town of less than 100,000: Dearborn, Michigan. Plaintiff will argue that the only explanation for this concentration in Dearborn—a place that even the local US Attorney recently acknowledged had never seen even a single terrorism prosecution—is the fact that Dearborn has perhaps the highest proportion of Muslims

and Arabs in the country. Plaintiff will be filing a notice with this Court next week attaching both of these documents.

Second, with regards to Plaintiff's request for information about the religious identity of listed US persons, Plaintiff would like to elaborate on his proposal to alleviate the burden that Defendants' objections are relying upon. In short, Defendants have argued that, because they do not track religion in their TSDB records, their search would have to include a review of the underlying records. Defendants have estimated that a review of a single record would take one hour.

Plaintiff, however, has determined that a review of even 5 to 10 percent of the underlying records would likely be a sufficient sample size from which statistically valid inferences about all US person records. While Plaintiff does not know exactly how many US persons are in the TSDB, some media reports have indicated that the number may be in the hundreds or around a thousand. This means that the entire burden to Defendants may be just 50 to 100 hours of work.

### **Defendants' Statement**

With respect to Plaintiff's points, Defendants do not acknowledge the authenticity of the purportedly leaked documents, and will respond to the proposed Notice in due course. Moreover, nothing in Plaintiff's "narrowed" proposal regarding religious affiliation of a subset of the TSDB alters significantly the arguments previously made. As Defendants explained in the opposition to the motion to compel, this (likely privileged) information is burdensome to obtain, is not probative of the claims and defenses in this matter, and moreover requires intensive review of likely classified material. *See* Defs' Opp. (Dkt. 102) at 23-26.

Defendants have three additional updates for the Court. First, as discussed in the previous Status Report, Defendants remain opposed to producing any law enforcement privileged or SSI information under an attorney-eyes only protective order. Nonetheless, in accordance with the Court's oral order at the hearing, Defendants have reviewed all documents that were produced in the *Ibrahim* litigation in the Northern District of California; a number of unprivileged records produced in *Ibrahim* have already been provided to Plaintiff. Defendants have identified a small number of additional documents that were ordered produced under an attorneys-eyes-only protective order in the *Ibrahim* litigation that are arguably within the scope of discovery in this case. Given the Court's instruction at the hearing, although Defendants continue to object to the production of such material, Defendants anticipate producing that information shortly after appropriate protective orders are entered and suitable acknowledgements obtained.

Second, in light of the unusual nature of the Court's August 6, 2014 Order regarding an in camera submission, Dkt. 125, Defendants are considering filing a motion for reconsideration or clarification. Defendants anticipate that such a motion would be filed on or before Friday, August 22, 2014.

Third, the Court asked questions at the hearing about another matter pending in the District of Oregon, *Latif v. Holder*, No 10-750. As the Government explained in a status report filed in *Latif* on August 4, 2014, it seeks a six-month voluntary remand in *Latif*, as over the next six months the Government intends to make changes to the existing redress process regarding the No Fly List, in coordination with the various agencies involved in aviation security screening, informed by the myriad legal and policy concerns that affect the Government's administration of the No Fly List and the redress process, and with full consideration of the Court's opinion in

*Latif*. See *Latif* Joint Status Report, No. 10-750, Dkt. 144 (D. Ore. Aug. 4, 2014). As the Government further explained in *Latif*, once these new procedures have been developed, and also within the six months of the requested voluntary remand in that matter, the Government intends to reopen and reconsider the *Latif* Plaintiffs' redress requests using the new process. See *id.* The *Latif* court has taken the Government's proposed approach under advisement and has requested that the parties provide answers to several questions in a status report due on August 29, 2014. The Government also is considering the effect of its proposed remand on other pending cases.

Dated: August 15, 2014

Respectfully submitted,

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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

GULET MOHAMED,	)	
	)	
	)	
Plaintiff,	)	Civil No. 1:11cv50
	)	
v.	)	<b>PROTECTIVE ORDER</b>
	)	<b>REGARDING SENSITIVE</b>
ERIC HOLDER, et al.	)	<b>SECURITY INFORMATION</b>
Defendants.	)	
	)	
	)	
	)	

**STIPULATED PROTECTIVE ORDER GOVERNING ACCESS TO, HANDLING OF,  
AND DISPOSITION OF POTENTIAL SENSITIVE SECURITY INFORMATION**

In accordance with Section 525(d) of the Department of Homeland Security Appropriations Act, 2007, Public Law No. 109-295, § 525(d), 120 Stat. 1382, 1355 (Oct. 4, 2006), as reenacted (the “Act”), the Court hereby enters this Protective Order Governing Access to, Handling of, and Disposition of Potential Sensitive Security Information (the “Order”) exchanged in the above-captioned matter (this “Litigation”).

**1. Scope**

1.1 This Order shall govern any Document, information or other material that potentially contains “Sensitive Security Information” as defined herein, including Documents potentially containing Sensitive Security Information that are produced by the Parties, Documents produced by non-parties, and Documents produced by government agencies. Any Party serving a subpoena or other request for information or materials (including a request to a government agency made pursuant to 5 U.S.C. § 301) upon a non-party or a government agency shall serve a copy of this Order along with the subpoena or other request.



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1.2 Nothing contained herein alters or affects in any manner a covered person's obligations and duties as set forth in 49 C.F.R. Part 1520.

## **2. Definitions**

2.1 Cleared Counsel. The term "Cleared Counsel" shall refer to the attorneys representing the Plaintiff in this Litigation, who are not otherwise authorized to have access to Sensitive Security Information pursuant to 49 C.F.R. Part 1520, but who TSA has cleared for access to specific Sensitive Security Information after determining that such access does not present a risk of harm to the nation based upon a criminal history records check, terrorist threat assessment, and evaluation of the sensitivity of the information as mandated by Section 525(d) of the Act. All Cleared Counsel must agree to be bound by the terms of this protective order by signing attached EXHIBIT A.

2.2 Covered Person. The term "Covered Person" shall refer to any person who is authorized to have access to specific Sensitive Security Information pursuant to 49 C.F.R § 1520.7 and 1520.11.

2.3 Documents. The term "Documents" shall include, but is not limited to, all written or printed matter of any kind, formal or informal, including originals, conforming and non-conforming copies (whether different from the original by reason of notation made on such copies or otherwise). The term further includes, but is not limited to, the following:

a. papers, correspondence, memoranda, notes, letters, reports, summaries, photographs, maps, charts, graphs, inter-office and intra-office communications, notations of any sort concerning conversations, meetings, or other communications, bulletins, teletypes, telegrams, telefacsimiles, invoices, worksheets, transcripts of any kind (including depositions and Court proceedings), legal briefs, pleadings and papers (including those filed with the Court) and drafts, alterations, modifications, changes and amendments of any kind to the foregoing;

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b. graphic or oral records or representations of any kind, including, but not limited to, photographs, charts, graphs, microfiche, microfilm, videotapes, sound recordings of any kind, and motion pictures;

c. electronic, mechanical or electric records of any kind, including, but not limited to, tapes, cassettes, disks, recordings, electronic mail, films, typewriter ribbons, word processing or other computer tapes or disks, and all manner of electronic data processing storage.

2.4 Restricted Use Document. The term “Restricted Use Document” shall refer to any Document that contains Sensitive Security Information.

2.5 Parties. The terms “Party” and “Parties” refer to the parties to this Litigation and their counsel as well as any and all future parties to this Litigation.

2.6 Sensitive Security Information. The term “Sensitive Security Information” shall have the meaning set forth in 49 U.S.C. § 114(r)(1)(C), 49 C.F.R. § 1520.1 *et seq.*, and as designated in orders issued by TSA pursuant to 49 U.S.C. § 114(r).

### **3. Identification and Review of Sensitive Security Information**

3.1 All Documents sought to be produced in connection with this Litigation that contain, or that the producing party has reason to believe contain, Sensitive Security Information, shall first be submitted to TSA for review, with an accompanying index of the submitted Documents, as required under 49 C.F.R. § 1520.9(a)(3).

3.2 TSA shall promptly complete a review to determine if any particular Document submitted contains Sensitive Security Information. Upon completion of this review, to the extent that a Document does not contain Sensitive Security Information, TSA shall authorize the release of the Document and the Document shall no longer be subject to this Order. Information that TSA has determined does not constitute Sensitive Security Information may be used and

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disclosed in any manner consistent with the disclosure procedures governing non-Restricted Use Documents exchanged in this Litigation.

3.3 Upon completion of this review, to the extent that TSA determines that a Document does contain Sensitive Security Information, TSA shall redact the specific Sensitive Security Information from the face of the Document and provide such redacted version to the entity that submitted the Document for review. TSA shall authorize the production of such Documents as redacted and such redacted Documents may be used and disclosed in any manner consistent with the disclosure of non-Restricted Use Documents exchanged in this Litigation.

3.4 Should it come to TSA's attention that it may have inadvertently failed to designate material as Sensitive Security Information, TSA may review any Document to reassess whether it contains any Sensitive Security Information. To the extent that TSA determines upon re-review that the Document does not contain any Sensitive Security Information, TSA shall authorize the Document for production pursuant to Section 3.2. of this Order; to the extent TSA determines upon re-review that the Document does contain Sensitive Security Information, TSA shall apply the procedures of Section 3.3. of this Order and require that any Cleared Counsel or Covered Person, who does not otherwise have a right to access that Sensitive Security Information independent of this Litigation, immediately submit written certification to TSA that all unredacted copies of the Document have been destroyed.

#### **4. Access to Sensitive Security Information**

4.1 Access to the Sensitive Security Information under the terms and conditions of this Order shall be restricted to:

- a. Covered Persons;
- b. Cleared Counsel in accordance with Section 4.2 of this Order consisting of four (4) attorneys representing Plaintiff, provided that should an attorney

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voluntarily relinquish his or her clearance it may be allocated to another attorney representing Plaintiff in this litigation;

- c. Designated court personnel;
- d. Court reporters who have signed EXHIBIT A;
- e. Four (4) Employees of Cleared Counsel, including paralegals, technical support, and administrative assistants, to whom it is reasonably necessary to disclose the information for this litigation and who have signed EXHIBIT A, provided that such persons have undergone the background check referenced in section 525(d) of the Act, or hold a clearance for access to National Security Information; and,
- f. Party-designated consultants and experts who have signed EXHIBIT A, provided they have undergone the background check referenced in section 525(d) of the Act, or hold a clearance for access to National Security Information;

4.2 If Cleared Counsel seek access to the Sensitive Security Information contained in any Restricted Use Document, Cleared Counsel must make a showing to TSA that Plaintiff: (a) has a substantial need for relevant Sensitive Security Information in the preparation of his case, and, (b) is unable without undue hardship to obtain the substantial equivalent of the information by other means. If TSA determines that the Cleared Counsel seeking access have successfully made such showings, TSA will grant Cleared Counsel access to the specific Sensitive Security Information if TSA determines that such access would not present a risk of harm to the nation.

4.3 If TSA determines that it is appropriate to grant Cleared Counsel access to specific Sensitive Security Information pursuant to Section 4.2 of this Order, it will authorize

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production to the requesting Cleared Counsel of a Restricted Use Document with the specific Sensitive Security Information unredacted.

4.4 To the extent that a Restricted Use Document contains a range of Sensitive Security Information, some of which TSA determines is appropriate for production to Cleared Counsel and some of which is inappropriate for production under the criteria set forth in Section 4.2 of this Order and Section 525(d) of the Act, TSA shall redact the Sensitive Security Information that is inappropriate for production. TSA shall then authorize the production of such Restricted Use Document to Cleared Counsel only in such redacted form.

4.5 Should Cleared Counsel cease representing the Plaintiff in this Litigation, for whatever reason, such Cleared Counsel shall no longer be cleared for access to Sensitive Security Information. The firm or legal practice that represents Plaintiff in this Litigation may elect to have an attorney undergo the vetting process described in Section 525(d) of the Act in order to replace a former Cleared Counsel who lost access to Sensitive Security Information in this Litigation.

4.6 In the event that Cleared Counsel loses or relinquishes his clearance for access to Sensitive Security Information, for whatever reason, the former Cleared Counsel must promptly certify in writing to TSA that all Sensitive Security Information in his custody has been destroyed or that all Sensitive Security Information in his custody has been transferred to the new Cleared Counsel in this Litigation.

4.7 All Restricted Use Documents subject to this Order in the possession of Cleared Counsel shall be certified in writing to have been destroyed within 60 days of termination of this Litigation, including any appellate proceedings.

**5. Non-Disclosure of Sensitive Security Information**

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5.1 Except as provided in this Order, persons authorized to have access to Sensitive Security Information pursuant to 4.1 of this Order are prohibited from disclosing, in any manner, or otherwise providing access to, Sensitive Security Information, however obtained, to any individual or entity.

5.2 Except as provided in this Order, persons authorized to have access to Sensitive Security Information pursuant to Section 4.1 of this Order are prohibited from aiding or assisting any person or entity in disclosing, in any manner, or otherwise providing access to, Sensitive Security Information.

5.3 Any authorized disclosure of Sensitive Security Information must be made pursuant to Sections 6, 7, and 8.

**6. Production of Documents**

6.1 Prior to production, the entity responsible for producing Restricted Use Documents shall label or stamp any such Document with the following language:

**SUBJECT TO SENSITIVE SECURITY INFORMATION  
PROTECTIVE ORDER  
IN MOHAMED v. HOLDER, ET AL., No. 1:11cv50  
SENSITIVE SECURITY INFORMATION  
WARNING: THIS RECORD MAY CONTAIN SENSITIVE  
SECURITY INFORMATION THAT IS CONTROLLED  
UNDER 49 CFR PART 1520. NO PART OF THIS RECORD  
MAY BE DISCLOSED TO PERSONS WITHOUT A 'NEED  
TO KNOW,' AS DEFINED IN 49 CFR PART 1520, EXCEPT  
WITH THE WRITTEN PERMISSION OF THE  
ADMINISTRATOR OF THE TRANSPORTATION  
SECURITY ADMINISTRATION. UNAUTHORIZED  
RELEASE MAY RESULT IN CIVIL PENALTY OR OTHER  
ACTION.**

6.2 All Restricted Use Documents shall be produced by creating password-protected adobe pdf files of the authorized Restricted Use Documents and copying them on to a DVD-

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ROM and sending the DVD-ROM by mail, courier, or overnight delivery service with the password provided only via email.

6.3 Only persons authorized to have access to Sensitive Security Information pursuant to Section 4.1 of this Order may maintain custody of the DVD-ROM containing Restricted Use Document(s), and such persons have a duty to safeguard the DVD-ROM, the Restricted Use Document(s), and the Sensitive Security Information contained therein, from unauthorized disclosure. When not in the physical possession of such persons, the DVD-ROM containing the Restricted Use Document(s) shall be stored in a secured container, such as a locked desk or file cabinet.

6.4 Persons authorized to have access to Sensitive Security Information pursuant to Section 4.1 of this Order may create Documents containing Sensitive Security Information found in a Restricted Use Document, provided that any such Document is secured in the same or equivalent manner, to the same or equivalent extent, and with the same restrictions on access as the DVD-ROM containing the Restricted Use Document as set forth in this Section 6.

## **7. Use of Sensitive Security Information in Depositions and Examinations**

7.1 Sensitive Security Information that is authorized for production pursuant to Section 4 of this Order may be used and/or elicited during the deposition or examination of a witness, provided such witness is allowed access under Section 4.1 of this Order, subject to the following restrictions:

7.1.1 Only the individuals identified in Section 4.1 of this Order may be present in the room when such Sensitive Security Information is used and/or elicited.

7.1.2 To the extent that Cleared Counsel or a Covered Party wishes to use a Restricted Use Document as an exhibit at a deposition, the Cleared Counsel or Covered Party may print a limited number of hard copies of such Restricted Use Document using a secure

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printer located at the Cleared Counsel's or the Covered Party's place of employment for use solely as exhibits at the deposition, provided that at the conclusion of the deposition, the original marked deposition exhibit and all hard copies are collected and maintained by a court reporter who has signed a TSA approved Non-Disclosure Agreement. The court reporter shall secure the Restricted Use Documents in the same manner, to the same extent, and with the same restrictions on access prescribed in Section 6 of this Order.

7.1.3 Sensitive Security Information that is not authorized for release pursuant to Section 4 of this Order may not be used or elicited during the examination of a witness.

7.2 The court reporter who records a deposition shall promptly submit the deposition transcript to TSA for review. TSA shall promptly complete a review to determine if a deposition transcript contains Sensitive Security Information. To the extent that TSA determines, upon review of the deposition transcript, that the transcript contains Sensitive Security Information that is appropriate for release pursuant to Section 4 of this Order, TSA shall authorize the transcript for release to counsel for Covered Persons and to Cleared Counsel with all such appropriate Sensitive Security Information unredacted from the transcript.

## **8. Use of Sensitive Security Information in Motions and Court Proceedings**

8.1 Any Party who wishes to use a Restricted Use Document or the Sensitive Security Information contained therein in connection with a motion or other submission to this Court must file the Restricted Use Document and any pleadings, motions or other papers containing Sensitive Security Information under seal. Where possible, only the portions of the filings that contain Sensitive Security Information shall be filed under seal.

8.2 All court proceedings, or portions thereof, in which Sensitive Security Information may be disclosed, shall be closed to the public. If there is a possibility that Sensitive



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Security Information may be disclosed during any portion of the trial, such as the testimony of a particular witness, the courtroom shall be closed to the public for that portion.

**9. Dispute Resolution**

9.1 To the extent there is a dispute concerning whether information constitutes Sensitive Security Information, the Party raising the dispute shall request a meet and confer in an attempt to resolve the dispute consensually by the close of discovery. If the Parties fail to reach agreement, the Party raising the dispute shall, within 7 days of the meet and confer, request in writing that TSA issue a final order pursuant to 49 U.S.C. § 114(r) designating such information as Sensitive Security Information. TSA final orders concerning the designation of information as Sensitive Security Information are reviewable exclusively in the United States Court of Appeals in accordance with 49 U.S.C. § 46110.

9.2 To the extent there is a dispute concerning whether specific redacted or withheld Sensitive Security Information should be authorized for production under Section 4 of this Order and Section 525(d) of the Act, the Parties shall meet and confer in an attempt to resolve the dispute consensually. For all unresolved disputes concerning whether specific Sensitive Security Information should be authorized for production, a Party (or Parties) may submit the dispute to the appropriate Court as identified below.

9.2.1 TSA final determinations concerning granting or denying access to specific Sensitive Security Information based upon relevance, substantial need, and the ability to obtain information without undue hardship, are reviewable by this Court. Any order by this Court granting access to Sensitive Security Information under this Section shall be immediately appealable to the United States Court of Appeals in accordance with Section 525(d) of the Act.

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9.2.2 TSA final orders concerning whether a risk of harm to the nation is presented by granting access to specific Sensitive Security Information, either because of the sensitivity of the information or the results of the criminal history records check and terrorist threat assessment as set forth in Section 525(d) of the Act, are reviewable exclusively by the Court of Appeals in accordance with 49 U.S.C. § 46110.

**10. Unauthorized Disclosures**

10.1 If Sensitive Security Information is disclosed other than as authorized by this Order, the Party or person responsible for the unauthorized disclosure, and any other Party, person, firm or entity who is subject to this Order and learns of the unauthorized disclosure, shall immediately bring such disclosure to the attention of TSA.

10.2 The Party or person responsible for the unauthorized disclosure shall make every effort to obtain the return of the Sensitive Security Information (including, without limitation, from the person to whom the unauthorized disclosure was made and from any other person to whom Sensitive Security Information was transmitted as a direct or indirect result of the unauthorized disclosure) and to prevent further disclosure on its own part or on the part of any person to whom the unauthorized disclosure was made.

10.3 In addition to any other remedies that are available under law, any Party, person, firm or entity responsible for an unauthorized disclosure of Sensitive Security Information protected by this Order may be subject to a civil penalty by TSA of up to \$50,000, and all other remedies provided under 49 C.F.R. § 1520.17.

10.4 In the event that TSA determines that Cleared Counsel has intentionally, willfully or recklessly disclosed Sensitive Security Information in violation of this Order, TSA may, in the exercise of its sole discretion, revoke such Cleared Counsel's clearance for access to Sensitive Security Information. Furthermore, TSA may consider such intentional, willful or reckless

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disclosure in determining whether granting access to Sensitive Security Information to any member of a firm or entity that employed such Cleared Counsel, and/or to the Party whom that Cleared Counsel represents in this Litigation.

**11. Reservation of Rights**

11.1 In the event that TSA determines that a Document containing Sensitive Security Information, or portion thereof, was inappropriately made available to the Parties, TSA reserves the right to remove the Document, or portion thereof, from this Litigation, and to take any other measures necessary to protect the Sensitive Security Information at issue.

11.2 TSA reserves the right to revoke a Cleared Counsel's clearance in the event TSA obtains information that leads TSA to determine that granting such Cleared Counsel access to Sensitive Security Information presents a risk of harm to the nation.

11.3 If it comes to TSA's attention that information or items that it designated as Sensitive Security Information do not qualify as Sensitive Security Information or have ceased to qualify as Sensitive Security Information, TSA will promptly notify all parties that it is withdrawing its Sensitive Security Information designation.

11.3 This Order is without prejudice to the rights of any party or government agency to make any claim of privilege or to make any objection to discovery or use of Sensitive Security Information, or documents that may contain Sensitive Security Information, permitted by the Federal Rules of Civil Procedure, or any other statute, regulation, or authority.

**SO ORDERED.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
ANTHONY J. TRENGA  
UNITED STATES DISTRICT JUDGE