



ROBERT J. EATINGER, JR., PLLC
A Federal Law Practice | National Security and Intelligence

May 16, 2023

Transmitted via email to cela@fec.gov

Federal Election Commission
Office of Complaints Examination
& Legal Administration
Attn: Christal Dennis, Paralegal
1050 First Street, NE
Washington, DC 20463

RE: Rodney Snyder's Demonstration in Writing that No Action Should be Taken
Against Him ICO MUR 8123 – Complaint of Donald J. Trump against Biden for
President, et al.

Dear Ms. Dennis:

This letter responds to your office's March 29, 2023, letter to Mr. Rodney Snyder and demonstrates that no action should be taken against him in matter MUR 8123. Your office agreed to extend the date for his response to May 16, 2023. The complaint submitted by former President Donald J. Trump in matter MUR 8123 ("the Complaint") fails to give rise to a reasonable inference that a violation of the Federal Election Campaign Act of 1971, as amended ("FECA"), or of chapter 95 or chapter 96 of title 26, has occurred. Even if the allegations were true, they would not constitute a violation of the law by Mr. Snyder. Therefore, with respect to Mr. Snyder, the Commission should make a determination of "no reason to believe" a violation has occurred.

The Complaint contains allegations "based upon information and belief" that it claims "lead[] to the conclusion that the fifty-one [Individual Respondents] each made contributions of an item of value - namely the publicly issued letter signed in their names and calling upon the collective weight and experience of their federal employment - in contravention of the limitations placed upon federal contractors . . . valued well in excess of \$200 in that they had a substantial influence on the outcome of the Presidential election [and] went unreported by Biden for President." Complaint ¶ 1. Of the 51 Individual Respondents, two are alleged to have drafted and signed the letter. Complaint ¶¶ 27, 47, and 53. The remaining 49 are alleged only to have signed the letter. Complaint ¶¶ 47 and 53. Mr. Snyder is among the 49 alleged only to have signed the letter. This letter refers to assertions in the complaint that pertain to Mr. Snyder as if they were made against him alone.

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The Complaint against Mr. Snyder rests entirely on two contentions:

- (1) That Mr. Snyder "is and remains bound by contract with the Federal Government to protect the security of classified information and, *as such*, is a Federal contractor barred from making campaign contributions of any kind under 52 U.S.C. § 30119(a) and 11 C.F.R. § 115.2." Complaint ¶¶ 48 and 54 (emphasis added);¹ and
- (2) That by signing the public letter, Mr. Snyder made "contributions" under FECA. 11 C.F.R. §§100.53(d)(1). Complaint ¶¶ 40 and 41.

Neither contention finds support in the language of FECA. The Complaint supports the first contention by citing the language of 52 U.S.C. § 30119(a) and then ignoring it. The Complaint supports the second contention by omitting material language when citing 11 C.F.R. § 100.53(d)(1) and ignoring 11 CFR part 100, Subpart C. The Complaint therefore does not provide a basis for proceeding with the matter.

Mr. Snyder is not a Federal contractor barred from making campaign contributions of any kind under 52 U.S.C. § 30119(a) and 11 C.F.R. § 115.2 because he is and remains bound by contract with the Federal Government to protect the security of classified information.

52 U.S.C. § 30119(a) does not prohibit any person who enters into any contract with the Federal Government for any purpose whatsoever from making contributions. Rather, 52 U.S.C. § 30119(a) prohibits a person who enters into a contract with the Federal Government from making contributions only when the contract meets both of two conditions:

1. The contract must be for the:
 - rendition of personal services;
 - furnishing any material, supplies, or equipment; or
 - selling any land or building to the Federal Government.

and

¹ See also, Complaint ¶ 7 (each is bound by a lifelong contractual obligation with the Federal Government to maintain the secrecy of classified information, rendering them Federal contractors"), ¶ 26 (each of the signers violated their life-long Federal contracts by drafting or signing the letter and publishing it without submitting for pre-publication review by their respective agencies"), and ¶ 36 ("each and every one of the Individual Respondents signed a binding lifelong contract obligating them to maintain the secrecy and security of classified information and to seek prepublication review from their agency prior to publishing any material referencing or related to their intelligence employment").

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2. Payment for the performance of the contract or for the material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress.

The Complaint does not allege the “contract with the Federal Government to protect the security of classified information” is a contract for the rendition of personal services, for furnishing any material, supplies, or equipment, or for selling any land or building to the Federal Government. Neither does the Complaint claim that payment for the performance of the contract with the Federal Government to protect the security of classified information is made in whole or in part from funds appropriated by the Congress. Indeed, the Complaint does not claim there is any payment for the performance on the contract with the Federal Government to protect the security of classified information. The Complaint therefore is insufficient to provide a basis to believe that Mr. Snyder has committed or is about to commit a violation of 52 U.S.C. § 30119(a) and 11 C.F.R. § 115.2, or of any other provision of the FECA or of chapter 95 or chapter 96 of title 26.

The statements in the Complaint that Mr. Snyder is and remains bound by a contract with the Federal Government to protect the security of classified information are made “upon information and belief.” Complaint ¶ 1. As such, the Complaint should accompany these statements with an identification of the source of information that gave rise to the belief in the truth of that statement. 11 C.F.R. § 111.4(d)(2). It did not, leaving Mr. Snyder and the Commission to guess. Although it is not Mr. Snyder's duty to identify the probable source of this particular statement made upon information and belief, we do so to demonstrate the contract referenced by the Complaint as a factual matter does not meet the two conditions set forth in 52 U.S.C. § 30119(a).

The source of the Complaint's belief in the truth of its statement that Mr. Snyder is bound by a contract with the Federal Government to protect the security of classified information is almost certainly the following:

A person may have access to classified information provided that . . .the person has signed an approved nondisclosure agreement.”

Executive Order 12356, *Classified National Security Information*, § 4.1(a)(2). If we are correct, which we believe to be the case, the claim is extraordinary. The Complaint would be advocating the Commission use the Act to bar for life each of the millions of Americans who holds or has ever held a United States security clearance from making “contributions,” as defined by 52 U.S.C. § 30101(8). While the Constitutional viability of such a claim is suspect, it need not be considered because the contract established by signing an approved nondisclosure agreement (NDA) meets neither of the two conditions required by 52 U.S.C. § 30119(a) to trigger its prohibition.

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The two most common approved NdAs that officers and employees of the intelligence community sign are the SF-312, *Classified Information Nondisclosure Agreement*, and the SF-4414, *Sensitive Compartmented Information Nondisclosure Agreement*.² We enclose copies of both for the Commission's convenience. The first sentence of both NdAs begins, "[i]ntending to be legally bound, I hereby accept the obligations contained in this Agreement in consideration of my being granted access to."³

The signer of an approved NDA is acknowledging certain understandings and agreeing to be bound by certain obligations imposed on him or her by the Federal Government, violations of some of which are federal crimes. The signer is not agreeing to provide personal services to the Federal Government. Neither is the signer agreeing to supply or sell any tangible or intangible property to the Federal Government. An approved NDA therefore does not create a contract that meets the first condition set forth in 52 U.S.C. § 30119(a).

There is no payment for the performance of an approved NDA. The obligations are lifelong, whether or not the person is receiving any funds from the Federal Government. An approved NDA does not create a contract that meets the second condition set forth in 52 U.S.C. § 30119(a).

As a matter of law and fact then, the "contract with the Federal Government to protect the security of classified information" to which the Complaint alleges Mr. Snyder "is and remains bound" cannot make him "a Federal contractor barred from making campaign contributions of any kind under 52 U.S.C. § 30119(a) and 11 C.F.R. § 115.2."

Even if an approved NDA qualified as a contract for purposes of the prohibition against making contributions in 52 U.S.C. § 30119(a) and 11 C.F.R. § 115.2, the Complaint still fails to state a violation of FECA because the act of voluntarily signing a letter intended for public distribution without compensation is not a "contribution" under the Act and could not be a contribution without violating the signer's First Amendment rights.

² Sensitive Compartmented Information (SCI) refers to specific classified information pertaining to intelligence sources, methods, and activities that the Director of National Intelligence has found to be exceptionally vulnerable or subject to exceptional threat and deemed the normal criteria for determining eligibility for access applicable to information classified at the same level insufficient to protect the information from unauthorized disclosure. Executive Order 13526, § 4.3(b).

³ In the SF 312, the sentence concludes with "classified information" while in the SF 4414, it concludes with "information or material protected within Special Access Programs, hereinafter referred to in this Agreement as Sensitive Compartmented Information (SCI)."

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Mr. Snyder did not make a contribution or contributions under FECA by signing the public letter.

The Complaint at ¶ 40 informs the Commission that the Act defines “contribution” to mean “anything of value made by any person for the purpose of influencing any election for Federal office,” citing to 52 U.S.C. § 30101(8)(A)(i) and 11 C.F.R. §§100.51-100.56. The next paragraph of the Complaint reads:

As used in the definition of “contribution,” the phrase “anything of value” includes “all in-kind contribution.” The “provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services is a contribution.” 11 C.F.R. § 100.53(d)(1).

Complaint ¶ 41. The Complaint omits the below italicized text to misleading effect. 11 C.F.R. § 100.53(d)(1) reads:

For purposes of this section, the term anything of value includes all in-kind contributions. *Unless specifically exempted under 11 CFR part 100, subpart C, the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services is a contribution.*

11 CFR part 100, subpart C is entitled “Exceptions from Contributions” and includes “[t]he value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee is not a contribution.” 11 CFR § 100.74.⁴

The Complaint appears to claim that the letter should constitute a coordinated communication and, as such, be found to be a contribution in-kind. “The speed with which this letter was written and the number of Individual Respondents involved points directly to the surreptitious involvement of the Biden Campaign in soliciting or organizing the drafters of the letter in a clear violation of FECA.” Complaint ¶ 24. “The Campaign . . . solicited the assistance of the Individual Respondents.... In return, the Campaign received contributions in kind from all of the Individual Respondents - contributions which were sufficiently significant to have had a momentous effect on a close and bitterly contested Presidential contest.” Complaint ¶ 37.⁵

⁴ Under limited exemptions, persons may provide certain goods and services to a committee without making contributions. For example, when services are volunteered—not paid for by anyone—the activity is not considered a contribution. See, <https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/types-contributions/>

⁵ The Complaint also states, “the Individual Respondents’ letter[']s intent to constitute a contribution in kind to the Biden campaign, is glaringly apparent.” Complaint ¶ 31. A letter has no intent.

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Before addressing why the Complaint fails as a legal matter, we note that the allegation that Mr. Snyder signed the public letter to influence the American electorate towards Mr. Biden is false. Mr. Snyder's sole motivation was to prevent a hostile, adversarial foreign power from exerting influencing during the 2020, "as it had during the 2016 previous presidential election,"⁶ election by raising awareness of the possibility. His purpose is perfectly stated in the public letter's sentence, "[p]erhaps most important, each of us believes deeply that American citizens should determine the outcome of elections, not foreign governments." Indeed, before he signed the public letter, Mr. Snyder ensured it did not state that the Hunter Biden email revelations were known to be false or known to be a Russia information operation.⁷

The Complaint informs the Commission that, "[f]ederal campaign finance law dictates that any expenditure that is 'coordinated' with a candidate is an in-kind contribution to the candidate and must be reported as a contribution to and expenditure by that candidate's authorized committee. 11 C.F.R. §109.20(b)." Complaint¶ 40. Once again, it omits key language.

In order for the public letter to constitute a "coordinated communication," it must have been "paid for, in whole or in part, by a person other than that candidate, authorized committee, or political party committee." 22 C.F.R. § 109.21(a)(1). The Complaint does not allege the public letter was "paid for" by anyone. Further, Mr. Snyder received no payment for signing the public letter and, to his knowledge, none of the other Individual Respondents received any payment for writing and/or signing the public letter. Nor was payment made by anyone for forwarding the signed letter to a news organization. Further, Mr. Snyder was not coerced or directed to sign the letter and, to his knowledge, none of the other Individuals Respondents were coerced or directed to write or sign the public letter. Since the writing, signing, and forwarding of the letter to a news organization was not paid for by anyone, and was done by volunteers, it is not an in-kind contribution under 11 CFR 100.52(d). 22 C.F.R. §§ 100.74 and 109.21(b).

In addition, declaring the public letter to be an in-kind contribution as the Complaint asserts would run afoul of Mr. Snyder's First Amendment rights in political speech. In *Buckley v Valeo*, 424 US 1 (1976), the Supreme Court agreed that "[f]unds spent to propagate one's views on issues without expressly calling for a candidate's election or defeat are thus not covered" by FECA's \$1,000 limitation on an individual's expenditures "relative to a clearly identified candidate." In order to avoid invalidating that provision on vagueness grounds, the Supreme Court construed the limitation "to apply only to expenditures for communications that in

⁶ See, *Background to "Assessing Russian Activities and Intentions in Recent US Elections": The Analytic Process and Cyber Incident Attribution*, Jan 6, 2017, https://www.intelligence.senate.gov/sites/default/files/documents/ICA_2017_01.pdf

⁷ Further, he was told the public letter was to be provided to the CIA Publications Review Board before publication and understands that it was provided and the CIA Publications Review Board "cleared it" as is.

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express terms advocate the election or defeat of a clearly identified candidate for federal office.
Id., 424 US at 43-44.

The Supreme Court noted "[t]his construction would restrict the application of [the provision] to communications containing express words of advocacy of election or defeat, such as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," "reject." *Id.*, 424 US at 44 n 52.⁸ The public letter does not contain any of the terms identified in these terms. The Supreme Court later clarified that communications that were the functional equivalent of express advocacy also could be covered. A communication "is the functional equivalent of express advocacy only if [it] is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate." *FEC v Wisconsin Right to Life, Inc.*, 551 US 449, 469-470 (2007).

The public letter neither:

- a) Use[] phrases such as "vote for the President," "re-elect your Congressman," "support the Democratic nominee," "cast your ballot for the Republican challenger for U.S. Senate in Georgia," "Smith for Congress," "Bill McKay in '94," "vote Pro-Life" or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Hickory," "defeat" accompanied by a picture of one or more candidate(s), "reject the incumbent," or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say "Nixon's the One," "Carter '76," "Reagan/Bush" or "Mondale!"; or
- b) When taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because—
 - 1) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and

⁸ "In the context of public communications, the definition has been judicially limited to disbursements for communications that contain "magic words of express advocacy," such as "elect," "defeat," or "vote for," or that otherwise clearly call for elective action for or against a clearly identified federal candidate. *Fed. Election Comm'n v. Mass. Citizens for Life, Inc.*, 479 U.S. 238, 247–249 (1986); *Buckley v. Valeo*, 424 U.S. 1, 44 n.52 (1976)." Department of Justice, *Federal Prosecution of Election Offenses, Eighth Edition*, December 2017 p. 126, <https://www.justice.gov/criminal/file/1029066/download>.

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- 2) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.

22 C.F.R. § 100.22.

Beyond its legal and factual failings, the Complaint ignores the Commission's guidance for the content of complaints. All of the Complaint's statements about the public letter are pled on information and belief, not personal knowledge. Yet, the Complaint does not identify any sources of information for believing those statements to be true. As such, those statements are based only on speculation and speculation is not information. The Complaint therefore provides no information to provide the Commission a basis for proceeding with the matter pertaining to the public letter and therefore the Commission should dismiss that part of Complaint pertaining to that letter statements.

Conclusion.

The allegations in the Complaint regarding the public letter other than quotes from its text, are speculation only. Even so, the legal conclusions in the Complaint are not supported by those speculations and further rely on omitting material parts of the government regulations. "Unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true."⁹ Not only do the allegations and misstated law not provide a basis to proceed with the matter, but to proceed as the Complaint asks would have the FEC punish political speech based solely on a content that is not express advocacy or its functional equivalent. That, the FEC cannot do.

The freedom of speech guaranteed by the Constitution embraces at the least the liberty to discuss publicly and truthfully all matters of public concern without previous restraint or fear of subsequent punishment."

FEC v Wisconsin Right to Life, Inc., 551 US at 469.

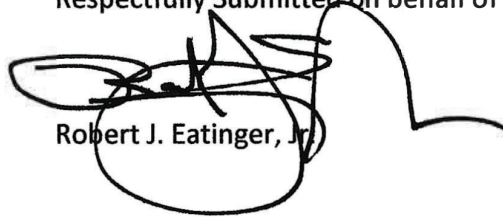
For the reasons set forth above, the Complaint provides "no reason to believe" a violation of FECA has occurred, the available information does not provide a basis for proceeding with the

⁹ MUR 4960, *In re Hillary Rodham Clinton for US Senate Exploratory Committee, et al.*, Statement of Reasons, at 2 (Dec. 21, 2000)(cleaned up).

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matter, and the First Amendment precludes proceeding with the matter. Mr. Snyder respectfully requests the Commission take no action against him.

Respectfully Submitted on behalf of Rodney Snyder,

A handwritten signature in black ink, appearing to be "Robert J. Eatinger, Jr.", written over a circular stamp or seal. The signature is stylized and somewhat illegible due to the ink and the circular mark.

Robert J. Eatinger, Jr.

CLASSIFIED INFORMATION NONDISCLOSURE AGREEMENT**AN AGREEMENT BETWEEN****AND THE UNITED STATES***(Name of Individual - Printed or typed)*

1. Intending to be legally bound, I hereby accept the obligations contained in this Agreement in consideration of my being granted access to classified information. As used in this Agreement, classified information is marked or unmarked classified information, including oral communications, that is classified under the standards of Executive Order 13526, or under any other Executive order or statute that prohibits the unauthorized disclosure of information in the interest of national security; and unclassified information that meets the standards for classification and is in the process of a classification determination as provided in sections 1.1, 1.2, 1.3 and 1.4(e) of Executive Order 13526, or under any other Executive order or statute that requires protection for such information in the interest of national security. I understand and accept that by being granted access to classified information, special confidence and trust shall be placed in me by the United States Government.

2. I hereby acknowledge that I have received a security indoctrination concerning the nature and protection of classified information, including the procedures to be followed in ascertaining whether other persons to whom I contemplate disclosing this information have been approved for access to it, and that I understand these procedures.

3. I have been advised that the unauthorized disclosure, unauthorized retention, or negligent handling of classified information by me could cause damage or irreparable injury to the United States or could be used to advantage by a foreign nation. I hereby agree that I will never divulge classified information to anyone unless: (a) I have officially verified that the recipient has been properly authorized by the United States Government to receive it; or (b) I have been given prior written notice of authorization from the United States Government Department or Agency (hereinafter Department or Agency) responsible for the classification of information or last granting me a security clearance that such disclosure is permitted. I understand that if I am uncertain about the classification status of information, I am required to confirm from an authorized official that the information is unclassified before I may disclose it, except to a person as provided in (a) or (b), above. I further understand that I am obligated to comply with laws and regulations that prohibit the unauthorized disclosure of classified information.

4. I have been advised that any breach of this Agreement may result in the termination of any security clearances I hold; removal from any position of special confidence and trust requiring such clearances; or termination of my employment or other relationships with the Departments or Agencies that granted my security clearance or clearances. In addition, I have been advised that any unauthorized disclosure of classified information by me may constitute a violation, or violations, of United States criminal laws, including the provisions of sections 641, 793, 794, 798, *952 and 1924, title 18, United States Code; *the provisions of section 783(b), title 50, United States Code; and the provisions of the Intelligence Identities Protection Act of 1982. I recognize that nothing in this Agreement constitutes a waiver by the United States of the right to prosecute me for any statutory violation.

5. I hereby assign to the United States Government all royalties, remunerations, and emoluments that have resulted, will result or may result from any disclosure, publication, or revelation of classified information not consistent with the terms of this Agreement.

6. I understand that the United States Government may seek any remedy available to it to enforce this Agreement including, but not limited to, application for a court order prohibiting disclosure of information in breach of this Agreement.

7. I understand that all classified information to which I have access or may obtain access by signing this Agreement is now and will remain the property of, or under the control of the United States Government unless and until otherwise determined by an authorized official or final ruling of a court of law. I agree that I shall return all classified materials which have, or may come into my possession or for which I am responsible because of such access: (a) upon demand by an authorized representative of the United States Government; (b) upon the conclusion of my employment or other relationship with the Department or Agency that last granted me a security clearance or that provided me access to classified information; or (c) upon the conclusion of my employment or other relationship that requires access to classified information. If I do not return such materials upon request, I understand that this may be a violation of sections 793 and/or 1924, title 18, United States Code, a United States criminal law.

8. Unless and until I am released in writing by an authorized representative of the United States Government, I understand that all conditions and obligations imposed upon me by this Agreement apply during the time I am granted access to classified information, and at all times thereafter.

9. Each provision of this Agreement is severable. If a court should find any provision of this Agreement to be unenforceable, all other provisions of this Agreement shall remain in full force and effect.

10. These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.

(Continue on reverse.)

11. These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 13526 (75 Fed. Reg. 707), or any successor thereto section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b) (8) of title 5, United States Code, as amended by the Whistleblower Protection Act of 1989 (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); sections 7(c) and 8H of the Inspector General Act of 1978 (5 U.S.C. App.) (relating to disclosures to an inspector general, the inspectors general of the Intelligence Community, and Congress); section 103H(g)(3) of the National Security Act of 1947 (50 U.S.C. 403-3h(g)(3)) (relating to disclosures to the inspector general of the Intelligence Community); sections 17(d)(5) and 17(e)(3) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403g(d)(5) and 403q(e)(3)) (relating to disclosures to the Inspector General of the Central Intelligence Agency and Congress); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, *952 and 1924 of title 18, United States Code, and *section 4 (b) of the Subversive Activities Control Act of 1950 (50 U.S.C. section 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive Order and listed statutes are incorporated into this agreement and are controlling.

12. I have read this Agreement carefully and my questions, if any, have been answered. I acknowledge that the briefing officer has made available to me the Executive Order and statutes referenced in this agreement and its implementing regulation (32 CFR Part 2001, section 2001.80(d)(2)) so that I may read them at this time, if I so choose.

* NOT APPLICABLE TO NON-GOVERNMENT PERSONNEL SIGNING THIS AGREEMENT.

SIGNATURE	DATE	SOCIAL SECURITY NUMBER (See Notice below)
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ORGANIZATION (IF CONTRACTOR, LICENSEE, GRANTEE OR AGENT, PROVIDE: NAME, ADDRESS, AND, IF APPLICABLE, FEDERAL SUPPLY CODE NUMBER) (Type or print)

WITNESS		ACCEPTANCE	
THE EXECUTION OF THIS AGREEMENT WAS WITNESSED BY THE UNDERSIGNED.		THE UNDERSIGNED ACCEPTED THIS AGREEMENT ON BEHALF OF THE UNITED STATES GOVERNMENT.	
SIGNATURE	DATE	SIGNATURE	DATE
NAME AND ADDRESS (Type or print)		NAME AND ADDRESS (Type or print)	

SECURITY DEBRIEFING ACKNOWLEDGEMENT

I reaffirm that the provisions of the espionage laws, other federal criminal laws and executive orders applicable to the safeguarding of classified information have been made available to me; that I have returned all classified information in my custody; that I will not communicate or transmit classified information to any unauthorized person or organization; that I will promptly report to the Federal Bureau of Investigation any attempt by an unauthorized person to solicit classified information, and that I (have) (have not) (strike out inappropriate word or words) received a security debriefing.

SIGNATURE OF EMPLOYEE	DATE
NAME OF WITNESS (Type or print)	SIGNATURE OF WITNESS

NOTICE: The Privacy Act, 5 U.S.C. 552a, requires that federal agencies inform individuals, at the time information is solicited from them, whether the disclosure is mandatory or voluntary, by what authority such information is solicited, and what uses will be made of the information. You are hereby advised that authority for soliciting your Social Security Number (SSN) is Public Law 104-134 (April 26, 1996). Your SSN will be used to identify you precisely when it is necessary to certify that you have access to the information indicated above or to determine that your access to the information indicated has been terminated. Furnishing your Social Security Number, as well as other data, is voluntary, but failure to do so may delay or prevent you being granted access to classified information.

Apply appropriate classification level and any control markings (if applicable) when filled in.

(U) SENSITIVE COMPARTMENTED INFORMATION NONDISCLOSURE AGREEMENT

An Agreement between

(Name – Printed or Typed)

and the United States.

1. (U) Intending to be legally bound, I hereby accept the obligations contained in this Agreement in consideration of my being granted access to information or material protected within Special Access Programs, hereinafter referred to in this Agreement as Sensitive Compartmented Information (SCI). I have been advised that SCI involves or derives from intelligence sources or methods and is classified or is in process of a classification determination under the standards of Executive Order 13526 or other Executive order or statute. I understand and accept that by being granted access to SCI, special confidence and trust shall be placed in me by the United States Government.

2. (U) I hereby acknowledge that I have received a security indoctrination concerning the nature and protection of SCI, including the procedures to be followed in ascertaining whether other persons to whom I contemplate disclosing this information or material have been approved for access to it, and I understand these procedures. I understand that I may be required to sign subsequent agreements upon being granted access to different categories of SCI. I further understand that all my obligations under this agreement continue to exist whether or not I am required to sign such subsequent agreements.

3. (U) I have been advised that the unauthorized disclosure, unauthorized retention, or negligent handling of SCI by me could cause irreparable injury to the United States or be used to advantage by a foreign nation. I hereby agree that I will never divulge anything marked as SCI or that I know to be SCI to anyone who is not authorized to receive it without prior written authorization from the United States Government department or agency (hereinafter Department or Agency) that last authorized my access to SCI. I understand that it is my responsibility to consult with appropriate management authorities in the Department or Agency that last authorized my access to SCI, whether or not I am still employed by or associated with that Department or Agency or a contractor thereof, in order to ensure that I know whether information or material within my knowledge or control that I have reason to believe might be, or related to or derived from SCI, is considered by such Department or Agency to be SCI. I further understand that I am also obligated by law and regulation not to disclose any classified information or material in an unauthorized fashion.

4. (U) In consideration of being granted access to SCI and of being assigned or retained in a position of special confidence and trust requiring access to SCI, I hereby agree to submit for security review by the Department or Agency that last authorized my access to such information or material, any writing or other preparation in any form, including a work of fiction, that contains or purports to contain any SCI or description of activities that produce or relate to SCI or that I have reason to believe are derived from SCI, that I contemplate disclosing to any person not authorized to have access to SCI or that I have prepared for public disclosure. I understand and agree that my obligation to submit such preparations for review applies during the course of my access to SCI and thereafter, and I agree to make any required submissions prior to discussing the preparation with, or showing it to, anyone who is not authorized to have access to SCI. I further agree that I will not disclose the contents of such preparation with, or show it to, anyone who is not authorized to have access to SCI until I have received written authorization from the Department or Agency that last authorized my access to SCI that such disclosure is permitted.

5. (U) I understand that the purpose of the review described in paragraph 4 is to give the United States a reasonable opportunity to determine whether the preparation submitted pursuant to paragraph 4 sets forth any SCI. I further understand that the Department or Agency to which I have made a submission will act upon it, coordinating within the Intelligence Community when appropriate, and make a response to me within a reasonable time, not to exceed 30 working days from date of receipt.

6. (U) I have been advised that any breach of this Agreement may result in my termination of my access to SCI and removal from a position of special confidence and trust requiring such access, as well as the termination of my employment or other relationships with any Department or Agency that provides me with access to SCI. In addition, I have been advised that any unauthorized disclosure of SCI by me may constitute violations of United States criminal laws, including provisions of Sections 793, 794, 798, and 952, Title 18, United States Code, and of Section 783(b), Title 50, United States Code. Nothing in this agreement constitutes a waiver by the United States of the right to prosecute me for any statutory violation.

7. (U) I understand that the United States Government may seek any remedy available to it to enforce this Agreement including, but not limited to, application for a court order prohibiting disclosure of information in breach of this Agreement. I have been advised that the action can be brought against me in any of the several appropriate United States District Courts where the United States Government may elect to file the action. Court costs and reasonable attorney's fees incurred by the United States Government may be assessed against me if I lose such action.

8. (U) I understand that all information to which I may obtain access by signing this Agreement is now and will remain the property of the United States Government unless and until otherwise determined by an appropriate official or final ruling of a court of law. Subject to such determination, I do not now, nor will I ever, possess any right, interest, title, or claim whatsoever to such information. I agree that I shall return all materials that may have come into my possession or for which I am responsible because of such access, upon demand by an authorized representative of the United States Government or upon the conclusion of my employment or other relationship with the United States Government entity providing me access to such materials. If I do not return such materials upon request, I understand this may be a violation of Section 793, Title 18, United States Code.

9. (U) Unless and until I am released in writing by an authorized representative of the Department or Agency that last provided me with access to SCI, I understand that all conditions and obligations imposed on me by this Agreement apply during the time I am granted access to SCI, and at all times thereafter.

10. (U) Each provision of this Agreement is severable. If a court should find any provision of this Agreement to be unenforceable, all other provisions of this Agreement shall remain in full force and effect. This Agreement concerns SCI and does not set forth such other

Apply appropriate classification level and any control markings (if applicable) when filled in.

conditions and obligations not related to SCI as may now or hereafter pertain to my employment by or assignment or relationship with the Department or Agency.

11. (U) I have read this Agreement carefully and my questions, if any, have been answered to my satisfaction. I acknowledge that the briefing officer has made available Sections 793, 794, 798 and 952 of Title 18, United States Code, and Section 783(b) of Title 50, United States Code, and Executive Order 13526, as amended, so that I may read them at this time, if I so choose.

12. (U) I hereby assign to the United States Government all rights, title and interest, and all royalties, remunerations, and emoluments that have resulted, will result, or may result from any disclosure, publication, or revelation not consistent with the terms of this Agreement.

13. (U) These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.

14. (U) These restrictions are consistent with and do not supersede conflict with or otherwise alter the employee obligations rights or liabilities created by Executive Order 13526; or any successor thereto, Section 7211 of Title 5, United States Code (governing disclosures to Congress); Section 1034 of Title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosures to Congress by members of the Military); Section 2302(b)(8) of Title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosure of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents), sections 7(c) and 8H of the Inspector General Act of 1978 (5 U.S.C. App.) (relating to disclosures to an inspector general, the inspectors general of the Intelligence Community; and Congress); section 103H(g)(3) of the National Security Act of 1947 (50 U.S.C. 403-3h(g)(3) (relating to disclosures to the inspector general of the Intelligence Community); sections 17(d)(5) and 17(e)(3) of the CIA Act of 1949 (50 U.S.C. 403q(d)(5) and 403q(e)(3)) (relating to disclosures to the Inspector General of the Central Intelligence Agency and Congress); and the statutes which protect agent disclosure which may compromise the national security, including Section 641, 793, 794, 798, and 952 of Title 18, United States Code, and Section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. Section 783(b)). The definitions, requirements, obligations, rights, sanctions and liabilities created by said Executive Order and listed statutes are incorporated into this Agreement and are controlling.

15. (U) This Agreement shall be interpreted under and in conformance with the law of the United States.

16. (U) I make this Agreement without any mental reservation or purpose of evasion.

Signature

Date

The execution of this Agreement was witnessed by the undersigned who accepted it on behalf of the United States Government as a prior condition of access to Sensitive Compartmented Information.

WITNESS and ACCEPTANCE:

Signature

Date

SECURITY BRIEFING / DEBRIEFING ACKNOWLEDGMENT

(Special Access Programs by Initials Only)

SSN (See Notice Below)

Printed or Typed Name

Organization

BRIEF

Date

I hereby acknowledge that I was briefed on the above SCI Special Access Program(s):

Signature of Individual Briefed

DEBRIEF

Date

Having been reminded of my continuing obligation to comply with the terms of this Agreement, I hereby acknowledge that I was debriefed on the above SCI Special Access Program(s):

Signature of Individual Briefed

I certify that the briefing presented by me on the above date was in accordance with relevant SCI procedures.

Signature of Briefing/Debriefing Officer

SSN (See notice below)

Printed or Typed Name

Organization (Name and Address)

(U) NOTICE: The Privacy Act, 5 U.S.C. 522a, requires that federal agencies inform individuals, at the time information is solicited from them, whether the disclosure is mandatory or voluntary, by what authority such information is solicited, and what uses will be made of the information. You are hereby advised that authority for soliciting your Social Security Account Number (SSN) is Executive Order 9397, as amended. Your SSN will be used to identify you precisely when it is necessary to 1) certify that you have access to the information indicated above, 2) determine that your access to the information has terminated, or 3) certify that you have witnessed a briefing or debriefing. Although disclosure of your SSN is not mandatory, your failure to do so may impede such certifications or determinations.