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**FILED**

JAN 30 2014

Clerk, U.S. District & Bankruptcy  
Courts for the District of Columbia

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	)	Criminal No.: 10-225 (CKK)
	)	
v.	)	Filed <u>In Camera</u> and
	)	Under Seal with the Classified
STEPHEN JIN-WOO KIM,	)	Information Security Officer
also known as Stephen Jin Kim,	)	
also known as Stephen Kim,	)	
also known as Leo Grace,	)	
	)	
Defendant.	)	

*Leave to file should  
Judge CKK allow  
1/30/14*

**GOVERNMENT'S IN CAMERA, UNDER SEAL SUR-REPLY  
IN SUPPORT OF ITS OPPOSITION TO THE DEFENDANT'S  
SIXTH MOTION TO COMPEL DISCOVERY**

On November 15, 2013, the Court entered an Order directing the United States to file a short Sur-Reply addressing the extent to which emails cited in the defendant's reply in support of his Sixth Motion to Compel "suggest the existence of a [REDACTED] outside the [REDACTED] already searched for." Order (November 15, 2013) at 4. Pursuant to that Order, the United States respectfully submits this Sur-Reply.

Following consultation with [REDACTED] and further review of [REDACTED] email from June 11, 2009 related to the drafting of the [REDACTED] documents at issue, the United States advises the Court that the [REDACTED] referenced in the 11:33 a.m. email, attached as Exhibit 3 to the defendant's Sixth Motion to Compel, is a different type of document than the [REDACTED] referenced in the 2:54 p.m. email attached as Exhibit 1 to the defendant's motion. Despite the similar names, these documents are created by different [REDACTED] for different purposes.

The United States further advises the Court that since receiving the

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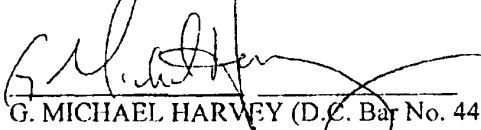
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[REDACTED]

Court's Order, and out of an abundance of caution, the government re-reviewed the [REDACTED] [REDACTED] email collection for June 11, 2009. See Government's In Camera, Under Seal Response to the Court's Order (May 30, 2013) at 5. That re-review disclosed no drafts of either the [REDACTED] or the [REDACTED] related to the [REDACTED] report at issue that were disseminated prior to the 3:16 p.m. cut-off time. However, that re-review identified emails and/or email attachments sent prior to the cut-off time that included proposed language for inclusion in the [REDACTED]. (No such emails or email attachments were identified for the [REDACTED].) Based on this Court's prior rulings, these emails and/or email attachments are not potential source documents or otherwise discoverable. Further, all but one of the senders or recipients of these emails have already been accounted for on the Access List.<sup>1</sup> Upon request, the United States will make all of these emails and email attachments available for the Court's ex parte, in camera review on a read and return basis.

Respectfully submitted,

RONALD C. MACHEN JR.  
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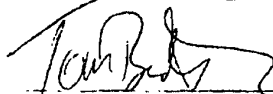
<sup>1</sup> [REDACTED] At 3:15 p.m. on June 11, 2009, a person on the Access List sent an email to a person not on the Access List, requesting assistance related to the [REDACTED]. That request did not itself reveal any of the classified information in the [REDACTED] report. While this email transmission appears to have occurred one minute prior to the cut-off time, the recipient would not be added to the Access List because there is no indication that he or she was privy to the classified information at issue before that time.

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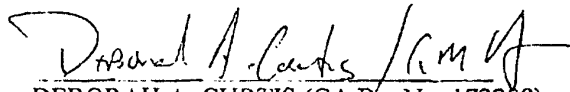
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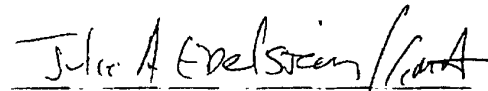
  
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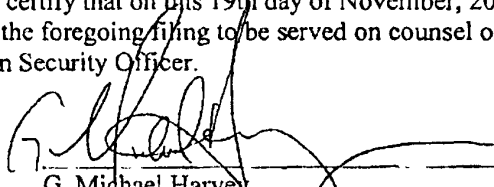


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Date: November 19, 2013

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this 19th day of November, 2013, I caused a true and correct copy of the foregoing filing to be served on counsel of record through the Classified Information Security Officer.

  
G. Michael Harvey  
Assistant United States Attorney



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