

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

SAKAB HOLDING COMPANY,

Plaintiff,

v.

SAAD KHALID S AL JABRI, *et al.*,

Defendants.

Case No. 21-cv-10529-NMG

DECLARATION OF AVRIL HAINES,
DIRECTOR OF NATIONAL INTELLIGENCE

I, AVRIL HAINES, hereby declare and state as follows:

1. I am the Director of National Intelligence (“DNI”) and have held this position since January 21, 2021. I was appointed to this position by the President with the advice and consent of the United States Senate. As the DNI, I oversee the United States Intelligence Community (“IC”) and serve as the principal intelligence adviser to the President. Prior to being sworn in as the DNI, I held a number of public service positions. I was awarded a bachelor’s degree in physics from the University of Chicago (1992) and a J.D. from Georgetown University Law Center (2001). As a new attorney, I worked at the Hague Conference on Private International Law (2001-02) and clerked for a U.S. Court of Appeals judge (2002-03). In 2003, I joined the Office of the Legal Advisor, United States Department of State. From 2007 to 2008, I served as the Deputy Chief Counsel for the Senate Foreign Relations Committee. In 2008, I rejoined the State Department, where I ran the Office of Treaty Affairs. From 2010 to 2013, I served as a Special Assistant and then Deputy Assistant to the President as the Legal Adviser to the National Security Council and Deputy White House Counsel for National Security Affairs. From 2013 to

2015, I was the Deputy Director of the Central Intelligence Agency. I served as Assistant to the President and Principal Deputy National Security Advisor from 2015 to 2017, during which time I led the National Security Council's Deputies Committee. From 2017 until I was appointed DNI, I worked at Columbia University, served on the National Commission on Military, National and Public Service, and did part-time work in the private sector and with other academic institutions.

2. The purpose of this declaration is to formally assert, in my capacity as the DNI and the head of the IC, the state secrets privilege and a statutory privilege under the National Security Act of 1947, as amended, *see* 50 U.S.C. § 3024(i)(1), in order to protect certain classified national security information, described further below, at risk of disclosure in this litigation.

3. I make the following statements based upon my personal knowledge and on information made available to me in my official capacity. The judgments expressed in this declaration are my own.

I. BACKGROUND ON THE DIRECTOR OF NATIONAL INTELLIGENCE

4. The position of the DNI was created by Congress in the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458, §§ 1011(a) and 1097, 118 Stat. 3638, 3643-63, 3698-99 (2004) (amending sections 102 through 104 of Title I of the National Security Act of 1947). Subject to the authority, direction, and control of the President, the DNI serves as the head of the IC and as the principal adviser to the President and the National Security Council for intelligence-matters related to national security. *See* 50 U.S.C. § 3023(b)(1)-(2).

5. The IC includes the Office of the Director of National Intelligence; the Central Intelligence Agency; the National Security Agency; the Defense Intelligence Agency; the National Geospatial-Intelligence Agency; the National Reconnaissance Office; other offices

within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs; the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Space Force, the Coast Guard, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Department of Energy; the Bureau of Intelligence and Research of the Department of State; the Office of Intelligence and Analysis of the Department of the Treasury; the Office of Intelligence and Analysis of the Department of Homeland Security; and such other elements of any other department or agency as may be designated by the President, or jointly designated by the DNI and head of the department or agency concerned, as an element of the IC. *See* 50 U.S.C. § 3003(4); *see also* Executive Order 12333 § 3.5.

6. By virtue of my position as the DNI, and unless otherwise directed by the President, I have access to all intelligence related to the national security that is collected by any department, agency, or other entity of the United States. 50 U.S.C. § 3024(b).

7. The National Security Act of 1947, as amended, provides that “[t]he Director of National Intelligence shall protect intelligence sources and methods from unauthorized disclosure.” 50 U.S.C. § 3024(i)(1). By this language, Congress expressed its determination that unauthorized disclosure of intelligence sources and methods is potentially harmful and directed the DNI to protect against such disclosure.

8. As the DNI and pursuant to Executive Order 13526, *Classified National Security Information*, I hold original classification authority up to the TOP SECRET level. This means that I have been authorized by the President to make original classification decisions.

II. ASSERTION OF THE STATE SECRETS AND DNI STATUTORY PRIVILEGES

9. In the course of my official duties, I have become familiar with this litigation. I understand that the Plaintiff in this case, Sakab Saudi Holding Company, alleges that the

Defendants—including Saad Khalid S Al Jabri, in connection with his role as a former official in the government of the Kingdom of Saudi Arabia—committed fraudulent acts resulting in the illegal transfer of billions of dollars from Plaintiff. I understand that Plaintiff seeks, *inter alia*, a final judgment in this case concerning the alleged fraudulent acts with respect to certain real property in Massachusetts. I also understand that Defendant Saad Khalid S Al Jabri has indicated that he intends to disclose certain information related to his interactions with the U.S. Government as part of his defense in this case, including in response to a pending motion to remand this case to state court.

10. After careful and actual personal consideration of the matter, based upon my own knowledge and on information obtained in the course of my official duties, I have determined that the disclosure of information implicated by this litigation, described further below, reasonably could be expected to cause serious, and in some cases exceptionally grave, damage to the national security of the United States and, accordingly, that this information must be protected and excluded from use in this case. Therefore, I hereby formally assert and claim the state secrets privilege in order to protect from disclosure the classified information that is at risk of disclosure in the litigation of this case. I assert this privilege as the head of the IC, and after personal consideration of the matter, in order to fulfill my official duty to protect from disclosure certain classified and sensitive national security information.

11. Through this declaration, I also hereby invoke and assert a statutory privilege held by the DNI under the National Security Act of 1947, as amended, to protect the classified information put at risk of disclosure in this litigation. *See* 50 U.S.C. § 3024(i)(1). My assertion of this statutory privilege is coextensive with my state secrets privilege assertion.

III. INFORMATION SUBJECT TO PRIVILEGE AND HARM OF DISCLOSURE

12. In general and unclassified terms, my state secrets and statutory privilege assertions encompass information concerning sources, methods, capabilities, activities, or interests of the IC, as well as information that might tend to reveal or disclose the identities of U.S. Government employees, affiliates, or offices with whom one or more of the parties or the Kingdom of Saudi Arabia may have had certain interactions and the disclosure of which would be damaging to U.S. national security interests. The foregoing description is intended to specifically include information known to Defendant Saad Khalid S Al Jabri about such matters that he seeks to introduce or disclose in this action, whether through documents, testimony, affidavits, or declarations, as part of his response and defense to pending claims and motions.

13. After deliberation and personal consideration, I have determined that the complete factual basis for my privilege assertion cannot be set forth on the public record without revealing the very information that I seek to protect and without risking the very harm to U.S. national security that I seek to prevent. The Government has therefore separately submitted classified *in camera, ex parte* declarations for the Court's review, which further describe the categories of information over which I am asserting privilege and explain that the unauthorized disclosure of this classified information, in this litigation or otherwise, reasonably could be expected to result in serious, and in some cases exceptionally grave, damage to our national security. In general and unclassified terms, such harms include the disclosure of information that would enable foreign adversaries to evade, undercut, negate, or otherwise impede critical national security and foreign policy objectives of the United States.

14. I do not assert the state secrets or DNI statutory privileges lightly, nor do I assert the privileges to conceal violations of law, inefficiency, or administrative error; to prevent

embarrassment to a person, organization, or agency; or to prevent or delay the release of information that does not require protection in the interest of the national security. Rather, I assert these privileges to protect and preserve vital national security information and activities, the compromise of which reasonably could be expected to cause serious, and in some cases exceptionally grave, damage to U.S. national security.

IV. CONCLUSION

15. In sum, I am asserting the state secrets and the DNI's statutory privilege set forth in 50 U.S.C. § 3024(i)(1) to protect classified information at risk of disclosure in the litigation of this case. I have set forth, in general and unclassified terms, as much as I can say on the public record concerning the highly sensitive and classified information covered by my privilege assertions and the serious, and in some cases exceptionally grave, damage that would result from its disclosure.

16. It is my belief that this declaration, and the accompanying classified *in camera*, *ex parte* declarations, adequately explain why this case risks the disclosure of classified and privileged intelligence information. I therefore respectfully request that the Court take all necessary steps to protect the information described herein. Should the Court require additional information concerning my claim of privilege, I respectfully request an opportunity to provide such additional information prior to the entry of any ruling regarding my privilege claim.

* * *

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 23 day of August, 2021.



Avril Haines
Director of National Intelligence