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15 **UNITED STATES DISTRICT COURT**  
16 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

17 RAHINAH IBRAHIM,

No. 3:06-cv-0545 (WHA)

18  
19 Plaintiff,

**NOTICE OF COMPLIANCE WITH THE  
COURT'S JANUARY 14, 2014 ORDER**

20 v.

21 DEPARTMENT OF HOMELAND  
22 SECURITY, *et al.*,

23 Defendants.  
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1 Pursuant to the Court's January 14, 2014 Order (Dkt. 701-1), and the accompanying  
2 Judgment (Dkt. 684), Defendants hereby notify the Court that they have complied with the relief  
3 set forth in the Court's January 14, 2014 Order. Actions taken by Defendants to comply with the  
4 Order are described in the accompanying declaration of Paul G. Freeborne and the exhibits  
5 attached thereto.

6  
7 April 15, 2014

Respectfully submitted,

8 STUART F. DELERY  
Assistant Attorney General

9 MELINDA L. HAAG  
10 United States Attorney

11 DIANE KELLEHER  
Assistant Branch Director

12 */s/ Paul G. Freeborne*  
13 PAUL G. FREEBORNE  
Senior Trial Counsel  
14 KAREN S. BLOOM  
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15 **UNITED STATES DISTRICT COURT**  
16 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

17 RAHINAH IBRAHIM,

18 Plaintiff,

19 v.

20 DEPARTMENT OF HOMELAND  
21 SECURITY, *et al.*,

22 Defendants.  
23

No. 3:06-cv-0545 (WHA)

**DECLARATION OF PAUL G.  
FREEBORNE IN SUPPORT OF  
DEFENDANTS' NOTICE OF  
COMPLIANCE WITH THE COURT'S  
JANUARY 14, 2014 ORDER**

1 I, Paul G. Freeborne, declare as follows:

2 1. I am a Senior Trial Counsel in the Federal Programs Branch, Civil Division of the  
3 United States Department of Justice. I represent Defendants in this case. I submit this  
4 declaration in support of Defendants' Notice of Compliance with the Court's January 14, 2014  
5 Order (the "Order"). This declaration is based on my personal knowledge and my familiarity  
6 with and review of documents provided to me in my official capacity as counsel in this litigation.

7 2. Attached as **Exhibit 1** is a true and accurate copy of the Declaration of Brenda M.  
8 Atkinson providing the certifications on behalf of the Federal Bureau of Investigation required  
9 by paragraph A of the relief set forth in the Order.

10 3. Attached as **Exhibit 2** is a true and accurate copy of the Declaration of G. Clayton  
11 Grigg providing the certifications on behalf of the Terrorist Screening Center required by  
12 paragraph A of the relief set forth in the Order.

13 4. Attached as **Exhibit 3** is a true and accurate copy of the Declaration of Luke J.  
14 McCormack providing the certifications on behalf of the Department of Homeland Security  
15 required by paragraph A of the relief set forth in the Order.

16 5. Attached as **Exhibit 4** is a true and accurate copy of the Declaration of Margaret  
17 Cooperman providing the certifications on behalf of the Department of State required by  
18 paragraph A of the relief set forth in the Order.

19 6. Attached as **Exhibit 5** is a true and accurate copy of the Declaration of Timothy  
20 Goyer providing the certifications on behalf of the National Counterterrorism Center required by  
21 paragraph A of the relief set forth in the Order.

22 7. Attached as **Exhibit 6** is a true and accurate copy of the Declaration of Matthew  
23 McNeil of the Department of State that specifies the specific subsections of Section 212(a)(3)(B)  
24 of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(3)(B), that rendered her ineligible for  
25 a visa in 2009 and 2013, as required by paragraph B of the relief set forth in the Order.

26 Appended to the McNeil Declaration is a true and accurate copy of the letter informing Plaintiff  
27 that she is eligible to apply for a discretionary waiver under 8 U.S.C. § 1182(d), as required by  
28 paragraph D of the relief set forth in the Order and pursuant to 22 C.F.R. 41.121(b)(1). The

1 McNeil Declaration and the appended letter was provided by undersigned counsel to Plaintiff's  
2 counsel by e-mail on April 15, 2014 for transmission to Plaintiff. A true and accurate copy of  
3 the e-mail is attached as **Exhibit 7**.

4 8. Attached as **Exhibit 8** is a true and accurate copy of the letter of Thomas M.  
5 Bondy of the Federal Bureau of Investigation explaining Plaintiff's No Fly List status since  
6 2005. In compliance with paragraph C of the relief set forth in the Order, this letter was  
7 provided by undersigned counsel to Plaintiff's counsel by e-mail on April 15, 2014 for  
8 transmission to Plaintiff. A true and accurate copy of the e-mail is attached as **Exhibit 7**.

9 I declare under penalty of perjury that the foregoing is true and correct. Executed in  
10 Washington, D.C. on April 15, 2014.

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12 /s/Paul G. Freeborne  
13 Paul G. Freeborne  
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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

RAHINAH IBRAHIM,

Plaintiff,

v.

DEPARTMENT OF HOMELAND  
SECURITY, *et al.*,

Defendants.

No. 3:06-cv-0545 (WHA)

**DECLARATION OF PAUL G.  
FREEBORNE**

**EXHIBIT 1:**  
DECLARATION OF BRENDA M.  
ATKINSON

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RAHINAH IBRAHIM,

Plaintiff,

v.

DEPARTMENT OF HOMELAND  
SECURITY, *et al.*,

Defendants.

No. 3:06-cv-0545 (WHA)

**DECLARATION OF  
BRENDA M. ATKINSON**

I, Brenda M. Atkinson, hereby declare:

1. I am currently the Federal Bureau of Investigation's (FBI) Chief Division Counsel (CDC) of the San Francisco Field Office. I have been a Special Agent with the FBI since March, 1999. Prior to that, I was an Assistant United States Attorney in the Northern District of Illinois for approximately eight years.

2. As a CDC, I must collaborate and interact with a wide variety of individuals on a daily basis, including FBI management, Special Agents, task force officers, professional support staff, contractors, outside agencies, private citizens and corporations. CDCs consult on the full range of FBI operations and programs to monitor compliance with all applicable constitutional, statutory, regulatory, and policy directives. In addition, CDCs consult on a wide range of matters, including *Bivens* actions, Freedom of Information Act requests, litigation matters, and Congressional inquiries. CDCs are also responsible for providing annual legal and policy training. Finally, and specifically in the San Francisco Field Office, the CDC is the Chief Ethics Officer and the Chief Privacy Officer.

3. I make this declaration in support of the FBI's response to the Court's January 14, 2014 Order.

4. The matters stated herein are based upon my personal knowledge, my review and consideration of information and documents available to me in my official capacity, and information furnished by Special Agents and other employees of the FBI; my conclusions have been reached in accordance therewith.

5. The FBI maintains the following electronic databases that may be implicated by the Court's Order: (1) the FBI's Central Records System, (2) the Violent Gang and Terrorist Organization File (VGTOF), (3) the Known or Suspected Terrorist database (KST), and (4) the Foreign Terrorist Tracking Task Force Datamart (FTTTF).

**The FBI's CRS Database**

6. The Central Records System (CRS) enables the FBI to maintain all information that it acquired in the course of fulfilling its mandated law enforcement responsibilities. The records maintained in the CRS consist of administrative, applicant, criminal, personnel, and other files compiled for law enforcement purposes.

7. Pursuant to this Court's January 14, 2014 Order, employees of the FBI queried the CRS for Plaintiff's identity.

8. FBI employees then obtained and reviewed the physical copies of each of these records to determine whether any of the records referenced a National Crime Information Center Violent Gang and Terrorist Organizations File (VGTOF) Gang Member Entry Form dated November 17, 2004, or any designations made upon that form. Given the Court's ruling that no agency may rely upon the form, or any designations shown on it, including the author's unexpressed intentions to nominate Plaintiff to the Selectee List, CLASS, TUSCAN, or



TACTICS, FBI employees also reviewed each record to determine whether the record referenced any intent to nominate Plaintiff to any of the aforementioned databases.

9. As a result of this review, several records that fall within the scope of the Court's January 14, 2014 Order were identified. These records are indexed by "serials," and when viewed during an electronic search, each serial contains electronic text relating to the document associated with the serial. This electronic text cannot be amended, but can be deleted. Hard copies of the records associated with the serial are separately maintained.

10. For the hard copy versions of each of these records, a notation was affixed to each page or reference stating the following:

Rahinah Ibrahim's November 17, 2004 nomination and designation to the No Fly List and other databases was erroneous and the result of an incorrectly completed VGTOF Gang Member Entry Form (dated November 17, 2004). Pursuant to a January 14, 2014 Order in *Ibrahim v. DHS, et al.* (N.D. Cal. No. 06-cv-545), neither the form nor the designations shown on it may be relied upon for any purpose. Please contact the FBI Office of General Counsel, Civil Litigation Unit, for further details and guidance.

11. Employees of the FBI then deleted the electronic text of the aforementioned serials from the FBI's CRS, so that the text of the serials would no longer be reviewable separate from the affixed notation described above. As a result, should an individual wish to review the contents of a document, they would be required to obtain the hard copy of the document, which contains the aforementioned notation affixed to each page or entry.

#### **The FBI's VGTOF / KST Databases**

12. The National Crime Information Center (NCIC) is a nationwide computerized information system established to service criminal justice agencies. The NCIC consists of numerous files including, among others, the Known or Appropriately Suspected Terrorist File (KST File), which, along with the current Gang File, formerly was known as the Violent Gang and Terrorist Organization File (VGTOF). The intent of the KST File is to provide identifying

information about known or appropriately suspected international domestic terrorists, to federal, state, local, tribal and territorial law enforcement authorities via NCIC.

13. Pursuant to the Court's January 14, 2014 Order, FBI queried the KST File and historical VGTOF database for entries identifying Plaintiff. Pursuant to this search, the FBI identified no "active records" associated with Plaintiff. An "active record" is a record that would be returned in response to a routine query of NCIC.

14. The search, however, did identify certain "retired records" in the VGTOF database, which were associated with Plaintiff's identity. A retired record is an inactive record that is maintained only in historical logs of the system. They are not returnable in the normal course of a NCIC check, but only under specific circumstances, such as the review that was required by the Court's January 14, 2014 Order.

15. Employees of the FBI and TSC reviewed each of these retired records to determine whether any referenced the VGTOF Form discussed above or any of the designations on the form. Given the Court's ruling that no agency may rely upon the form, or any designations shown on it, including the author's unexpressed intentions to nominate Plaintiff to the Selectee List, CLASS, TUSCAN, or TACTICS, FBI employees also reviewed each record to determine whether any referenced any intent to nominate Plaintiff to any of the aforementioned databases. This review yielded no responsive records. Accordingly, there was no need to delete or amend any of the retired records.

**The FTTTF Datamart**

16. Pursuant to this Court's January 14, 2014 Order, FBI employees queried records in the FTTTF for files associated with Plaintiff.

17. FBI employees then located and reviewed all records found to be responsive to determine whether any referenced the VGTOF Form discussed above or any designations made upon that form. Given the Court's ruling that no agency may rely upon the form, or any designations shown on it, including the author's unexpressed intentions to nominate Plaintiff to the Selectee List, CLASS, TUSCAN, or TACTICS, FBI employees also reviewed such records to determine whether any referenced any intent to nominate Plaintiff to any of the aforementioned databases.

18. All responsive records were deleted.

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

Executed this 15<sup>th</sup> day of April, 2014



BRENDA M. ATKINSON  
CHIEF DIVISION COUNSEL  
FEDERAL BUREAU OF INVESTIGATION  
SAN FRANCISCO FIELD OFFICE

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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

RAHINAH IBRAHIM,

Plaintiff,

v.

DEPARTMENT OF HOMELAND  
SECURITY, *et al.*,

Defendants.

No. 3:06-cv-0545 (WHA)

**DECLARATION OF PAUL G.  
FREEBORNE**

**EXHIBIT 2:**  
DECLARATION OF G. CLAYTON GRIGG

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RAHINAH IBRAHIM,

Plaintiff,

v.

DEPARTMENT OF HOMELAND  
SECURITY, *et al.*,

Defendants.

No. 3:06-cv-0545 (WHA)

**DECLARATION OF  
G. CLAYTON GRIGG**

I, G. Clayton Grigg, hereby declare:

1. I am the Deputy Director for Operations of the Terrorist Screening Center (TSC). I became Deputy Director of Operations at TSC in September 2013. My responsibilities include supervising the operational units of the TSC that provide identity resolution, screening and encounter management, and watchlisting services to the Law Enforcement, Homeland Security, and Intelligence Communities. I have been a Special Agent with the Federal Bureau of Investigation (FBI) since 1997 and have served in a variety of criminal investigative, counterterrorism, and senior management positions.

2. I make this Declaration in support of the TSC's response to the Court's January 14, 2014 Order. The matters stated herein are based on my personal knowledge and my review and consideration of information available to me in my official capacity, including information furnished by TSC personnel, including FBI employees, other government agency employees or contract employees acting in the course of their official duties.

3. The TSC maintains the following electronic databases that are subject to the Court's order: the Terrorist Screening Database (TSDB), the Encounter Management Application (EMA), the KST file maintained by the Terrorist Records Examination Unit (TRES), and the Terrorist Screening Operations Unit (TSOU) log.

4. The TSDB is an electronic database that contains the identifying biographical and biometric information, and other available identifying information, that is used to compare the identity of an individual being screened with a known or suspected terrorist or a person included as an exception for immigration and border screening pursuant to Section 212(a)(3)(B) of the Immigration and Nationality Act of 1952. This information is stored in active and archived records, with only a limited number of authorized personnel at the TSC having access to archived records. Archived TSDB records are used for historical, administrative, and quality control purposes, and are not accessed during the watchlist nomination process or as part of the process of screening persons who appear to be a match to an identity on the TSDB.

5. The EMA is an electronic application that contains historical information about encounters with individuals who may be in the TSDB, such as date, location, screening entity, analysis, whether there was a positive or negative identity match, and details of any law enforcement, intelligence, or other operational response. Records maintained in EMA are used for historical, administrative, and quality control purposes.

6. The TRES KST file is an electronic database that contains historical information about the actions taken to process, modify or delete FBI nominations to the TSDB, such as name and point of contact information for the nominating entity, FBI file numbers, and dates that actions were effected. Records maintained in the KST file are used for historical, administrative,

and quality control purposes, including during the watchlist nomination process to record submissions from FBI entities.

7. The TSOU log contains historical information about encounters with individuals who may be in the TSDB, such as date, location, screening entity, analysis, whether there was a positive or negative identity match, and details of any law enforcement, intelligence, or other operational response. Information from the TSOU log is only used for historical, administrative, and quality control purposes.

8. Personnel at the TSC queried the TSDB, EMA, the TREX KST file, and the TSOU log for entries identifying Plaintiff. As a result of this search, records were returned from the TSDB, EMA, and the TSOU log. One of these records is an active TSDB record. The remaining records are used for historical, administrative and quality control purposes.

9. Each of these records was reviewed by TSC personnel to determine whether any referenced the designations on a National Crime Information Center Violent Gang and Terrorist Organizations File (VGTOF) Gang Member Entry Form dated November 17, 2004 or the form itself. Given the Court's ruling that no agency may rely upon the form, or the author's actual, unexpressed intention to nominate Plaintiff to the Selectee List, CLASS, TUSCAN, and TACTICS, TSC personnel also reviewed these records to determine whether any referenced the author's intent to nominate Plaintiff to these databases.

10. Plaintiff's active TSDB record makes no reference to the November 17, 2004 VGTOF form or Agent Kelley's expressed or unexpressed intention to nominate Plaintiff to the Selectee List, CLASS, TUSCAN, and TACTICS. Only records that are maintained for historical, administrative and quality control purposes made such a reference. These records are not used for determining plaintiff's current watchlisting status. Additionally, these records are

not exported to any screening systems, such as KSTF, CLASS, TECS, or the No Fly or Selectee Lists.

11. TSC personnel appended the records that reference the November 17, 2004 form or the author's expressed or unexpressed intention to nominate Plaintiff to the lists identified in paragraph 9 above with the following language:

Rahinah Ibrahim's November 17, 2004, nomination and designation to the No Fly List and other databases was erroneous and the result of an incorrectly completed VGTOF Gang Member Entry Form dated November 17, 2004. Pursuant to a January 14, 2014 Order in *Ibrahim v. DHS, et al.* (N.D. Cal. No. 06-cv-545), neither the form nor the designations shown on it may be relied upon for any purpose. Please contact the Chief Counsel to the Director of the TSC for further details and guidance.

12. As part of its responsibility to maintain the TSC's computer systems, the TSC Information Technology (IT) Unit keeps derivative legacy files of defunct systems that are accessible by only a select few IT personnel for technical and administrative purposes only. As these derivative files contain archived information, they have been taken offline and stored in a designated Oracle "dump file" that was labeled with a README text file containing the language in paragraph 11.

13. The Court referenced TACTICS and TUSCAN in its January 14, 2014 Order. The TSC does not administer the screening systems for Australia and Canada. Instead, pursuant to the TACTICS and TUSCAN agreements, the TSC provides an export of certain data from the TSDB to the governments of Australia and Canada for inclusion in their screening systems. Plaintiff's identity is not currently included in these exports. TSC personnel provided officials of the governments of Australia and Canada with a copy of the Order and advised them of the relief ordered by the Court regarding the VGTOF form.



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

Executed this 15<sup>th</sup> day of April, 2014, in Vienna, Virginia.

A handwritten signature in black ink, appearing to read 'G. Clayton Grigg', is written over a horizontal line.

G. Clayton Grigg  
Deputy Director for Operations  
Terrorist Screening Center

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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

RAHINAH IBRAHIM,

Plaintiff,

v.

DEPARTMENT OF HOMELAND  
SECURITY, *et al.*,

Defendants.

No. 3:06-cv-0545 (WHA)

**DECLARATION OF PAUL G.  
FREEBORNE**

**EXHIBIT 3:  
DECLARATION OF LUKE J.  
MCCORMACK**

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

RAHINAH IBRAHIM,

Plaintiff,

v.

DEPARTMENT OF HOMELAND  
SECURITY, *et al.*,

Defendants.

No. 3:06-cv-0545 (WHA)

**DECLARATION OF LUKE J.  
MCCORMACK**

I, Luke J. McCormack, declare as follows:

1. I am Chief Information Officer at the Department of Homeland Security (DHS). I have held this position since December 16, 2013. My responsibilities include developing and maintaining a single DHS-wide Information Technology infrastructure environment that is reliable, scalable, flexible, maintainable, accessible and secure. Prior to this position, I served at the Department of Justice as the Deputy Assistant Attorney General for Information Resources Management/Chief Information Officer.

2. I make this Declaration in support of the DHS's response to the Court's January 14, 2014 Order. The matters stated herein are based upon information made available to me for my review and consideration in my official capacity, including information furnished by DHS personnel, including employees of DHS components and offices and/or contract employees acting in the course of their official duties.

3. DHS, with and through its components (listed below in bold), reviewed a number of databases and other information systems in order to identify any records or entries that contain information implicated by the Court's January 14, 2014 Order. These efforts are set forth in detail below.

4. The only databases and other information systems in which DHS located information implicated by the Court's Order are those maintained by the **Transportation Security Administration** (TSA), the DHS component that implements the Government's No Fly and Selectee Lists for passenger screening, and those maintained by the **United States Coast Guard** (Coast Guard). As a result, the TSA and Coast Guard databases and systems are listed first, followed by the other DHS components' databases and systems, in which no responsive records or entries were found. TSA and Coast Guard reviewed the records and entries identifying Plaintiff to determine whether any referenced the designations made on a November 17, 2004 National Crime Information Center (NCIC) Violent Gang and Terrorist Organizations File (VGTOF) Gang Member Entry Form. Given the Court's ruling that no agency may rely upon the form, or on the author's actual and unexpressed intention to nominate Plaintiff to the Selectee List, CLASS, TUSCAN, or TACTICS, TSA personnel also reviewed the records and entries to determine whether any referenced the author's intent to nominate Plaintiff to these databases.

- a. **TSA personnel** identified the following seven databases and systems as implicated by the Court's Order: Performance and Results Information System (PARIS), maintained by TSA's Office of Security Operations to record incidents at airports; Transportation Information Sharing System (TISS), maintained by TSA's Office of Law Enforcement & Federal Air Marshal Service to receive, assess, and distribute intelligence information related to transportation security; WebEOC TSA Operations Center Incident Management System (OCIMS), maintained by TSA's Office of Law Enforcement & Federal Air Marshal Service to perform incident management, coordination, and situation awareness functions for all modes of transportation; Records Management System (RMS) maintained by the Department of Homeland Security Traveler Redress Inquiry Program to

process redress inquiries; ACI Watch Log maintained by TSA's Office of Intelligence & Analysis; historical copies of databases maintained by TSA's Office of Intelligence & Analysis; and the records of the Secure Flight program, which conducts uniform prescreening of passenger information against Government watch lists for all flights into, out of, and within the United States. TSA searched these databases and systems for all records and entries identifying Plaintiff. Records and entries identifying Plaintiff were located in six of these TSA databases and systems. No records or entries identifying Plaintiff were located in the records of the Secure Flight program.

- i. As a result of this search and review, the following records and entries were returned which referenced the designations made on the 2004 VGTOF Form or the author's expressed or unexpressed intentions:
  1. A query of PARIS resulted in one record that identified Plaintiff and referenced the designations made on the 2004 VGTOF Form. TSA staff added the following language to the record in a new data field titled "Supplemental Details," which is immediately below the data field containing the reference to the designations:

Rahinah Ibrahim's November 17, 2004 nomination and designation to the No Fly List and other databases was erroneous and the result of an incorrectly completed VGTOF Gang Member Entry Form (dated November 17, 2004). Pursuant to a January 14, 2014 Court Order in *Ibrahim v. DHS, et al.* (N.D. Cal. No. 06-cv-545), neither the form nor the designations shown on it may be relied upon for any purpose. Please contact the Office of the Chief Counsel, Deputy Chief Counsel for Litigation, for further details and guidance.
  2. A query of TISS resulted in one record that identified Plaintiff and referenced the designations made on the 2004 VGTOF Form. TSA staff added the language in subparagraph (1) to the section of the record containing this reference.
  3. A query of WebEOC resulted in one record that identified Plaintiff and referenced the designations made on the 2004 VGTOF Form.

TSA added the language in subparagraph (1) to the section of the record containing this reference.

4. A query of DHS TRIP RMS resulted in one record that identified Plaintiff and referenced the designations made on the 2004 VGTOF Form. TSA staff added the language in subparagraph (1) to the section of the record containing this reference.
  5. A query of the ACI Watch Log resulted in nine watch log entries that identified the Plaintiff and referenced the designations made on the VGTOF Form. TSA staff added the language in subparagraph (1) to the section of each entry containing such a reference. Four of the nine entries also had PDF attachments. All of these PDF attachments also identified Plaintiff and referenced the designations made on the 2004 VGTOF Form. Because the text of the PDFs cannot be altered, TSA staff added a header containing the language in subparagraph (1) to each page of each PDF attachment.
  6. A query of historical copies of the No Fly and Selectee Lists and other records stored on the classified network drive maintained by the TSA Office of Intelligence & Analysis resulted in 104 Excel (.xls) files and one PDF file that identified Plaintiff and referenced the designations made on the 2004 VGTOF Form. In each of the Excel files, TSA staff added the language set out in subparagraph (1) above in a spreadsheet cell in the last column of each row of cells containing a reference to the designations made on the 2004 VGTOF Form. TSA irretrievably deleted the PDF file.
- b. **Coast Guard** identified the following databases and systems as implicated by the Court's Order: Web-Enabled Temporal Analysis System (WebTas), Maritime Awareness Global Network (MAGNET), Coast Guard Investigative Service Investigative Case System (GCIS ICS), and Marine Information for Safety and Law Enforcement (MISLE) – in general, these systems may contain information related to marine safety, regulatory activity and/or law enforcement. Coast Guard also identified its Counterintelligence Service raw and finished intelligence products; and the Law Enforcement Information Database (LEIDB/Pathfinder), a repository for field intelligence reports.

- i. Of the databases and systems Coast Guard searched, only Pathfinder contained any references to Plaintiff. Of three records found, two referenced the designations made on the 2004 VGTOF Form. To correct the records, Coast Guard added the following language to the section of the records containing the references:

Rahinah Ibrahim's November 17, 2004 nomination and designation to the No Fly List and other databases was erroneous and the result of an incorrectly completed VGTOF Gang Member Entry Form (dated November 17, 2004). Pursuant to a January 14, 2014 Court Order in *Ibrahim v. DHS, et al.* (N.D. Cal. No. 06-cv-545), neither the form nor the designations shown on it may be relied upon for any purpose. Please contact the Office of the General Counsel, Legal Counsel Division, Litigation Section for further details and guidance.

- c. The records and entries discussed above in subparagraphs (a) and (b) are all historic in nature. They exist only to provide information about Plaintiff at points in the past. These records and entries have no bearing on Plaintiff's current status with respect to the No Fly and Selectee Lists, the Terrorist Screening Database, or any other government screening database or system. The changes made to these records and entries had no impact on Plaintiff's current status with respect to the No Fly and Selectee Lists or any TSA or Coast Guard screening system or program.

5. **DHS also searched additional databases and information systems, which identified Plaintiff but did not reference the designations made on the 2004 VGTOF Form or the designations made by the author. These other databases and systems include:**

- **Department of Homeland Security:** A search for Plaintiff's identity was conducted in the National Protection and Program Directorate's Automated Biometric Identification System (IDENT), the central DHS-wide system for storage and processing of biometric and associated biographic information for national security, law enforcement, immigration and border management, intelligence, and other uses.

- **U.S. Customs and Border Protection:** Searches for Plaintiff's identity were conducted in TECS,<sup>1</sup> U.S. Customs and Border Protection's (CBP) principal law enforcement and anti-terrorism database system. TECS is an overarching law enforcement information collection, analysis, and sharing environment that securely links telecommunications devices and personal computers to a central system and database. TECS databases contain temporary and permanent enforcement, inspection and intelligence records relevant to the anti-terrorism and law enforcement mission of CBP and numerous other federal agencies that it supports. Although not listed in the Court's Order, out of an abundance of caution, CBP also searched additional databases.<sup>2</sup>
- **U.S. Immigration and Customs Enforcement:** Searches for Plaintiff's identity were also conducted in the Student and Exchange Visitor Information System (SEVIS), which maintains information on nonimmigrant students and exchange visitors, as well as their dependents, associated schools, and sponsors, as well as other databases that contain information about persons who have come into contact with U.S. immigration authorities.<sup>3</sup>

6. Records or entries identifying Plaintiff were located in some of the databases and systems listed in Paragraph 5. Employees of the relevant DHS components and offices reviewed those records or entries to determine whether any of them referenced the designations made on the 2004 VGTOF Form. Given the Court's ruling that no agency may rely upon the form, or on the author's actual and unexpressed intention to nominate Plaintiff to the Selectee list, CLASS, TUSCAN, or TACTICS, employees of the relevant Components and offices also reviewed the records or entries to determine whether any referenced the author's intent to nominate Plaintiff to these databases or systems. As a result of this search and review, no records or entries were

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<sup>1</sup> The system known as "IBIS" referenced in the Court's order at pages 13, 27, and 38 is not a separate system, but instead was a historical reference for a portion of the TECS database.

<sup>2</sup> These include Arrival and Departure Information System (ADIS), Analytical Framework for Intelligence (AFI), Automated Targeting System (ATS), Electronic System for Travel Information (ESTA), Global Enrollment System (GES), Nonimmigrant Information System (NISS), Seized Asset and Case Tracking System (SEACATS), Targeting Framework (TF), and US-VISIT.

<sup>3</sup> These include Visa Security Tracking Program v1.x and v2.x, Falcon, Eagle, and Enforce.

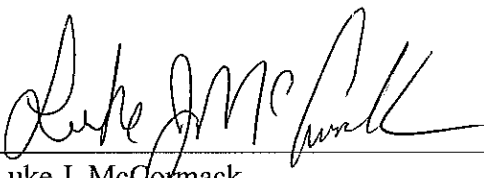


returned which referenced the designations made on the 2004 VGTOF Form or the intentions of the author.

7. In addition, searches for Plaintiff's identity were conducted in databases and systems maintained by the **Department of Homeland Security Office of Intelligence & Analysis** for draft or finished intelligence products, raw information reports, and employee files; **U.S. Citizenship and Immigration Services** databases and systems for case management<sup>4</sup> and benefits applications; and **U.S. Secret Service** databases and systems related to threat assessments and intelligence gathering activities.<sup>5</sup> I am informed that as a result of these searches, no records or entries identifying Plaintiff were returned.

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

Executed this 15th day of April, 2014.



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Luke J. McCormack  
Chief Information Officer  
Department of Homeland Security

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<sup>4</sup> These include the Fraud Detection National Security Data System (FDNS DS), the USCIS case management system used to record, track, and manage immigration inquiries, investigative referrals, law enforcement requests, and case determinations involving benefit fraud, criminal activity, public safety, and national security concerns.

<sup>5</sup> These include the Master Central Index (MCI) and Protective Threat Management System (PTMS).

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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

RAHINAH IBRAHIM,

Plaintiff,

v.

DEPARTMENT OF HOMELAND  
SECURITY, *et al.*,

Defendants.

No. 3:06-cv-0545 (WHA)

**DECLARATION OF PAUL G.  
FREEBORNE**

**EXHIBIT 4:**  
DECLARATION OF MARGARET  
COOPERMAN

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RAHINAH IBRAHIM,

Plaintiff,

v.

DEPARTMENT OF HOMELAND  
SECURITY, *et al.*,

Defendants.

No. 3:06-cv-0545 (WHA)

**DECLARATION OF MARGARET  
COOPERMAN**

1. I am the Director of the Office of Information Management and Liaison, Visa Office, Bureau of Consular Affairs. I am a Civil Service employee of the U.S. Department of State who has served in this capacity since 2011. I make this Declaration on behalf of the Department of State in response to the Court's January 14, 2014 Order.

2. Our office is the primary point of contact for searches of the Consular Consolidated Database ("CCD") and also maintains legacy paper visa records, including paper files created in connection with visa revocations. The CCD is a system of consolidated databases that holds all of the current and archived data and records entered by consular officers in U.S. embassies and consulates around the world. Most visa-related records are maintained in an electronic format in the CCD. The CCD also communicates with the Consular Lookout and Support System ("CLASS"), a database maintained by the Department of State that is subject to the Court's Order.

3. Information contained in the CLASS visa database is collected and used to identify individuals who may be ineligible for issuance of a visa. The CLASS visa database

contains records regarding visa refusals and revocations and other information that indicates that an alien may be ineligible for a visa. Consular officers are required to check the names of each visa applicant against records in the CLASS visa database while adjudicating his/her visa application ("name check").

4. An employee under my supervision queried the CCD, including the CLASS visa database, for records pertaining to Plaintiff. An employee under my supervision reviewed the records that were returned to determine whether any referenced the designations made on a November 17, 2004 National Crime Information Center ("NCIC") Violent Gang and Terrorist Organizations File ("VGTOF") Gang Member Entry Form or the form itself. Given the Court's ruling that no agency may rely upon the form or on the author's actual, unexpressed intention to nominate Plaintiff to the Selectee List, CLASS, TUSCAN, and TACTICS, the employee under my supervision also reviewed the records to determine whether any referenced the author's intent to nominate Plaintiff to these databases.<sup>1</sup>

5. As a result of this search and review, I determined that there are no records currently in the CLASS visa database that reference the VGTOF form or any designations made on that form, including expressed or unexpressed intentions, with respect to Plaintiff.

6. The CCD maintains archived results of name checks run in the CLASS visa database. These records do not reflect information that currently appears in the CLASS visa database, but reveal that a name check was performed on a specific date and show what

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<sup>1</sup> I have been informed that personnel in the Passport Office have also queried the Passport CLASS database for records identifying Plaintiff. As a result of this search, no records were identified that reference the VGTOF form or any designations made on that form, including expressed or unexpressed intentions, with respect to Plaintiff.

information the CLASS visa database made available to the officer who ran the name check on that date.

7. These archived name check results are not used in the normal course of business to determine eligibility in connection with any future visa application; rather, consular officers review only what appears in CLASS at the time of the application.

8. The archived results of the name checks run in CLASS in 2005 regarding Plaintiff contain references to the VGTOF form, specifically with the code "VGTO". The following language has been added to the archived name check results in CLASS:

Rahinah Ibrahim's November 17, 2004 nomination and designation to the No Fly List and other databases was erroneous and the result of an incorrectly completed VGTOF Gang Member Entry Form (dated November 17, 2004). Pursuant to a January 14, 2014 Order in *Ibrahim v. DHS, et al.* (N.D. Cal. No. 06-cv-545), neither the form nor the designations shown on it may be relied upon for any purpose. Please contact the Assistant Legal Adviser for Consular Affairs for further details and guidance.

9. As noted above, these archived name check results will not be accessed by consular officers adjudicating any future visa applications submitted by Plaintiff in the normal course of business.

10. One CCD record regarding Plaintiff indicates that in 2005, the Department revoked a visa previously issued to Plaintiff. That record states "[s]ee paper file VISTA N0329123." An employee under my supervision retrieved that revocation file now stored in our office.

11. That revocation file contains a copy of the VGTOF form dated November 17, 2004. A memorandum from Donald Heflin, Managing Director of the Visa Office in Bureau of Consular Affairs, has been appended to the VGTOF form. The memorandum states:

Rahinah Ibrahim's November 17, 2004 nomination and designation to the No Fly List and other databases was erroneous and the result of an incorrectly completed VGTOF Gang Member Entry Form (dated November 17, 2004). Pursuant to a January 14, 2014

Order in *Ibrahim v. DHS, et al.* (N.D. Cal. No. 06-cv-545), neither the form nor the designations shown on it may be relied upon for any purpose. Please contact the Assistant Legal Adviser for Consular Affairs for further details and guidance.

The memorandum is attached to the copy of the VGTOF form. The language contained in the memorandum has also been affixed to all other records contained in that file that reference the VGTOF form or any designations made on that form, including expressed or unexpressed intentions, with respect to Plaintiff.

12. As with the archived name results, the revocation file would not be accessed by consular officers adjudicating future visa applications submitted by Plaintiff in the normal course of business.

13. Finally, I am informed that personnel at the Department of State queried the Department's Central Files database for records identifying Plaintiff. Responsive records were then reviewed in the same manner as the records identified in ¶ 4. As a result of that search, one record was identified and has been annotated with the following language:

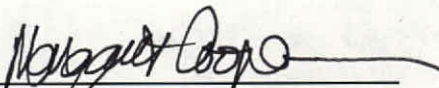
Rahinah Ibrahim's November 17, 2004 nomination and designation to the No Fly List and other databases was erroneous and the result of an incorrectly completed VGTOF Gang Member Entry Form (dated November 17, 2004). Pursuant to a January 14, 2014 Order in *Ibrahim v. DHS, et al.* (N.D. Cal. No. 06-cv-545), neither the form nor the designations shown on it may be relied upon for any purpose. Please contact the Assistant Legal Adviser for Consular Affairs for further details and guidance.

14. The document maintained in the Department's Central Files would likewise not be accessed by consular officers adjudicating future visa applications submitted by Plaintiff in the normal course of business.

15. The actions described above, taken to comply with the Court's January 14, 2014 Order, did not result in the removal of records pertaining to Plaintiff, or Plaintiff's identity, from the CCD or CLASS.

Pursuant to Title 28, United States Code, Section 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15<sup>th</sup> day of April, 2014, in Washington, D.C.



Margaret Cooperman, Director  
Office of Information Management and Liaison  
Visa Office  
Bureau of Consular Affairs  
U.S. Department of State

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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

RAHINAH IBRAHIM,

Plaintiff,

v.

DEPARTMENT OF HOMELAND  
SECURITY, *et al.*,

Defendants.

No. 3:06-cv-0545 (WHA)

**DECLARATION OF PAUL G.  
FREEBORNE**

**EXHIBIT 5:  
DECLARATION OF TIMOTHY GOYER**



UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RAHINAH IBRAHIM,

Plaintiff,

v.

DEPARTMENT OF HOMELAND  
SECURITY *et al.*,

Defendants.

No. 3:06-cv-0545 (WHA)

**DECLARATION OF TIMOTHY GOYER**

I, Timothy Goyer, declare as follows:

1. I am the Director of the Directorate of Terrorist Identities (DTI) at the National Counterterrorism Center (NCTC). I have held this position since the Directorate was created in December 2010. As the Director of DTI, I lead an organization focused on various aspects of the Terrorist Identities Datamart Environment (TIDE), the United States Government's repository for information on known and suspected terrorists.

2. I make this declaration in support of NCTC's response to the Court's January 14, 2014 Order.

3. NCTC maintains two databases subject to the Court's Order: TIDE and DTI's Quality Assurance/Removal Database.

4. On February 24, 2014, an employee under my supervision queried TIDE for entries identifying Plaintiff. As a result of this search, one record was returned.

5. The employee under my supervision reviewed the record to determine whether it referenced the designations on a National Crime Information Center (NCIC) Violent Gang and Terrorist Organizations File (VGTOF) Gang Member Entry Form dated November 17, 2004 or to the form itself. Given the Court's ruling that no agency may rely upon the form or on the author's actual, unexpressed intention to nominate Plaintiff to the Selectee List, CLASS, TUSCAN, and TACTICS, the employee under my supervision also reviewed the record to determine whether it referenced the author's intent to nominate Plaintiff to these databases.

6. As a result of this search and review, the employee determined that this record contained the November 2004 VGTOF Form.

7. A memorandum containing the following language was appended to the front of the November 2004 VGTOF Form:

Rahinah Ibrahim's November 17, 2004 nomination and designation to the No Fly List and other databases was erroneous and the result of an incorrectly completed VGTOF Gang Member Entry Form dated November 17, 2004. Pursuant to a January 14, 2014 Order in *Ibrahim v. DHS, et al.* (N.D. Cal. No. 06-cv-545), neither the form nor the designations shown on it may be relied upon for any purpose. Please contact the NCTC Office of Legal Counsel for further details and guidance.

8. The employee under my supervision also searched DTI's Quality Assurance/Removal Database for entries identifying Plaintiff. As a result of this search, one record was found.

9. The employee under my supervision conducted the same review described in ¶ 5 above for this record. As a result of this review, the employee determined that the record did not contain the information described in the Court's Order.

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

Executed this 15th day of April, 2014.

A handwritten signature in black ink, appearing to read "T. Goyer", written over a horizontal line.

TIMOTHY GOYER  
DIRECTOR  
DIRECTORATE OF TERRORIST IDENTITIES  
NATIONAL COUNTERTERRORISM CENTER

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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

RAHINAH IBRAHIM,

Plaintiff,

v.

DEPARTMENT OF HOMELAND  
SECURITY, *et al.*,

Defendants.

No. 3:06-cv-0545 (WHA)

**DECLARATION OF PAUL G.  
FREEBORNE**

**EXHIBIT 6:**  
DECLARATION OF MATTHEW MCNEIL  
AND ATTACHMENT

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RAHINAH IBRAHIM,

Plaintiff,

v.

DEPARTMENT OF HOMELAND  
SECURITY, *et al.*,

Defendants.

No. 3:06-cv-0545 (WHA)

**DECLARATION OF MATTHEW  
MCNEIL**

1. I am employed by the U.S. Department of State as attorney adviser in the advisory opinion section in the Legal Affairs Division of the Visa Office, Bureau of Consular Affairs. In that capacity I am authorized to review records pertaining to visa applications adjudicated at U.S. embassies and consular posts overseas, including visa records accessible through the Consular Consolidated Database of the U.S. Department of State, Bureau of Consular Affairs. I am also familiar with visa processing procedures. I have reviewed the visa records of Dr. Rahinah Ibrahim, and the information in this declaration is based on that review.

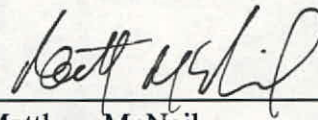
2. On December 14, 2009, a consular officer at the U.S. Embassy in Kuala Lumpur refused Dr. Ibrahim's visa application under section 212(a)(3)(B) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1182(a)(3)(B). Specifically, the consular officer's refusal was based on INA § 212(a)(3)(B)(i)(I) and (IX), 8 U.S.C. § 1182(a)(3)(B)(i)(I) and (IX).

3. On April 14, 2014, a consular officer at the U.S. Embassy in Kuala Lumpur refused Dr. Ibrahim's visa application under INA § 212(a)(3)(B), 8 U.S.C. § 1182(a)(3)(B).

Specifically, the consular officer's refusal was based on INA § 212(a)(3)(B)(i)(I) and (IX), 8 U.S.C. § 1182(a)(3)(B)(i)(I) and (IX). A copy of the letter reflecting this refusal was sent to Plaintiff via email on April 14, 2014, and is attached hereto as Exhibit A.

Pursuant to Title 28, United States Code, Section 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15<sup>th</sup> day of April, 2014, in Washington, D.C.



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Matthew McNeil  
Attorney Adviser, Legal Affairs  
Visa Office  
Bureau of Consular Affairs  
U.S. Department of State

# **EXHIBIT A**

Name: Rahinah Binti Ibrahim

Date:14-APR-2014

Dear Visa Applicant,

This office regrets to inform you that your visa application is refused because you have been found ineligible to receive a visa under the following section(s) of the Immigration and Nationality Act. The information contained in the paragraphs marked with "X" pertains to your visa application. Please disregard the unmarked paragraphs.

Section 212(a)(1) health-related grounds.

Section 212(a)(4) which prohibits the issuance of a visa to anyone likely to become a public charge.

Section 212(a)(2) which prohibits the issuance of a visa to anyone who has committed a crime involving moral turpitude.

Section 212(a)(3)(B)

Waiver

You are eligible to seek a waiver under 8 U.S.C. 1182(d)(3) of the grounds of ineligibility. Pursuant to 22 C.F.R. 41.121(b)(1), this serves as your notice of waiver availability.

No waiver is available for the grounds of ineligibility.

Sincerely yours,



American Consular Officer



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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

RAHINAH IBRAHIM,

Plaintiff,

v.

DEPARTMENT OF HOMELAND  
SECURITY, *et al.*,

Defendants.

No. 3:06-cv-0545 (WHA)

**DECLARATION OF PAUL G.  
FREEBORNE**

**EXHIBIT 7:  
EMAIL OF COUNSEL**

**Freeborne, Paul (CIV)**

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**From:** Freeborne, Paul (CIV)  
**Sent:** Tuesday, April 15, 2014 2:15 PM  
**To:** epipkin@mcmanislaw.com  
**Cc:** Bloom, Karen S. (CIV); Farel, Lily (CIV); Theis, John K. (CIV)  
**Subject:** Ibrahim v. DHS (N.D. Cal.)  
**Attachments:** Ibrahim v. DHS -- Declaration of M. McNeil.pdf; Ibrahim v. DHS -- Ltr. from T. Bondy.pdf

Counsel:

Pursuant to the Court's January 14, 2014 Order, attached please find:

- (1) The Declaration of Matthew McNeil of the Department of State that specifies the specific subsections of Section 212(a)(3)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(3)(B), that rendered Plaintiff ineligible for a visa in 2009 and 2013. Appended to the McNeil Declaration is a copy of the letter informing Plaintiff that she is eligible to apply for a discretionary waiver under 8 U.S.C. § 1182(d). It is our understanding that the Department of State emailed this letter to Plaintiff.
- (2) A letter from Thomas M. Bondy of the Federal Bureau of Investigation explaining Plaintiff's No Fly List status since 2005.

Please transmit these documents to Dr. Ibrahim.

Regards,  
Paul

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Paul G. Freeborne  
Senior Trial Counsel  
United States Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Avenue, N.W.  
Room 7228  
Washington, D.C. 20001  
Tel. (202) 353-0543  
Fax. (202) 616-8460  
[paul.freeborne@usdoj.gov](mailto:paul.freeborne@usdoj.gov)

Mailing Address:  
P.O. Box 883  
Washington, D.C. 20044

Courier Address:  
20 Massachusetts Avenue, N.W.

Washington, D.C. 20001

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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

RAHINAH IBRAHIM,

Plaintiff,

v.

DEPARTMENT OF HOMELAND  
SECURITY, *et al.*,

Defendants.

No. 3:06-cv-0545 (WHA)

**DECLARATION OF PAUL G.  
FREEBORNE**

**EXHIBIT 8:  
LETTER OF THOMAS M. BONDY**



U.S. Department of Justice

Federal Bureau of Investigation

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Office of the General Counsel

Washington, D.C. 20535-0001

April 15, 2014

**Via Electronic Mail**

Dr. Rahinah Ibrahim  
c/o Elizabeth Pipkin, Esq.  
McManis Faulkner  
50 W. San Fernando St., 10<sup>th</sup> Floor  
San Jose, CA 95113  
Email: [epipkin@mcmanislaw.com](mailto:epipkin@mcmanislaw.com)

Re: Rahinah Ibrahim v. Department of Homeland Security, et al.  
Case No: 06-545 (N.D.Cal)

Dear Dr. Ibrahim:

Pursuant to the January 14, 2014 Order in the above-captioned matter, you are hereby advised of your status since 2005 on the No Fly list. Please be advised that, as of April 15, 2014, your identity has not been included on the No Fly List since January 2, 2005.

Sincerely,

A handwritten signature in blue ink, reading "Thomas M. Bondy", is written over a horizontal line.

Thomas M. Bondy  
Deputy General Counsel  
Litigation Branch  
Office of the General Counsel