

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

\_\_\_\_\_  
 (G) **[REDACTED]** )  
 et al., )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 ERIC HOLDER, et al., )  
 )  
 Defendants. )  
 \_\_\_\_\_

No. 04 Civ. 2614 (VM)

FILED EX PARTE, IN CAMERA  
AND UNDER SEAL WITH THE  
COURT SECURITY OFFICER OR  
DESIGNEE

IN CAMERA, EX PARTE DECLARATION  
OF (S) **[REDACTED]**  
FEDERAL BUREAU OF INVESTIGATION

I, (S) **[REDACTED]** hereby declare as follows, pursuant to 28 U.S.C. § 1746:

1. I am a Supervisory Special Agent ("SSA") with the Federal Bureau of Investigation ("FBI"). This declaration is submitted in connection with the above-captioned action filed by plaintiffs (G) **[REDACTED]** the American Civil Liberties Union ("ACLU"), and the ACLU Foundation. (Classification: Unclassified ("U"))

2. (A), (G) **[REDACTED]**

**[REDACTED]** (Secret ("S"))

3. (A), (G) **[REDACTED]** (S)

4. (A), (G) [REDACTED]  
[REDACTED] (S)

5. (A), (G) [REDACTED]  
[REDACTED] (S)

6. (A), (G) [REDACTED]  
[REDACTED] (S)

7. (A), (G) [REDACTED]  
[REDACTED] (S)

8. I make this declaration to the best of my information, knowledge, and belief, which I have acquired as part of my official duties as an SSA at FBI Headquarters. (U)

9. (A), (G) [REDACTED]  
[REDACTED] (S)

I. (A), (G) [REDACTED]  
[REDACTED] (S)

10. (A), (G) [REDACTED]  
[REDACTED] (S)

A. (A), (G) [REDACTED]  
[REDACTED] (S)

11. (A), (G) [REDACTED]  
[REDACTED] (S//OC,NF)

12. (A), (G) [REDACTED]  
[REDACTED] (S//OC, NF)

13. (A), (G) [REDACTED]  
[REDACTED] (S)

B. (A), (G) [REDACTED] (S)

14. (A), (G) [REDACTED]  
[REDACTED] (S)

15. (A), (G) [REDACTED]  
[REDACTED] (S)

16. (A), (G)

[REDACTED]  
[REDACTED] (S)

C.

(A), (G)

(S)

[REDACTED]

17. (A), (G)

[REDACTED]  
[REDACTED] (S)

18. (A), (G)

[REDACTED]  
[REDACTED] (S)

19. (A), (G)

[REDACTED]  
[REDACTED] (S)

20. (A), (G)

[REDACTED]  
[REDACTED] (S).

D.

(A), (G)

(S)

[REDACTED]  
[REDACTED]

21. (A), (G)

[REDACTED]  
[REDACTED] (S)

22. (A), (G)

[REDACTED]

(A), (G)

[REDACTED]

(S)

23. (A), (G)

[REDACTED]

(S)

II. (A), (G)

[REDACTED]

(S)

24. (A), (G)

[REDACTED]

(S)

25. (A), (G)

[REDACTED]

(S)

26. (A), (G)

[REDACTED]

(S)

27. As a result of these communications, the FBI issued an NSL to plaintiff (G) [REDACTED]. The NSL was addressed to (G) [REDACTED] (U)

28. According to a (G) [REDACTED] financial report from (G) [REDACTED] appears to be a (G) [REDACTED] company: it employ (G) [REDACTED] persons including (G) [REDACTED] is the President and (G) [REDACTED] Director; and the company has a credit line of (G) [REDACTED] (U)

29. The NSL issued to (G) [REDACTED] directed it to provide the FBI with "the names, addresses, lengths of service and electronic communication transactional records, to include (G) [REDACTED] (G) [REDACTED] (not to include message content and/or subject fields)" for the e-mail address (G) [REDACTED] (U)

30. (A), (G)

[REDACTED]

(A), (G)

[REDACTED] (S//OC,NF)

- 31. The NSL was hand delivered to (G) [REDACTED] by a Special Agent on (G) [REDACTED] did not comply with the NSL. (U)
- 32. As described in paragraph 48 below, during an interview on (G) [REDACTED] advised the FBI that (G) [REDACTED] (U)
- 33. As described in paragraphs 48-52 below, (G) [REDACTED] In (G) [REDACTED] declaration in support of plaintiffs' summary judgment motion (G) [REDACTED] stated that (G) [REDACTED] previously "engaged in ongoing communications with (G) [REDACTED] on a variety of issues " including "topics related to politics and current events." Declaration of (G) [REDACTED] (G) [REDACTED] - through (G) [REDACTED] designed to (G) [REDACTED] (G) [REDACTED] - the FBI's issuance to (G) [REDACTED] of a letter involving the Patriot Act and seeking business records. See ¶¶ 49-51. (U)

III. (A), (G) [REDACTED] (S)

34. (A), (G) [REDACTED]

(S)

35. (A), (G) [REDACTED]

[REDACTED] (S)

36. (A), (G) [REDACTED]  
[REDACTED] (S)

A. (A), (G) [REDACTED] (S)

37. (A), (G) [REDACTED]  
[REDACTED] (S)

38. (A), (G) [REDACTED]  
[REDACTED] (S)

39. (A), (G) [REDACTED]  
[REDACTED] (S)

40. (A), (G) [REDACTED]  
[REDACTED] (S)

B. (A), (G) [REDACTED] (S)

41. (A), (G) [REDACTED]  
[REDACTED] (S)

42. (A), (G) **[REDACTED]**  
**[REDACTED]** (S)

C. (A), (G) **[REDACTED]** (S)

43. (A), (G) **[REDACTED]**  
**[REDACTED]** (S)

44. (A), (G) **[REDACTED]**  
**[REDACTED]** (S)

D. (A), (G) **[REDACTED]** (S)

45. (A), (G) **[REDACTED]**  
**[REDACTED]** (S)

E. (A), (G) **[REDACTED]**  
**[REDACTED]** (S)

46. (A), (G) **[REDACTED]**  
**[REDACTED]** (S)

47. (A), (G) **[REDACTED]**  
(S)

IV. Communications Between (G) **[REDACTED]**  
(U)



48. During (G) [redacted] described that (G) and (G) were "friends." (G) [redacted] that (G) had communicated via the Internet with (G) and that (G) used the screen name (G) [redacted] (U)

49. Also on [redacted] stated that (G) had (G) [redacted] with (G) [redacted] over the internet. According to (G) [redacted] provided the (G) [redacted] (G) [redacted] - that they used. (G) [redacted] is used to ensure the security of a communication (and thus to avoid detection or surveillance). (U)

50. (G) [redacted] stated that during (G) [redacted] informed (G) [redacted] that (G) [redacted] (G) [redacted] and sent (G) [redacted] of them. According to (G) [redacted] (G) [redacted] confirmed that the (G) [redacted] (U)

51. (G) [redacted] declaration in support of plaintiffs' summary judgment motion stated that (G) has "not disclosed information either about the NSL (G) [redacted] or about this lawsuit" to (G) [redacted] Decl. ¶ 22. (G) [redacted] during (G) [redacted] stated that (G) received a (G) [redacted] from (G) [redacted] in or about (G) [redacted] in which (G) [redacted] informed (G) [redacted] that (G) [redacted] had received a letter from the FBI that involved the Patriot Act and that sought business records. (G) [redacted] (G) [redacted] (G) [redacted] (U)

52. (G) [redacted] further stated that (G) may have asked (G) [redacted] about the subject of the FBI's letter inquiry. According to (G) [redacted] stated that the FBI letter involved some unknown (G) [redacted] customer who posts anti-United States Government statements on the Internet. (U)

53. (A), (G) [redacted] (S)

V. (A), (G) [redacted] (S)

54. (A), (G)

[REDACTED]  
[REDACTED] (S)

55. (A), (G)

[REDACTED]  
[REDACTED] (S)

56. (A), (G)

[REDACTED]  
[REDACTED] (S)

57. The FBI does not know what, if anything, (G) [REDACTED] has disclosed to (G) [REDACTED] attorneys concerning the FBI's interviews of (G) [REDACTED]. Likewise, if such disclosure is or has been made, the FBI does not know what, if anything, (G) [REDACTED] attorneys will disclose - or have disclosed - to their client, (G) [REDACTED] concerning the FBI's interviews of (G) [REDACTED]. (G) [REDACTED] statement that (G) [REDACTED] told (G) [REDACTED] about an FBI letter seeking business records from (G) [REDACTED]. (U)

VI. The Need for Continued Nondisclosure of the NSL Served On Plaintiff (G) [REDACTED]  
(U)

58. (A), (G)

[REDACTED]  
[REDACTED] (S)

59.

(A), (G)

[REDACTED]

(S)

60.

(A), (G)

[REDACTED]

(S)

61.

(A), (G)

[REDACTED]

(S)

62.

(A), (G)

[REDACTED]

(A), (G)



(S)

63. (A), (G)



(S)

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

Dated: Washington, D.C.  
June 16, 2009

(S)



Supervisory Special Agent

## DELETION CODES

- A. INFORMATION WHICH IS PROPERLY CLASSIFIED PURSUANT TO EXECUTIVE ORDER, THE DISCLOSURE OF WHICH COULD REASONABLY BE EXPECTED TO CAUSE DAMAGE TO THE NATIONAL SECURITY OR THE CONDUCT OF THE GOVERNMENT'S INTERNATIONAL RELATIONS.
- G. THE LAW ENFORCEMENT PRIVILEGE - THE DISCLOSURE OF THIS INFORMATION COULD CAUSE HARM TO, IMPEDE, IMPAIR, OR HINDER AN INVESTIGATION AND/OR AN INVESTIGATIVE INTEREST OF THE FBI.
- S. PERSONAL IDENTIFYING INFORMATION RELATED TO LAW ENFORCEMENT PERSONNEL AND THEIR FAMILY MEMBERS, THE DISCLOSURE OF WHICH IS ROUTINELY GUARDED FOR SECURITY REASONS.