

Monday, October 30, 2017

HAND DELIVERED

The Honorable Richard Burr  
Chair, Senate Select Committee on Intelligence

The Honorable Mark Warner  
Vice Chair, Senate Select Committee on Intelligence

211 Hart Senate Office Building  
United States Senate  
Washington, DC 20510

Re: Christopher R. Sharpley – Nomination to Serve as Inspector General, Central Intelligence Agency

Dear Chairman Burr and Vice Chairman Warner,

The nonprofit legal organization Whistleblower Aid represents Jonathan H. Kaplan. From 2005 – 2015, Mr. Kaplan served as a Special Agent and Investigator with the Central Intelligence Agency’s (“CIA”) Office of Inspector General (“OIG”). Mr. Kaplan was part of operation Top Gun, which resulted in the successful prosecution of U.S. Congressman Duke Cunningham for bribery, fraud, and tax evasion. During his government service, Mr. Kaplan received a Certificate for Special Achievement and fourteen Exceptional Performance Awards.

In 2009, Mr. Kaplan won the Intelligence Community Inspector General’s Investigation Award [Exhibit A] for his role in the investigation and prosecution of CIA Executive Director Kyle Foggo—the highest-ranking CIA officer ever indicted—for fraud against the United States. Director of Central Intelligence Leon E. Panetta personally congratulated Mr. Kaplan on his “outstanding achievement.” [Exhibit B]

Mr. Kaplan is concerned that Christopher Sharpley has been dishonest with this Committee about Mr. Sharpley’s personal knowledge of multiple whistleblower reprisal investigations in which Mr. Sharpley is named.

**I. Christopher Sharpley deliberately misled Congress during his sworn testimony.**

In his nomination hearing on October 17, 2017, Mr. Sharpley made false statements under oath.<sup>1</sup>

Mr. Sharpley testified several times that he was unaware of any **active** whistleblower reprisal investigations against him:

- “Senator [Feinstein], I’m unaware of any **open** investigations on me.” (Christopher R. Sharpley, 0:54:32) (emphasis added).
- To Senator Harris: “I am unaware of any **ongoing** investigations” (Christopher R. Sharpley, 1:32:40) (emphasis added).

Mr. Sharpley did not limit his denials merely to **active** reprisal claims. He went further, suggesting to the Committee that he does not know of **any** reprisal complaints filed against him, presumably including prior claims:

- To Senator Feinstein: “I’m unaware of ... the details of **any** complaints about me. ... I can’t speak to specifics because I don’t know about them.” (Christopher R. Sharpley, 0:54:35) (emphasis added).
- To Senator Harris: “I’m unaware of ... the details of **any** complaints...” (Christopher R. Sharpley, 1:32:40) (emphasis added).

Not only is Mr. Sharpley currently named in multiple open, ongoing investigations for whistleblower retaliation, but at the time he gave his sworn testimony, Mr. Sharpley was well aware of these and multiple earlier investigations. Mr. Sharpley took his denials a step further, claiming under oath that no one during his entire career had ever acted against his misconduct:

- [To Senator Harris] “No action or conclusions of wrongdoing have been made about my career or anything that I’ve done.” (Christopher R. Sharpley, 1:32:47)

Mr. Sharpley knew when he testified that multiple CIA OIG staff, over a period of years, have taken action to challenge and remedy Mr. Sharpley’s wrongdoing.

Our client Mr. Kaplan, a federal investigator who served with distinction for many years, believes on the basis of personal knowledge that there is probable cause to initiate a criminal

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<sup>1</sup>Available at, <https://www.intelligence.senate.gov/hearings/open-hearing-nomination-christopher-sharpley-be-inspector-general-central-intelligence>.

investigation of Christopher R. Sharpley for perjury to Congress.<sup>2</sup> The evidence supporting Mr. Kaplan's belief is described below.

## **II. Summary of misconduct within CIA OIG under Mr. Sharpley's leadership.**

The Committee should be aware of the full scope of accusations and investigations against Mr. Sharpley and the OIG under his leadership, first as Deputy IG, and more recently Acting IG. These include:

- (1) **Evidence tampering in the "Faber" case:** In 2013–14, while Mr. Sharpley was serving as Deputy IG, staff from the CIA OIG fabricated incriminating evidence and withheld exculpatory material in order to obtain a fraudulent conviction in a criminal case prosecuted by the United States Attorney for the Eastern District of Virginia. The underlying CIA OIG investigation, called "Faber," arose out of a False Claims Act civil lawsuit in which American Systems Corp., Anixter International Inc., and Corning Cable Systems LLC ultimately settled for \$3 million paid to the U.S. government [See Exhibit C]. Because the name of the individual defendant in the improper criminal prosecution may still be classified by the CIA, Mr. Kaplan refuses to provide the name in this letter. When several OIG staff discovered this misconduct, they secretly went around OIG leadership (including Mr. Sharpley), and contacted the U.S. Attorney's office directly with their concerns. In that particular case, the defendant's guilty plea had already been accepted by Judge James C. Cacheris, and had to be voided at the request of the U.S. Attorney after learning about the falsified evidence. All the case proceedings were then sealed by the court. Multiple sources have since told Whistleblower Aid that the U.S. Attorney's office for the Eastern District of Virginia was furious, and announced an informal policy of declining new criminal referrals from CIA OIG.
- (2) **Whistleblower identification and intimidation:** Several whistleblowers within CIA OIG reported evidence tampering in the "Faber" case to the Inspector General for the Intelligence Community ("ICIG"), the House Permanent Select Committee on Intelligence ("HPSCI"), and the Senate Select Committee on Intelligence ("SSCI"). Unfortunately, they still have not received a positive resolution. Under the leadership of Mr. Sharpley and Mr. Buckley, no one within CIA OIG was prosecuted or even disciplined for this criminal activity.<sup>3</sup> Under Mr. Sharpley's leadership as Deputy IG, and in violation of U.S. law and policy, CIA OIG staff were specifically instructed never to speak to ICIG investigators without prior permission and monitoring from CIA OIG

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<sup>2</sup>See 18 U.S.C. § 1621 (2017) (criminalizing the act of perjury).

<sup>3</sup>18 U.S.C. §§ 1505, 1519 (2017) (criminalizing obstruction of justice and falsification, fabrication, or destruction of evidence).

leadership. During an ensuing investigation on evidence tampering conducted by the Fair Housing Finance Agency OIG (chosen as an external and presumably, objective, agency), Mr. Sharpley improperly interrupted witness interviews, walking in special designated conference rooms to learn the names of the whistleblowers within his staff who had reported the “Faber” evidence tampering to external oversight bodies.

- (3) **A pattern of reprisals:** Mr. Sharpley successfully identified some (but not all) of the CIA OIG whistleblowers involved in reporting the office’s misconduct to ICIG, HPSCI and SSCI. (Some of the whistleblowers remain employed at CIA OIG and do not wish to have their identities revealed.) Mr. Sharpley and other senior CIA OIG officials retaliated against the whistleblowers he was able to identify in various ways including forced administrative leave, adverse security clearance actions, and other forms of harassment. Our client, Jonathan Kaplan, is only one example. Mr. Kaplan had been an initial investigator on the “Faber” case. In August 2014, Mr. Kaplan met with HPSCI staff to discuss misconduct by Mr. Sharpley and CIA OIG leadership in the “Faber” case and other related matters. Shortly before Mr. Kaplan’s meeting with HPSCI, he accessed a CIA OIG computer system to refresh his memory on the details of the “Faber” case. Then on November 24, 2014, his supervisor Kim McManus—a CIA OIG staffer involved in the improper “Faber” prosecution—issued Mr. Kaplan a formal “Letter of Warning” (“LOW”) and placed it in his security file. The McManus LOW states:

“on 6 August 2014 ... you searched on ‘Faber,’ the last name of a subject previously investigated by OIG... I am issuing this Letter of Warning because you violated OIG policy” [by searching the computer system].

[See Exhibit D, *Letter of Warning from Kim McManus to Jonathan Kaplan*, November 24, 2014]

The McManus LOW, issued while Mr. Sharpley was the Deputy IG, ultimately prevented Mr. Kaplan from renewing his security clearance, and effectively ended his long and distinguished career in government service. Mr. Kaplan believes the McManus LOW was intended by OIG leadership to signal to other prospective whistleblowers that they should stay quiet. Several other whistleblowers suffered serious, career-ending reprisals by Christopher Sharpley and other senior CIA OIG leadership. Ms. McManus was ultimately given a favorable transfer out of CIA OIG to a new government position.

The irony that such malfeasance should occur within the CIA’s Office of Inspector General—created by Congress to be the agency watchdog and to protect CIA whistleblowers—should be lost on no one.

The misconduct described here was part of a larger pattern of incompetence, bullying, and harassment within CIA OIG under Mr. Sharpley's leadership. During this period the Office of Inspector General turned away from complex investigations of overseas CIA covert operations towards easier-to-prove fraud and bribery claims against low-level domestic contractors and vendors. As an example, CIA OIG never conducted any investigation at all into the 2012 Benghazi attacks, or any evaluation of why Ambassador Stevens and two CIA operators were killed during agency operations in Libya. Instead, the CIA's security office was permitted to conduct its own review of itself and its staff. Staff turnover accelerated tremendously under Mr. Sharpley's leadership, and the total number of active investigations (as measured by semi-annual reports to Congressional oversight committees) dropped precipitously. Mr. Sharpley was also involved in the decision to move CIA OIG offices away from the main CIA complex at Langley, to the Dulles Discovery site, a blow to OIG's relevance within the agency. Several CIA OIG staff filed complaints of harassment and discrimination during Mr. Sharpley's tenure.

Our client Mr. Kaplan—and other whistleblowers whose identities are not yet public—followed all the rules and procedures designated by the government. For years, Mr. Kaplan and others have pursued complaints through various supposedly-independent oversight bodies, including the Intelligence Community Inspector General, the House Permanent Select Committee on Intelligence, the Senate Select Committee on Intelligence, and the U.S. Council of the Inspectors General on Integrity and Efficiency (“CIGIE”). Mr. Kaplan also filed multiple complaints with the U.S. Equal Opportunity in Employment Commission.<sup>4</sup> We are aware of no allegations that Mr. Kaplan or any of the other whistleblowers suffering Mr. Sharpley's retaliation have ever improperly disclosed classified information to someone not authorized to receive it.

But the system of U.S. intelligence oversight has failed Mr. Kaplan and others. Despite reports of misconduct from numerous sources within CIA OIG over several years, apparently none of the relevant oversight bodies have taken any remedial action against Mr. Sharpley or other current and former CIA OIG leadership who are responsible. Instead, Mr. Sharpley has been nominated by the President to serve as Inspector General of the CIA, and the Senate is now actively considering his nomination.

### **III. Evidence of perjury by Christopher R. Sharpley**

Mr. Kaplan believes that the following provides probable cause to investigate Christopher R. Sharpley for perjury to Congress:

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<sup>4</sup> The complete EEO filings, which run to thousands of pages, can be provided upon request.

- **Equal Employment Opportunity Commission Case 15-06:** Christopher Sharpley was named as a perpetrator in EEO case 15-06, in which Mr. Kaplan alleged reprisal for communicating directly with the House Permanent Select Committee on Intelligence about the “Faber” evidence-tampering case. As a proposed remedy, Mr. Kaplan’s complaint requested that Christopher Sharpley be required to attend a training class on the Intelligence Community Whistleblower Protection Act. Mr. Sharpley was “Affiant E-4” in EEO case 15-06. (Note the documents in this case were originally classified, but were declassified on February 22, 2016.)
- On September 16, 2016, Mr. Sharpley signed a sworn affidavit [Exhibit E] that reads in part as follows:
  - “I, Christopher R. Sharpley, do hereby solemnly affirm under penalty of perjury that the information I am about to give is true to the best of my knowledge and belief.”
  - “I have been advised that ... the Office of Equal Employment Opportunity, Central Intelligence Agency, Washington D.C. is investigating a complaint of employment discrimination filed by Jonathan Kaplan. ...
  - “I understand that the investigation will address the following issues: ... *reprisal for participating in EEO activity... when ... On 24 November 2014, Kim M. issued Complainant a Letter of Warning (LOW) for violating the Office’s policy concerning accessing and searching information. ...*” (emphasis added.)
  - In response to a question “Have you ever been accused of harassment or retaliation for protected EEO activity previously?”, Mr. Sharpley answered: “Yes” but denied all allegations.
  - In 2016, the EEO closed case 15-06 with no findings on the merits, arguably consistent with Mr. Sharpley’s denials of any knowledge about “open” investigations.
  - But in his sworn Congressional testimony, Mr. Sharpley went even further, denying knowledge of “any” complaints in which he is named. Mr. Sharpley misled the committee about the history of reprisal accusations against him.
- **“Ongoing” & “Open” Reprisal Complaint with ICIG:** On December 2, 2014, while Mr. Sharpley was Deputy IG and about one month before Sharpley became Acting IG,

Mr. Kaplan submitted a formal complaint of reprisal to the Investigations Division of the Inspector General of the Intelligence Community [Exhibit F]. The complaint reads:

- “By this letter I wish to formally file a complaint of Whistleblower Reprisal and report a violation of the Intelligence Community Whistleblower Protection Act (ICWPA) by the Central Intelligence Agency’s Office of Inspector General.”
- “On 24 November 2014 ... McManus stated that I was being issued a Letter of Warning (LOW) for violating the Office’s policy concerning accessing and searching [the computer systems].”
- “The first search presumably occurred on 6 August 2014, and **revealed that the keyword “Faber”** was associated with this search.” (emphasis added)
- “The ... [“Faber”] search I am accused of conducting **was associated with my meeting with HPSCI Staffers** and the document I provided Congress had resided on an OIG owned file server and **I had vetted its release through the Agency’s Office of Congressional Affairs.**” [emphasis added]
- “In or about February 2013, I wrote a Letter of Urgent Concern to the [Congressional] oversight committees in which I raised ... potential criminal conduct by David B. Buckley ... and his subordinates. In the summer of 2013, I was interviewed by Staffers from both oversight committees.”
- “In or about May 2014, I wrote a second Letter of Urgent Concern to the committees regarding irregular personnel actions and potential reprisal against two of my colleagues that had made protected communications.”<sup>5</sup>
- “In or about June 2014, I met with [...] Deputy Counsel for IC/OIG, and reported potential investigative misconduct by CIA’s OIG. **In early August 2014, I met with Staffers from the House Permanent Select Committee for Intelligence and provided information of potential withholding of material evidence in the ‘Faber’ case...**” [emphasis added]
- Mr. Kaplan’s December 2, 2014 reprisal complaint to ICIG against Mr. Sharpley and other CIA OIG leadership **remains active and open**. Mr. Kaplan has reason to believe

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<sup>5</sup> Mr. Kaplan is referring to two other whistleblowers involved in the “Faber” case whose identities are not yet public. Their associated reprisal complaint(s) against Mr. Sharpley remain active, but are beyond the scope of this letter.

that Mr. Sharpley was informed about the complaint and possibly even responded to a request for evidence from the ICIG. However, to protect sources, Mr. Kaplan declines to state the factual basis for his belief in this letter. Mr. Kaplan is willing to provide additional evidence to federal criminal investigators in a secure environment.

Whistleblower Aid is aware of other individuals with open reprisal claims against Mr. Sharpley. One of them, Andrew Bakaj, is also our client. Mr. Bakaj submitted a letter to Congress on October 23, 2017 outlining his related concerns with Mr. Sharpley's nomination. That letter contains further evidence that Mr. Sharpley was fully aware of the active investigations against him at the time of his testimony.

Our clients Mr. Kaplan and Mr. Bakaj, and Whistleblower Aid legal partner Mark S. Zaid, are interested in meeting with you or your staff at your earliest convenience to discuss these matters. We suggest secure communications with Signal encrypted phone app, on [REDACTED]

Sincerely,



John Napier Tye, Esq.  
Executive Director, Whistleblower Aid

Enclosures

- Exhibit A: *Investigations Award* for Jonathan Kaplan, December 1, 2009
- Exhibit B: *Letter of Congratulations* from DCI Leon Panetta to Jonathan Kaplan, December 17, 2009
- Exhibit C: *CIA Contractors Settle Hooters, Blue Man Group Kickback Case*, Huffington Post, 11 March 2013
- Exhibit D: *Letter of Warning from Kim McManus to Jonathan Kaplan*, November 24, 2014
- Exhibit E: *Sworn Affidavit of Christopher R. Sharpley*, EEO Case 15-06, Affiant E-4, 16 September 2015
- Exhibit F: *Formal Complaint of Reprisal from Jonathan Kaplan*, submitted to Investigations Division, Inspector General of the Intelligence Community, 2 December 2014



cc: The Honorable Mitch McConnell, Senate Majority Leader  
The Honorable Charles E. Schumer, Senate Minority Leader  
The Honorable Charles E. Grassley, Chair, Whistleblower Protection Caucus  
The Honorable Ron Wyden, Vice Chair, Whistleblower Protection Caucus  
The Honorable Dianne Feinstein, Senate Select Committee on Intelligence  
The Honorable Kamala Harris, Senate Select Committee on Intelligence  
Intelligence Community Inspector General  
Department of Homeland Security, Office of the Inspector General  
Mark S. Zaid, Founding Legal Partner, Whistleblower Aid  
Andrew P. Bakaj, Esq.  
Jonathan H. Kaplan

**Whistleblower Aid is a project of Values United, a U.S. tax-exempt, 501(c)(3) organization,  
EIN 26-4716045.**

WhistleblowerAid.org  
Anonymous access via Tor browser: [WBaidLaw6quwv7h3.onion](http://WBaidLaw6quwv7h3.onion)  
Contact via SecureDrop over Tor: <http://uwd57qermcote3au.onion>

EXHIBIT

A

# *The United States of America*



## *Intelligence Community Inspectors General Investigations Award*

*is hereby presented to*

*Jonathan H. Kaplan*

*in recognition of his superior performance during the prosecution of a former Central Intelligence Agency Executive Director. Mr. Kaplan assisted in the prosecution of the former Executive Director for allegations of criminal activity. He and other members of the Central Intelligence Agency Office of Inspector General teamed with other government agencies and the United States Attorney's Office to gather, examine, and process thousands of classified documents. The investigation led to the resignation of the former Executive Director, an indictment, and subsequent guilty plea. Mr. Kaplan's accomplishments reflect the highest credit on himself, the Central Intelligence Agency, and the Intelligence Community.*

*December 1, 2009*

*Roslyn A. Mazer*

*Roslyn A. Mazer*  
Inspector General

*Office of the Director of National Intelligence*

EXHIBIT

B

CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C. 20505

DEC 17 2009

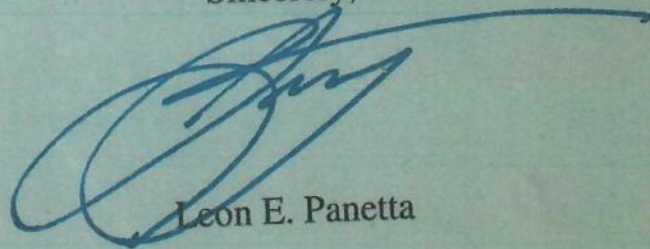
Mr. Jonathan H. Kaplan  
Central Intelligence Agency

Dear Jonathan,

I want to personally congratulate you on the recent commendation you earned for your work on a sensitive investigation. Earning the "Investigations Award" is an outstanding achievement and a testament to your dedication, professionalism and hard work. I recognize this complex investigation involved tireless hours of teamwork and diligence, and I appreciate your tremendous effort to ensure the integrity and accuracy of the process.

Sincerely,

*Congratulations!*



Leon E. Panetta

id in 2006 & Arraignment in 2007



EXHIBIT

C

POLITICS

03/08/2013 12:29 pm ET **Updated** Mar 11, 2013

## CIA Contractors Settle Hooters, Blue Man Group Kickback Case

By Ryan J. Reilly

WASHINGTON — Three companies have agreed to pay the government \$3 million for showering Central Intelligence Agency employees with tickets to sporting events and concerts; golf, fishing, and hunting excursions; and drinks and meals at restaurants like Hooters in an attempt to win contracts to provide cabling and wiring at CIA facilities.

American Systems Corp., Anixter International Inc. and Corning Cable Systems LLC reached an agreement with the Justice Department to resolve violations of the False Claims Act and Anti-Kickback Act, the DOJ announced Thursday. The allegations were brought forward in a whistleblower suit filed by former Anixter sales representative William Jones, who will receive \$585,000 of the government's recovery under a provision of the False Claims Act.

In his December 2011 lawsuit, Jones alleged that nine CIA employees received expensive gifts from contractors trying to win bids for building projects nicknamed "Falcon" and "Buckeye."

CIA employees were treated to Red Sox, Cubs and Nationals baseball games; NASCAR events; trips to Boston, New Hampshire, North Carolina, Texas, Mexico and Myrtle Beach; Blue Man Group concerts; hunting trips and "scores of meals, drinks and snacks" at "numerous restaurants, bars and coffee shops" including Hooters and Famous Dave's, Jones alleged.

One of the contractors, American Systems Corp., even gave a job to the stepson of CIA employee Daniel Faber, according to Jones's lawsuit.

A CIA spokeswoman said the agency had no comment on the suit or the nine CIA employees accused of receiving the kickbacks. David Samuel Panzer, a lawyer representing Jones, had no immediate comment.

**UPDATED:** A CIA spokesman's full statement: "The CIA has a rigorous process for ensuring that any allegation of misconduct is thoroughly investigated and that our officers uphold the highest ethical and professional standards. Allegations of misconduct are reviewed by management, referred to the Inspector General, or, in cases involving the potential violation of federal law, referred to the Department of Justice. If a determination is made that an Agency officer violated the public trust, appropriate action will be taken. This case remains under review internally, and it would be inappropriate to provide any additional details at this time."

EXHIBIT

D



November 24, 2014

MEMORANDUM FOR: Jonathan Kaplan, Special Agent (SA) Headquarters Operation Division

FROM: Kim McManus, Special Agent in Charge (SAC), Headquarters Operation Division

SUBJECT: (U) Letter of Warning: Violation of OIG Policy Concerning Accessing and Searching

1. [REDACTED] During a routine audit of CAESAR search logs, two searches associated with KAPLANJO were identified for further review. The first search occurred on 6 August 2014, and revealed that you searched on "Faber," the last name of a subject previously investigated by OIG. The second search occurred on 29 October 2014, and revealed that you conducted a search of your own name, "Kaplan." Both searches occurred in CAESAR, the OIG/INV case management system.
2. [REDACTED] On 17 November 2014, you were advised of the audit results indicating a search for "Faber" and "Kaplan" under your account. Management did not authorize the searches. You stated that you could not recall conducting the searches and you provided no reasonable explanation to justify the searches. I am issuing this letter of warning because you violated OIG policy and guidance twice in the past several months knowing that the policy prohibits accessing materials for non-business purposes to include searches for self and others, as well as "trolling" of databases or file systems. These are serious violations and a repeat offense could lead to serious consequences. You are reminded of the entrusted role you have as an OIG Special Agent and the expectation that you will abide by OIG policies and guidance.
3. (U//AIUO) This memorandum will remain in your DIR/OIG/INV personnel file for one year. If no further incidents occur during that time, the memorandum will be removed and destroyed. Failure to adhere to the OIG policies and procedures governing accessing and searching databases and records will make you subject to official action of a more severe nature.

Acknowledgment:

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Kim McManus, SAC HQSOPS

Jonathan Kaplan

Date

EXHIBIT

E

2 December 2014

Mr.  
Inspector General of the Intelligence Community  
Investigations Division  
Reston 3  
Washington, D.C. 20511

SUBJECT: Formal Complaint of Reprisal

1. (U) By this letter I wish to formally file a complaint of Whistleblower Reprisal and report a violation of the Intelligence Community Whistleblower Protection Act (ICWPA) by the Central Intelligence Agency's Office of Inspector General. On 24 November 2014, Kim M. McManus, Special Agent in Charge (SAC) for Headquarters Operations Section, Investigations Staff, Office of Inspector General, Central Intelligence Agency (CIA), contacted me via secure email and told me to report to Dulles Discovery Three (DD3). Upon arriving at DD3, McManus directed me to a conference room and we were joined by Patrick Craddock, Assistant SAC for Intelligence and Integrity Investigations. McManus stated that I was being issued a Letter of Warning (LOW) for violating the Office's policy concerning accessing and searching. McManus did not provide any proof of my having violated said policy and I denied any wrongdoing. Issuance of the LOW was a direct threat to my retention of a Top Secret security clearance and came days after I was informed by Deborah Cline, Executive Officer for Investigations Staff, that I would not be interviewed for a vacancy I had applied to. These adverse personnel actions are a continuation and an escalation of retaliation I have endured after making protected disclosures to the Senate and House Intelligence Oversight Committees, the Inspector General of the Intelligence Community, and senior CIA management.

2. (U) The LOW stated that, during a routine audit of the OIG's Case Administration and Evidence Status Reporting system, two searches associated with userid KAPLANJO [Note: my userid is KAPLNJO] were identified for further review. The first search presumably occurred on 6 August 2014, and revealed that the keyword "Faber" was associated with this search. The second search reportedly occurred on 29 October 2014 and alleges that I had searched upon my own name. The LOW does not cite which OIG policy I presumably violated or what elements of said policy were not adhered to. I am unaware of any relevant policy that would be applicable given the alleged offenses. There is OIG 21-1 (U) *Access Control for Agency Databases, Research Applications, and Information Systems Owned by Outside Components*. However, it only applies to information systems outside of the OIG. The first search I am accused of conducting was associated with my meeting with HPSCI Staffers and the

document I provided Congress had resided on an OIG owned file server and I had vetted its release through the Agency's Office of Congressional Affairs. Although I have no recollection of the second alleged search, it too was on an OIG owned information system. Therefore, I find the issuance of the LOW to be without merit and believe it was concocted in reprisal as a harassing tactic to demoralize and intimidate me.

3. (U) As background: In or about February 2013, I wrote a Letter of Urgent Concern to the oversight committees in which I raised abusive management practices, cronyism, and potential criminal conduct by David B. Buckley, Inspector General (IG) for the CIA and his subordinates. In the summer of 2013, I was interviewed by Staffers from both oversight committees. In or about May 2014, I wrote a second Letter of Urgent Concern to the committees regarding irregular personnel actions and potential reprisal against two of my colleagues that had made protected communications. In or about June 2014, I met with Paul J. Wogaman, Deputy Counsel for IC/OIG, and reported potential investigative misconduct by CIA's OIG. In early August 2014, I met with Staffers from the House Permanent Select Committee for Intelligence and provided information of potential withholding of material evidence in the "Faber" case that would have exonerated seven industrial contractors that had their security clearances revoked and employment terminated. Note: I had waived "confidentiality" for each of these protected communications and on several occasions had informed McManus and other colleagues that I had reported wrongdoing to the appropriate authorities. Further, I had filed an age discrimination and hostile workplace complaint against CIA's OIG management team with the CIA's Office of Equal Employment Opportunity (OEEEO) in April 2013 (OEEEO Case Number: 13-21) that is awaiting final adjudication. OIG management was interviewed by an OEEEO Investigator and was therefore witting of my complaint.

4. (U) I allege that Buckley, Christopher R. Sharpley, Deputy Inspector General (DIG), Howard W. Cox, Assistant Inspector General for Investigations (AIGI), have created a hostile work environment and empowered subordinates McManus and Craddock to create derogatory documents that defame my reputation because I engaged in protected activities and made disclosures to Congress. I allege that Cox has interfered with my opportunities for career advancement in retaliation for making disclosures. In his testimony to OEEEO, Cox stated that in 2013 he did not interview me for a SAC vacancy—because, in his opinion, I was not qualified. However, OEEEO's Report of Investigation indicated that I possessed more managerial experience than any other applicant. Special Agent Anthony J. Cipparone was among those applicants OEEEO had compared my experience level to. In or about October 2014, I applied to a vacancy notice for the position of Deputy AIGI, but was told in November 2014 that I was being denied an interview. However, Cipparone was interviewed for said vacancy. The fact an employee of lesser experience was interviewed and I was not indicates bias/reprisal. It is my perception that I have been unjustly denied opportunities for career progression. OIG management's actions affected the terms and conditions of my employment and have frustrated my efforts to perform my duties—making my job impossible in an apparent attempt to force my early separation from the Agency.

5. (U) I allege that Buckley, Sharpley, Cox, McManus, and Craddock engaged in a pattern of retaliatory conduct that has violated:

**(U) Pertinent Federal and Agency Regulations—**

- (U) Presidential Policy Directive 19 (PPD 19) expressly prohibits retaliation against any officer or employee of a covered agency within the IC, prohibits retaliation by affecting eligibility for access to classified information, and allows for employees who allege reprisal to request an external review by a three-member Inspector General panel if the applicable review process is exhausted. PPD 19 states in part,

This Presidential Policy Directive ensures that employees (1) serving in the Intelligence Community or (2) who are eligible for access to classified information can effectively report waste, fraud, and abuse while protecting classified national security information. It prohibits retaliation against employees for reporting waste, fraud, and abuse.

- (U) The Intelligence Community Whistleblower Protection Act (ICWPA) of 1998 provides a secure means for employees to report matters of “urgent concern” to the intelligence committees of Congress and allegations regarding classified information. ICWPA contains no explicit mechanism for obtaining a remedy for retaliation stemming from disclosure of an urgent concern to Congress. It merely allows an IC whistleblower who has faced an adverse personnel action because he disclosed an urgent concern to the congressional intelligence committees to then use the ICWPA’s disclosure procedures to inform the committees of the retaliation.

Executive Order 12674, *Principles of Ethical Conduct for Government Officers and Employees*, specifies in part that “employees shall endeavor to avoid any actions creating the appearance that they are violating the law or ethical standards.”

6. (U) The US Office of Government Ethics (OGE), *Standards of Ethical Conduct for Employees of the Executive Branch*, and Agency Regulation (AR) 13-2(j)(l), *Misuse of Position*, specify that an employee shall not use his office for the private gain of friends with whom the employee is affiliated, or to give preferential treatment to a friend. In particular,

- AR13-2, Conflict of Interest, Lack of Impartiality...Misuse of Position..., cites federal law and policy on federal ethics regulations, including conflict of interest and lack of impartiality. AR 13-2(c)(6), *Standards of Official Conduct*, specifies that all Agency employees must adhere to the *Standards of Ethical*

Conduct for Employees of the Executive Branch, which in part, governs impartiality in performing official duties and misuse of position. AR 13-2(d)(l) specifies that "Agency employees are expected to act impartially in the performance of their duties and not to give preferential treatment to any private organization or individual." In addition, AR 13-2(j)(l), Misuse of Position, specifies that an employee shall not use his office for "...the private gain of friends, relatives, or persons with whom the employee is affiliated."

7. (U) The *Standards of Ethical Conduct for Employees of the Executive Branch*, published by OGE, is codified in Title 5 C.F.R. Pertinent are:

Title 5 C.F.R. § 2635, 101, which requires that employees avoid any actions that create the appearance that they are violating the law or ethical standards for federal employees.

Title 5 C.F.R. § 2635.502 also requires employees whose duties would affect the financial interests of a friend, relative, or person with whom he is affiliated in a nongovernmental capacity to determine whether the circumstances of a matter would cause a reasonable person with knowledge of relevant facts to question their impartiality and if so, to not participate in the matter.

Title 5 C.F.R. § 2635.701, Use of public office for private gain, specifies in part: An employee shall not use his public office for his own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations.

Title 5 C.F.R. § 2635.702(d), Performance of official duties affecting a private interest, provides: To ensure that the performance of his official duties does not give rise to an appearance of use of public office for private gain or of giving preferential treatment, an employee whose duties would affect the financial interests of a friend, relative or person with whom he is affiliated in a nongovernmental capacity shall comply with any applicable requirements of [5 C.F.R. § 2635.502].

8. (U) To the layperson these individual acts may appear to be the result of crass individuals or an uncomfortable working environment, but I allege the perpetrators [Buckley, Sharpley, Cox, McManus, and Craddock] are highly knowledgeable of

investigative techniques and have conspired to skillfully craft these harassing tactics as pretext to avoid detection. It is only when these acts are viewed in the collective that a pattern is revealed that demonstrates that Buckley and his subordinates have created a dysfunctional office environment in which managers routinely berate and belittle personnel, show contempt for the abilities of career government professionals, cause staff to fear coming to work, and engaged in acts of reprisal/retaliation for having made disclosures that afford transparency into OIG operations. I allege these adverse personnel actions were an effort by Buckley and/or his subordinates to quash further dissent by senior officers of the CIA.

**(U) PROPOSED REMEDIES—**

9. (U) Per John Brennan, Director of Central Intelligence statement to CIA employees on 18 March 2013, "You have my assurance that I and my senior leadership team will not tolerate any acts of reprisal...Harassment and discriminatory practices are incompatible with our Agency's mission and simply have no place at CIA..."

10. (U) Therefore, I seek the following resolutions and/or remedies:

- Harrassing behavior must stop!
- An examination of the matters raised here to determine the appropriateness and legality of the actions taken.
- Establish a meaningful oversight mechanism to ensure that all of the Inspector General's management practices and assignment processes are transparent and fair, free of bias and discrimination, and in accordance with laws and regulations.

**(U) Punitive Remedies—**

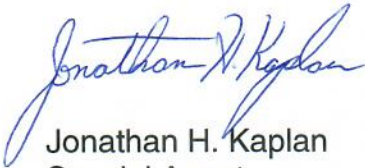
- David B. Buckley, Christopher R. Sharpley, Howard W. Cox, Kim M. McManus, and Patrick Craddock be required to attend IC Whistleblower Protection Act training and then instruct employees on the ICWPA.
- One Year Letter of Reprimand to be placed in the personnel file of: Buckley, Sharpley, Cox, McManus, and Craddock. Each to be prohibited from receipt of Awards and Promotions for One Year.

**(U) Liquidated damages—**

- Any and all references to a Letter of Warning are to be expunged from Agency records and a letter on Agency letterhead to be provided to Complainant verifying their record has been expunged.

11. This Memorandum contains information protected by the Privacy Act. You should consult with the Office of General Counsel prior to further dissemination of any information to ensure compliance with the Privacy Act.

Respectfully,



Jonathan H. Kaplan  
Special Agent  
Headquarters Operations Section  
Investigations  
Office of Inspector General  
Central Intelligence Agency



EXHIBIT

F

SECRET

APPROVED FOR LIMITED RELEASE - MAY CONTAIN PII - 2/22/16

E-4

## Sworn Statement

EEO Case No. 15-06

(U) I, Christopher [ ] SI [ ] do hereby solemnly affirm under penalty of perjury that the information I am about to give is true to the best of my knowledge and belief.

(U) I have been advised that Kathryn Ramchand of the Office of Equal Employment Opportunity, Central Intelligence Agency, Washington, D.C., is investigating a complaint of employment discrimination filed by Jonathan Kaplan under Title VII of the Civil Rights Act of 1964, as amended, and provided for under Title 29 of the Code of Federal Regulations, section 1614. I understand that my answers should reflect my own recollections and perceptions of the event(s) in question. In addition, I must take care that I do not disclose either the questions asked or my responses to any potential witness. I will not coordinate my response with or submit it through my normal management approval/release channels. I will return the signed affidavit to Kathryn Ramchand.

(U) I understand that the investigation will address the following issues:

Issue and Basis 1: Complainant alleges harassment leading to hostile work environment on the basis of reprisal for participating in EEO activity by Office of Inspector General managers David B., Christopher S., Kim M., and Howard C. when from July 2014 to December 2014 the following occurred:

- a. In or about July 2014, Complainant's managers referred him to the Office of Security, resulting in a six-plus hour Security interrogation.
- b. On 24 November 2014, Kim M. issued Complainant a Letter of Warning (LOW) for violating the Office's policy concerning accessing and searching information on himself.
- c. In November 2014, Howard C. denied Complainant an interview for the Deputy Assistant Inspector General for Investigations position for which Complainant applied.
- d. On 4 December 2014, Kim M. threatened to document Complainant for failing to meet case completion deadlines for his assigned cases.

Issue and Basis 2: Complainant alleges discrimination on the basis of reprisal for participating in previous EEO activity when in November 2014 Howard C. denied Complainant an interview for the Deputy Assistant Inspector General for Investigations position for which Complainant applied.

Issue and Basis 3: Complainant alleges discrimination on the basis of reprisal for participating in prior EEO activity when on 3 January 2015 David B., Christopher S., Kim M., Anthony C., Chad S., Pat C., and Howard C. caused his constructive discharge.

(U) Important Reminders:

(U//FOUO) Please correctly portion mark your Statement/Answers and classify the Statement correctly - ensuring all answers are at the SECRET or below level - with NO compartmented information.

(U) Please answer the following questions:

1. (U) Please state your name, position, grade, directorate/component at the time of the alleged incidents

(July - December 2014). Please state your current position, if different.

(U) Response: Christopher [redacted] SIS, CIA Office of Inspector General (OIG) Deputy Inspector General. I am currently the CIA OIG Deputy Inspector General.

2. (U) Please state the name and position of both your first- and second-line supervisors at the time of the alleged incidents.

(U) Response: My first line supervisor was the honorable David B. Buckley, Inspector General. His supervisor was the President of the United States, through the Director CIA.

3. (U) Please state your relationship to Complainant.

(U) Response: Complainant was assigned to the OIG investigative staff, five subordinate levels down the command/supervisor structure within the OIG.

4. (U) Are you aware of Complainant's prior participation in protected EEO activities? If yes, please provide the date you become aware of Complainant's prior participation in protected EEO activities, describe how you were made aware, and indicate what you know the prior activities to be. Please state your role, if any, in Complainant's prior activity.

(U) Response: I am aware of complainant's previous EEO complaints but I do not recall the dates of my becoming aware, there were several. I completed affidavits and was questioned about the complaints as a witness. As I recall,



(U) Response: No, not directly. Complainant was referred to security by the Assistant Inspector General for Investigations (AIGI), Howard C. [redacted] as I recall. He informed me at some point that he had referred complainant. Mr. C. [redacted] advised that complainant had accessed OIG files against OIG policies. That's the extent of my direct knowledge. I empowered my direct report managers to make appropriate decisions with respect to staff assigned in their area of responsibility.

1b: On 24 November 2014, Kim M. issued Complainant a Letter of Warning (LOW) for violating the Office's policy concerning accessing and searching information on himself.

8. (U) Please state when and how you first became aware of this matter.

(U) Response: Again, beyond what you have provided, I do not have a recollection of when I became aware of this. Mr. C. [redacted] informed me that his office was issuing a LOW to complainant either the day it occurred or soon after, to the best of my recollection.

9. (U) Did you play any role or do you have any firsthand knowledge about the issuance of the LOW, to include but not limited to directing, advising, coordinating or concurring on either the contents or the decision to issue a LOW? If yes, please describe your knowledge or involvement in detail, explaining why you took any actions you did.

(U) Response: Supervision of the Investigations Staff was the responsibility of AIGI C. [redacted] Mr. C. [redacted] informed me that he had issued a LOW to complainant, but did not seek my permission. That decision was his and other manager's on the Investigations' staff. I had no direct involvement other than the above.

Issues and Basis 1c and 2: In November 2014, Howard C. denied Complainant an interview for the Deputy Assistant Inspector General for Investigations position for which he applied.

10. (U) Did you play any role in the determination of whether or not to interview Complainant for the Deputy Assistant Inspector General for Investigations position? If yes, please explain fully your role.

(U) Response: No.

11. (U) If you played a role, what did you recommend regarding whether Complainant should be interviewed for the position? Please state you made the recommendation you did, including on what criteria you based your recommendation. Please be specific.

(U) Response: N/A.

1d: On 4 December 2014, Kim M. threatened to document Complainant for failing to meet case completion deadlines for his assigned cases.

12. (U) Please state when and how you first became aware of this matter.

(U) Response: I do not recall ever having heard this. Managers are responsible for managing the Investigations caseload and the activities of assigned staff. If there was a problem in this regard I do not believe it unreasonable that complainant's supervisor would have explained the consequence of sub-par performance, if that's what is being alleged.



13. (U) Did you play a role, to include but not limited to directing, advising, coordinating or concurring on a decision to tell Complainant that he would be documented for failing to meet case deadlines? If yes, describe your role in detail and explain fully why you took the actions you did. Provide documentation, as available, stating the Tab at which it is attached.

(U) Response: No.

14. (U) Is there an office policy regarding case deadlines and/or consequences for not meeting deadlines? Please explain it and provide documentation, stating the Tab at which it is attached.

(U) Response: There are policies. I do not recall its specifics off hand. But such policies are in line with investigative standards across the Inspector General community. This is a question best directed to Mr. C

Claim 3: Complainant alleges discrimination on the basis of reprisal for participating in prior EEO activity when on 3 January 2015 David B., Christopher S., Kim M., Anthony C., Chad S., Pat C., and Howard C. caused his constructive discharge.

15. (U) When did you become aware of Complainant's intended resignation/retirement? Please describe the circumstances in detail.

(U) Response: I do not recall the exact date, only that I was informed by either Mr. C  that complainant had shown up one day and said he was retiring, without prior notice.

16. (U) The Complainant alleges that OIG managers conspired to retaliate against him for his EEO activity and to make his working conditions such that it would force his resignation/retirement. Please respond.

(U) Response: I am unaware of any conspiracy or efforts by managers or anyone else to make conditions difficult for complainant.

17. (U) Did you ever reference Complainant's eligibility to retire or planned retirement? If yes, please explain thoroughly the context in which these items came up.

(U) Response: No.

18. (U) Complainant alleges that, as Head of the Career service, you failed to enforce personnel policies that would have ensured fair and unbiased treatment, and failed to address numerous complaints of discrimination and criminal wrongdoing, therefore contributing to Complainant's alleged constructive discharge. Please respond.

(U) Response: I was not head of the career service, the Inspector General was. Complainant's comments are ambiguous and general, and I disagree with them in general.

19. (U) Were Complainant's coworkers subjected to the same conditions as Complainant? Were the Complainant's working conditions (deadlines, management oversight, etc.) less favorable than other employees? Please respond in detail.

(U) Response: To my knowledge, and certainly it was my expectation that all Investigations staff were subject to the same policies and working conditions.

20. (U) Complainant indicates that immediately prior to his decision to retire, he was subjected to the same conditions that led to Valerie C. and Andrew B. being walked out of the building and being placed on Administrative Leave. To your knowledge, was the Complainant being evaluated for placement on Administrative leave and/or being escorted from the building? Please respond in detail, including how you know what you do and your role in the decisions, if any.

(U) Response: No, he was not, to my knowledge.

21. (U) Please compare the situations of Valerie C. and Andrew B. to that of the Complainant. Please note how they are similar and how they are different, and note whether you are aware of protected EEO activity on the part of either Valerie C. or Andrew B.

(U) Response: It would be inappropriate for me discuss other staff and/or their circumstances, either for the named individuals or anyone else. To my knowledge, and certainly it was my expectation that all Investigations staff were subject to the same policies and requirements.

22. (U) Do you know of other employees in the Office of the Inspector General who retired earlier than originally planned within the past 3 years? If yes, please provide the names and state whether they were subject to the same conditions as Complainant and whether they had participated in prior EEO activity.

Affiant's Initials

[Empty box for Affiant's Initials]

(U) Response: You are implying that complainant retired earlier than he planned. I cannot speak to that with any insight. Nor do I have insight on such circumstances regarding other OIG staff who have retired.

23. (U) Do you know of other employees in the Office of the Inspector General who participated in EEO activity but were not subject to the same conditions as Complainant and/or did not resign/retire?

(U) Response: No.

24. (U) Was Complainant considered for any career service awards? Please explain thoroughly why or why not, and explain how complainant's career history aligns with the criteria for the various career service awards. Attach documentation, as available, stating the Tab at which it is attached.

(U) Response: I do not know. Initial consideration for such awards would be generated initially within the Office of Investigations. This question is best directed to Mr.

General Questions:

25. (U) Are you aware of the Agency's anti-harassment policy? If yes, please state how you know and what you know it to be, including what you understand management responsibilities to be.

(U) Response: I am generally aware of it. If a matter was brought to my attention that required my heightened awareness of the Agency's anti-harassment policies, or any other of the Agency's myriad policies, I would familiarize myself with them thoroughly. When management becomes aware of possible harassment it is required to intervene and stop

that harassment, and seek assistance from the OMBE on how to further proceed.

26. (U) Did Complainant make known to you that he considered any of the alleged incidents describes in claims 1a-1d, harassing, hostile, offensive, or retaliatory for his engagement in protected EEO activity? If yes, please explain in detail.

(U) Response: No. Your request for this affidavit/statement regarding these new allegations was the first I am aware of them.

27. (U) If yes, did you take action in response to Complainant's claim of a hostile work environment/harassment/retaliation for protected EEO activity? Please explain fully.

(U) Response: N/A.

28. (U) Have you ever been accused of harassment or retaliation for protected EEO activity previously? If yes, please explain fully.

(U) Response: Yes, by virtue of my position, when individuals allege harassment or retaliation within the OIG they will typically include me as one of the offenders. I have never engaged in harassment nor have I retaliated against anyone. I have never been found to have done so in 33 years of honorable civil and military service.

29. (U) Did you take any of the actions at issue in this investigation to harass, discriminate or retaliate against Complainant on the basis of his involvement in protected EEO activity?

(U) Response: No.

30. (U) Do you have any reason to believe that any other Agency officials took any of the actions at issue in this investigation to harass, discriminate or retaliate against Complainant on the basis of his involvement in protected EEO activity?

(U) Response: No.

31. (U) Did you take any actions to force or encourage Complainant to resign/retire? If yes, did you take any of these actions to retaliate against Complainant for his participation in prior protected EEO activity?

(U) Response: No.

32. (U) At any point, have you heard Agency management officials involved in the actions at issue make reference to Complainant's EEO activity? If yes, provide the name of the official, what was said, when it was said, who was present, and any other relevant context.

(U) Response: No.

33. (U) Can you suggest witnesses not previously named in this affidavit who can provide relevant information? If yes, identify by name, title, and nature of information to be provided.

(U) Response: I know of no others.

34. (U) Is there any additional information, to include documentation that is relevant to this investigation that has not been included above? If so, please describe and

clearly state how it applies to the alleged discriminatory events. If additional information is documentary, please state the Tab at which it is attached.

(U) Response: None that I have not already provided in statements associated with complainant's many other complaints.

(U) I have read this entire statement, consisting of 13 pages, including this page, any attachments, and any identity lists. I hereby solemnly swear or affirm under penalty of perjury that the information I have provided is true and complete to the best of my knowledge and belief. I understand that the information I am providing is not privileged and may be shown to parties having a legitimate interest.

Christopher S. [Signature]

Executed on: 16 SEP 15