

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Richard A. Horn,)	
)	Case No. 1:94-CV-1756 (RCL)
)	
Plaintiff,)	
)	
v.)	
)	
Franklin Huddle, Jr., <i>et al.</i> ,)	
)	
Defendants.)	

DECLARATION OF JEFFREY W. YEATES

I, Jeffrey W. Yeates, hereby declare under penalty of perjury as follows:

My Background

1. I am 37 years old. I was born and raised in Virginia. I currently reside in Arlington, Virginia with my wife and five year old daughter. I have been employed with the Central Intelligence Agency (“CIA”) for approximately eight years.

2. After graduating with a Bachelor of Arts degree from Brigham Young University in 1997, I returned to Virginia to attend law school at the College of William & Mary with the intention of seeking a public service job following graduation. During the summer after my second year of law school, I interned in the Office of General Counsel (“OGC”) of the CIA and had a very positive experience. I was pleased to receive an offer to return following my graduation from law school. After completing my law degree in 2000, William & Mary awarded me a fellowship to study at the University of London for a year, which I did, completing an L.L.M. from the University of London in the spring of 2001.

My Employment With The CIA

3. In September 2001, I began work at the CIA as an Honors Attorney. The Honors Program is a three year program for attorneys who recently have graduated from law school. For my first year and a half at the CIA, I was assigned to the Community Management Division of the CIA.

4. In May 2003, I requested the opportunity to obtain litigation experience and was transferred to the Litigation Division of OGC, where I served as a line attorney until October 2005. At that time, the Litigation Division was headed by a Chief, then Robert Eatinger, supervising approximately 8 to 10 line attorneys, each of whom typically was responsible for approximately thirty to fifty matters, including active litigation.

5. Having stayed in the Litigation Division beyond the typical one-and-a-half year assignment for an Honors Attorney, in October 2005, I was assigned to the Intelligence Support Division of OGC. Following my year there, based on my previous experience with several Title VII cases while in the Litigation Division, OGC requested that I accept an assignment with the CIA's Office of Equal Employment Opportunity. After a year there, in October 2007, I accepted an assignment to the National Clandestine Service ("NCS") Counter-Proliferation Division, where I worked until October 2009. Based on my experience and performance in that position, I was recently asked to accept an assignment to a different NCS division where I am working on counter-terrorism issues.

My Involvement With The *Horn* Matter

6. In approximately October 2003, several months after I was assigned to the Litigation Division, the Division Chief, Robert Eatinger, assigned me to *Horn v. Huddle*, 1:94-cv-1756 (D.D.C.), a case that had been filed almost ten years earlier. As was typical with the re-

assignment of any case, Mr. EATINGER gave me some general background, including that the United States had asserted a State Secrets Privilege based on classified information at issue in the case. I recall that Mr. EATINGER explained that at this stage of the case, OGC's primary task was to coordinate the classification review of periodic case filings with the Department of Justice attorney, Assistant United States Attorney Lisa Goldfluss. AUSA Goldfluss was responsible for the conduct and strategy of the *Horn* litigation on behalf of the United States and was personal counsel for the two individual Defendants for a number of years prior to my assignment and continued in that role during the time I was assigned to the case.

7. Thereafter, filings in the *Horn* case were periodically, but infrequently, provided to me by AUSA Goldfluss. My recollection is that a filing for classification review in the *Horn* matter came in, at most, every six months, as the case was not particularly active during the time that I was assigned to it. However, I do not have any independent recollection of assisting with the classification review for any specific filings in the *Horn* case.

8. I do not have a specific recollection of the events discussed in ¶¶ 9-13 below, all of which occurred almost five years ago. Rather, I reconstructed the events described in these paragraphs from a limited and brief review in March 2008 of the OGC case file in the *Horn* matter and my own notes and internal office e-mails. I undertook this review at the direction of John McPherson, then OGC Chief of the Litigation Division, in connection with an internal OGC review of its handling of the *Horn* matter. I have not had access to the OGC case file since March 2008 and have not been authorized to show my counsel my notes or e-mails.

9. In approximately January 2005, Ms. Goldfluss apparently faxed OGC a draft Motion for Summary Affirmance in the *Horn* matter that the Department of Justice intended to file with the United States Court of Appeals for the District of Columbia Circuit. As was the

standard procedure for a classification review, I would have forwarded a copy of the draft to the Assistant Information Review Officer (“AIRO”) for the NCS assigned to the *Horn* matter. Among other things, the AIRO’s responsibility is to identify any classified information contained in documents that are intended for disclosure outside the CIA. The AIRO assigned to the *Horn* case had been responsible for the classification review process for many years prior to my assignment and was very familiar with the classification issues in the case.

10. I also would have forwarded a copy of the draft to Fred Crawford, the OGC attorney then assigned to the CIA’s East Asia (“EA”) Division of the NCS. The document was sent to Mr. Crawford for review because one of the Defendants in *Horn* was Arthur M. Brown, then a CIA employee who had once worked as Chief of the EA Division, and because certain information disclosed in the Motion for Summary Affirmance appeared to relate to EA Division personnel, sources and methods. I do not recall ever communicating with Mr. Brown regarding the *Horn* litigation or his cover status.

11. I do not recall having any conversations with Mr. Crawford regarding the draft Motion for Summary Affirmance. However, several years later, on or about 13 March 2008, during the internal OGC review of this matter, John McPherson, the OGC Chief of the Litigation Division, showed me a copy of a draft Motion for Summary Affirmance with a notation apparently made in or about January 2005. Although I do not recall the exact language, the note stated that Mr. Crawford had contacted me and my supervisor, the then-Deputy Chief of the Litigation Division, about the status of Mr. Brown’s cover.

12. Later on 13 March 2008, after Mr. McPherson showed me Mr. Crawford’s note, I was asked by Mr. McPherson to review the OGC *Horn* case file for the period that I was assigned to the case for any further information relating to the lifting of Mr. Brown’s cover.

During that review, I located my copy of the draft Motion for Summary Affirmance. On the draft Motion, I appear to have made a notation in or about January 2005 that stated, "Brown's cover lifted – issue?" Although I have no recollection of being told of the change in Mr. Brown's status, from this note, it appears that in January 2005 I had been so informed, likely by Mr. Crawford. I have not had access to this document since March 2008. It has never been provided to my counsel.

13. In March 2008, as part of the OGC review, I continued to examine materials related to this case. I found in my personal notes an entry dated on or about 26 January 2005 noting a conference call among me, the AIRO classification officer assigned to the *Horn* matter, and AUSA Lisa Goldfluss. The note states that the purpose of the call was to discuss classification issues related to the draft Motion for Summary Affirmance. My standard practice at the time would have been to have my draft of the Motion for Summary Affirmance in front of me during the call and to discuss any notes I had made concerning the document. Based on my practice, I believe that I would have mentioned the issue of Mr. Brown's cover status in this three-way conversation, but I do not specifically recall having done so.

14. When I departed from the Litigation Division in October 2005, another line attorney was assigned to the *Horn* case. Following that, I had no further assignment to the *Horn* case. Specifically, I do not recall receiving notice of the 29 June 2007 Opinion by the United States Court of Appeals for the District of Columbia Circuit remanding the *Horn* case to this Court. Nor would I have expected to, because, as of June 2007, I had not worked in the Litigation Division for over a year and a half and had no assignment to the *Horn* case.

The Aftermath

15. In March 2008, during the OGC internal review of the issue concerning Mr. Brown's change in status, I reviewed the OGC *Horn* case file, my notes, and e-mails to locate evidence that, in January 2005, I made the Department of Justice or my supervisors in the OGC Litigation Division aware of the fact that Mr. Brown's status had changed. However, I have been unable to find any specific record of my doing so other than as discussed above. If I did know about the change in Mr. Brown's status, and did not advise others, my conduct was neither willful nor intentional.

16. At no time did I intentionally withhold the status of Mr. Brown's cover (or any other information related to the *Horn* case) from my supervisors, the Department of Justice, the Court or the parties. There would have been absolutely no reason or advantage whatsoever for me to withhold such information, either personally or for the CIA. Moreover, were I attempting intentionally to conceal any change in Mr. Brown's status, I certainly would not have made a reference to the lifting of Mr. Brown's cover on my copy of the draft Motion for Summary Affirmance and then placed it in the OGC case file. Nor would I have believed it would have been detrimental to me or the interests of the CIA to bring this information to the attention of my supervisors, the AUSA or the Court as I understood that the Government's invocation of a State Secrets Privilege was based on a number of grounds.

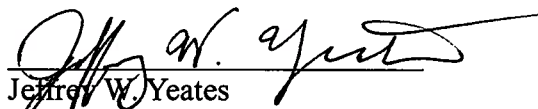
17. Additionally, at no time did I participate in any scheme or plan to mislead or defraud the Court or the parties concerning the status of Mr. Brown. Again, I would have had no personal or professional reason to do so. Indeed, to engage in such a course of conduct concerning a fact apparently widely-known in 2005 would have been devastating to my career as an attorney.

18. In July 2008, after the internal review of the OGC's actions in the *Horn* matter, and while the matter was pending before this Court, I met with John Rizzo, Acting General Counsel of the CIA, and Managing General Counsel James Archibald. During that meeting, they informed me that my actions in the *Horn* matter warranted formal disciplinary action. They advised me that the CIA was issuing a letter of reprimand to me. They told me that, as part of the employment discipline, I would be ineligible for any promotions or awards for one year. Additionally, I was suspended from work for one week without pay. I also was informed during this meeting that OGC had concluded my conduct fell below expected standards for the office and the Agency. However, Messrs. Rizzo and Archibald advised me that there had been no finding by OGC that I had intentionally withheld any information or engaged in any plan or scheme to do so. Indeed, Mr. Archibald later informed me at a follow-up meeting that had there been any evidence that I had intentionally withheld information concerning Mr. Brown's status, I would no longer be employed with the CIA. All of my annual OGC personnel performance evaluations before and after this matter have reflected that I either "meet" or "exceed the expectations" of the OGC for its attorneys.

19. I have been a member of the Virginia Bar since 6 October 2000. I have never been the subject of any disciplinary or ethics complaint.

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

Executed on 23 October 2009.


Jeffrey W. Yeates