

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
[REDACTED] et al., :
 :
 : DECLARATION OF
 : [REDACTED]
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 Plaintiffs, :
 :
 :
 v. : 04 Civ. 2614 (VM)
 :
 :
 JOHN ASHCROFT, et al., :
 : FILED UNDER SEAL
 :
 :
 Defendants. :
 :
 -----X

[REDACTED] pursuant to 28 U.S.C. § 1746,
declares the following under penalty of perjury:

1. I am a Special Agent of the Federal Bureau of
Investigation ("FBI"). [REDACTED]

[REDACTED]

2. On or about [REDACTED] I was assigned
responsibility to hand deliver a National Security Letter
("NSL"), issued pursuant to 18 U.S.C. § 2709, to [REDACTED]
[REDACTED], President, [REDACTED] at [REDACTED]
[REDACTED]

3. I took no part in issuance of the NSL. [REDACTED]

[REDACTED]

[REDACTED] My role was limited to delivering
the NSL to [REDACTED] accepting responsive information, and
forwarding the responsive information to the requesting squad.

4. I hand delivered the NSL to [REDACTED] on [REDACTED]
[REDACTED] At that time, [REDACTED] and I engaged in a conversation that
lasted approximately two to three minutes. I did not have any

subsequent conversations with [REDACTED] after [REDACTED]

5. During our interaction on [REDACTED] I handed [REDACTED] the NSL, which [REDACTED] perused in my presence. In addition, I had a copy of the NSL, and I asked [REDACTED] to initial my copy of it. A copy of the NSL, as initialed by [REDACTED], is attached as Exhibit 1 to this declaration. Below [REDACTED] initials is the handwritten date [REDACTED]. I entered the date below [REDACTED] initials, reflecting the date that I delivered the NSL.

6. I have read [REDACTED] declaration, submitted in support of plaintiffs' motion for summary judgment, in which [REDACTED] states that [REDACTED] "asked Agent [REDACTED] whether [REDACTED] could consult a lawyer and [REDACTED] business partners about the NSL."

7. I did not understand [REDACTED] during our two to three minute interaction on [REDACTED] to be asking me for permission to consult [REDACTED] business partners or a lawyer about the NSL. Rather, I understood [REDACTED] to be announcing that [REDACTED] intended to have such consultation.

8. I responded to [REDACTED] statement in the affirmative (such as "okay"). I did not intend my response as a grant of [REDACTED] permission to consult business partners or an attorney about the NSL. Rather, my response was intended to convey that I heard and understood what [REDACTED] had said.

9. I did not believe that I had any authority, whether under 18 U.S.C. § 2709 or otherwise, to grant or deny [REDACTED]

permission to consult business partners or an attorney concerning the NSL.

10. On or about [REDACTED] I telephoned [REDACTED] to determine when the FBI could expect production of the requested records. I did not reach [REDACTED] and instead left [REDACTED] a voice-mail message.

11. Within a few days, [REDACTED] left me a telephonic voice-mail message, instructing me to contact his attorney, Jamil Jaffer, Esq., with any further inquiries.

12. I telephoned Mr. Jaffer, to see if he had any questions concerning the NSL and to determine when production would be made.


13. During this conversation, Mr. Jaffer stated that he would communicate further with [REDACTED] client about any response to the NSL.

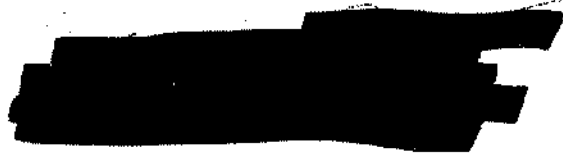
14. Several hours later, Mr. Jaffer and another attorney telephoned me. Mr. Jaffer identified himself as an attorney affiliated the American Civil Liberties Union ("ACLU"), and advised that the ACLU and [REDACTED] were going to file an action challenging 18 U.S.C. § 2709.

15. To date, [REDACTED] has not produced records requested in the NSL.

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

Dated:


June 25, 2004



[REDACTED] DECLARATION

EXHIBIT 1



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.

[REDACTED]
[REDACTED]
President
[REDACTED]
[REDACTED]

Dear [REDACTED]

Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code (U.S.C.), Section 2709 (as amended, October 26, 2001), you are hereby directed to provide the Federal Bureau of Investigation (FBI) the names, addresses, lengths of service and electronic communication transactional records, [REDACTED]
[REDACTED]
[REDACTED]

In accordance with Title 18, U.S.C., Section 2709(b), I certify that the information sought is relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, and that such an investigation of a United States person is not conducted solely on the basis of activities protected by the First Amendment to the Constitution of the United States.

You are further advised that Title 18, U.S.C., Section 2709(c), prohibits any officer, employee or agent of yours from disclosing to any person that the FBI has sought or obtained access to information or records under these provisions.

You are requested to provide records responsive to this request personally to a representative of the [REDACTED] of the FBI. Any questions you have regarding this request should be directed only to the [REDACTED]. Due to security considerations, you should neither send the records through the mail nor disclose the substance of this request in any telephone conversation.

[REDACTED]

Your cooperation in this matter is greatly appreciated.

Sincerely,



Marion E. Bowman
Senior Counsel
National Security Affairs
Office of the General Counsel

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]