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UNITED STATES OF AMERICA	)	
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<b>v.</b>	)	OMNIBUS
	)	SEAL ORDER
Manning, Bradley E.	)	
PFC, U.S. Army,	)	
HHC, U.S. Army Garrison,	)	
Joint Base Myer-Henderson Hall	)	
Fort Myer, Virginia 22211	)	20 August 2013

- 1. In accordance with (IAW) RCM 1103A, the exhibits listed in the enclosed index will be sealed in the record of trial for one or more of the following reasons:
- a. **Reason 1:** The exhibits are classified above the SECRET level, including TOP SECRET, SENSITIVE COMPARTMENTED INFORMATION and the Department of State special handling requirements.
  - b. **Reason 2:** The exhibits are classified at the SECRET level.
  - c. **Reason 3:** The exhibits are classified at the CONFIDENTIAL level.
- d. **Reason 4:** The exhibits contain private healthcare related information, including information protected by the Health Insurance Portability and Accountability Act (HIPAA).
- e. **Reason 5:** The exhibits contain sealed Grand Jury information and will be sealed in accordance with RCM 1103A. Grand jury proceedings are secret. Provisions authorizing limited disclosure of Grand Jury information are governed by Fed. R. Crim. P. 6(e)(3).
- f. **Reason 6:** The exhibits contain Law Enforcement Sensitive information and U.S. Government information that is not publically available.
- g. **Reason 7:** The exhibits contain information that was filed *ex parte* or *in camera* with the Court.
- h. **Reason 8:** The exhibits contain personally identifiable information of non-participants in the trial.
- 2. Findings.
- a. **Reasons 1-3.** The Government's interest in protecting the national security of the United States and preventing the dissemination of classified information is an overriding interest that will be prejudiced by public access to the classified exhibits. *Snepp v. United States*, 444 U.S. 507, 509 n. 3 (1980). The sealed exhibits have been reviewed by the original classification authority (OCA) and are included in the declaration submitted by the government in accordance with MRE 505(k)(1)(B). The sealing of classified evidence is narrowly tailored to ensure that only properly classified exhibits are sealed. The exhibits will be sealed in the record of trial in accordance with RCM 1103A, RCM 1104(b)(1)(D), and MRE 505(k)(1)(B) (2013). If an OCA

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determines that any portion of the record is classified and has not been identified for seal by the enclosed index, that portion of the record shall be sealed under this order IAW Reasons 1-3 above.

- b. **Reasons 4-8.** The Court has examined each exhibit proposed for seal under reasons 4-8 and has determined for each exhibit that the Government interest in protecting the information in the exhibit from public disclosure is an overriding interest that will be prejudiced if the exhibits are not placed under seal. Sealing of the exhibits is narrowly tailored to ensure that only exhibits meeting the criteria set forth in reasons 4-8 are sealed. These exhibits will be sealed IAW RCM 1103A.
- c. There is no alternative to sealing the exhibits identified in the enclosed index that is adequate to protect the Government's overriding interest in protecting the information from public disclosure.
- 3. Procedures for handling classified materials:
- a. Trial counsel will create a classified supplement to the record of trial that accounts for each classified exhibit. The record of trial will consist of an unclassified portion and a classified portion. Trial counsel will clearly identify in the record of trial where classified exhibits and classified pages in the record of trial are maintained by using placeholders for the classified exhibits and pages. The classified supplement will accompany the original unclassified record of trial.
- b. The Court Security Officer shall cause a proper security classification to be assigned to the supplement to the record of trial, to each classified exhibit, and to each page of the record of trial in which classified information appears, in accordance with RCM 1103(h). The Court Security Officer will ensure that the sealed exhibits are properly marked, to include an annotation on each that the material was sealed by order of the military judge, prior to insertion into the original record of trial.
- c. Exhibits designated as "Documents Off-Site" in AE 500 will be the only information that does not accompanying the record of trial to be stored with the Office of the Clerk of Court. (AE 500 Court's Order: Storage of Appellate Exhibits Not Accompanying the Record of Trial, dated 26 February 2013). "Documents Off-Site" shall be stored in a dedicated two-drawer safe located in the Litigation Division of the Central Intelligence Agency as described in AE 500.
- 4. For unclassified materials, trial counsel shall ensure that the sealed exhibits are properly marked, including an annotation on each, that the material was sealed by order of the military judge prior to insertion into the original record of trial.
- 5. Unless authorized by a c below, sealed exhibits will not be opened or examined. The classified exhibits contain national security information. This classified information shall be handled in a manner consistent with Executive Order 13526. An individual's access to the classified information in these exhibits is subject to the following: having the appropriate security clearance; signing an approved nondisclosure agreement; having a need-to-know the

information; and acknowledging the Judicial Protective Order for Classified Information, dated 6 March 2012.

- a. Prior to authentication of the record by the military judge, sealed materials may be examined upon order from the military judge based on good cause.
- b. After authentication and prior to disposition of the record of trial pursuant to RCM 1111, sealed materials may be examined upon order issued from the military judge upon a showing of good cause at a post-trial Article 39(a) session directed by the Convening Authority.
- c. Reviewing and appellate authorities may examine sealed matters when those authorities determine that such action is reasonably necessary to a proper fulfillment of their responsibilities under the Uniform Code of Military Justice, the Manual for Courts-Martial, governing directives, instructions, regulations, and applicable rules of professional responsibility.
- 6. No person authorized to examine sealed exhibits shall photocopy, photograph, duplicate, or disclose the contents of the sealed exhibit in the absence of an order by a military judge, the Judge Advocate General or designee, or an appellate court or other court of competent jurisdiction.

ORDERED, this the 20th day of August 2013.

DENISE R. LIND

COL, JA

Chief Judge, 1st Judicial Circuit

Enclosure
Index of Exhibits