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May 31, 2012

VIA EMAIL

David W. Ellis
Office Of The Speaker
160 North LaSalle Street
Suite N-600
Chicago, Illinois 60601

Re: Representative Derrick Smith

Dear Mr. Ellis:

Attached please find a copy of **Response To Motion For Entry Of Protective Order Governing Discovery**, which was filed on Tuesday, May 29, 2012. Representative Smith has asked the Court to deny the Government's motion for a protective order which, in effect, hides information from the Special Investigating Committee. If the Court agrees with the Representative, then he would be able to share additional information with Committee, which will shed light on the issues under consideration. The parties appeared in Court on Wednesday, May 30, 2012. At that time, the Government unexpectedly requested leave of Court to file a reply to the arguments raised by the Representative. The Court has re-set argument on the Government's motion for a protective order to Tuesday, June 12th at 1:30 p.m.

David W. Ellis
May 31, 2012
Page 2

Given these and other developments, including the material outlined in the response, we continue to contend that the Representative is going to be exonerated. Accordingly, we will reiterate our position that the Special Investigating Committee reserve, and not rush to, judgment until it learns *all* relevant and material facts. Please call me with comments or questions.

Very truly yours,

HENDERSON ADAM, LLC

A handwritten signature in black ink, appearing to read "Victor P. Henderson", written in a cursive style.

Victor P. Henderson

VPH:le

Enclosure

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

| | | |
|--------------------------|---|----------------------------------|
| UNITED STATES OF AMERICA |) | |
| |) | Case No. 12 CR 175 |
| v. |) | |
| |) | |
| DERRICK SMITH |) | Honorable Sharon Johnson Coleman |

**RESPONSE TO MOTION FOR ENTRY OF
PROTECTIVE ORDER GOVERNING DISCOVERY**

Now Comes Defendant, Derrick Smith, by and through his attorney, Victor P. Henderson of Henderson Adam, LLC, and in response to the Government’s Motion For Entry Of Protective Order Governing Discovery, states as follows:

I. BACKGROUND

Illinois State Representative Derrick Smith was appointed to fill the unexpired term of another representative in House District No. 10 on or around March 25, 2011. According to the instant motion filed by the Government, about a year afterwards “On March 12, 2012, [Representative Smith] was charged by complaint with bribery.” (*See*, Motion For Entry Of Protective Order Governing Discovery, “Motion”, p.1). Just one day after the Government filed the complaint it issued a lengthy press release (*See*, State Rep. Derrick Smith Arrested On Federal Bribery Charge, attached as Exhibit A). Despite the charge by the Government, the people in the 10th District still voted for Representative Smith in the primary election on March 20, 2012. The general election takes place this November.

In connection with its motion, the Government fails to disclose that the origin of this case actually started around 2008 when the Government hired a Confidential Source – 1 (“CS-1”), who routinely worked on other cases and got paid thousands of dollars (*See*, letter dated April 10, 2012 to Magistrate Nan R. Nolan, attached as Exhibit B). Thus, this informant was on the

Government payroll long before Representative Smith even ran for office. It was this same confidential source who presumably told the Government that the Representative was acting illegally, which is what prompted it to start an investigation; so far, the Government has not said how they came to investigate the Representative, including whether they used him as a pawn to target other public officials. Either way, when the Government presented its complaint for signature to Magistrate Nan Nolan on or around March, 12, 2012, it buried in a footnote that "CS-1 has one prior arrest for domestic assault, but no convictions." (*See*, Dkt. 1, Criminal Complaint, p. 3). Apparently, the point was to make CS-1 look clean. The Government went on to indict Representative Derrick Smith on April 10, 2012.

Then, in a surprise move, the Government subsequently acknowledged that it learned as early as April 6, 2012 that they gave Magistrate Nolan materially false information about CS-1 when the complaint was filed. In fact, the Government waited until *after* it indicted the Representative to tell Magistrate Nolan that CS-1 has a long and sordid criminal history with "approximately" 20 prior arrests, including "theft by deception," meaning that CS-1 is a con-man. Making matters worse, the Government has still not disclosed exactly how many prior arrests CS-1 has and what they are for, either because they do not know or because they do not want to tell this Court, the 10th District, the Illinois House, the general public and the Representative.

Since the complaint was filed, there have been calls for the Representative to resign. (*See* CBS Chicago report dated April 3, 2012, attached as Exhibit C). There are also people who now wish to run for his seat (*See*, *SunTimes* article dated May 16, 2012, attached as Exhibit D). He is even being investigated by the House (*See*, letter dated May 1, 2012 from General Assembly, attached as Exhibit E). It is against this backdrop that the Government wants to hide, and not

disclose information regarding this case. For reasons which will be explained below, except for a few pieces of information, the Government's motion for a protective order should be denied. The interests of democracy and transparency outweigh the limited interest the Government may have in protecting a few documents.

II. ARGUMENT

A. The Proposed Protective Order Is Not Supported By Good Cause, Is Too Broad And Inhibits The Representative's Ability To Prepare For Trial.

The Proposed Protective Order Governing Discovery ("Proposed Protective Order") provided by the Government wants to protect. "All of the materials provided by the United States in preparation for, or in the connection with, any stage of the proceedings in this case..." (See, Proposed Protective Order, attached as Exhibit F). With the exception of documents that get filed in court, the Government wants to hold back everything. Even then, there is a provision in paragraph 9 of the proposed order for certain documents to be filed under seal. The Government's proposed order could not be more broad.

Despite the fact that the Government wants to keep everything hidden from the public, it goes on to provide six reasons why it wants to keep things secret. The reasons are: 1) the safety and identity of CS - 1; 2) the fact that their investigation is on-going; 3) that their discovery includes information from other law enforcement agencies; 4) the discovery contains sensitive financial information; 5) the need to protect the Representative's personnel records; and, 6) to preserve the public's interest in an impartial juror pool (See, Motion, pp. 2, 3).

I. The Confidential Informant

The Government claims that it needs to protect discovery information for two separate, but related reasons, which are to protect both the safety and the identity of CS-1. While there is lots of case law to support the idea of protecting the safety and identity of confidential

informants, none of the cases cited by the Government arise in the context of an elected official who is facing an inquiry from the House in which he sits. Moreover, none of the cases cited involve an elected official who is running for re-election. Instead, the cases cited by the Government concern extreme matters involving violent crime and threats to injure and murder like *Alderman v. United States*, 394 U.S. 165 (1969) (See, Motion, p. 3); organized crime figures in *United States v. Amodeo*, 44 F.3d 141 (2nd Cir. 1995) (See, Motion, p. 4); and, murder in aid of a racketeering enterprise in *United States v. Garcia*, 406 F. Supp. 2nd 304 (S.D.N.Y. 2005).

In addition to the fact that none of the cases cited by the Government are like this case, the claim that they need to protect the identity and safety of CS-1 falls short for other reasons too. Number one, in the context of his identity, CS-1 was a campaign worker for the Representative (See, Affidavit of Representative Derrick Smith attached as Exhibit G). At least five or ten fellow campaign workers worked side by side with CS-1, which means a lot of people already know him or her. In addition, the campaign workers who worked with the informant have undoubtedly told other people about CS-1. Hence, the Government's concern about protecting his identity is moot. That horse has already left the barn.

The Government's safety concern is also over blown. In particular, the Government has said they have relocated CS-1 to another location, presumably far away Chicago. Accordingly, they have lessened, if not eliminated, any concerns about the safety of CS-1, especially when they acknowledge that there is no threat to CS-1 from the Representative (See, Motion, p. 2). After all, according to the Government, this case is not about murder, but it is allegedly about the Representative taking a bribe. At best, CS-1 might be ostracized by people who do not wish to be around a paid Government informant, but being ostracized and being harmed are not one in

the same. In sum, the Government has not demonstrated that there is a clear and present danger to CS-1 that would justify keeping everything about him a secret.

The Government *claims* that it did not know about CS-1's long and storied criminal background when they presented his background to Magistrate Nolan. By attempting to keep his identity a secret, the Government will prevent citizens from coming forward who may have relevant information about CS-1, information which could both help the Representative at trial and other victims who have been conned by CS-1 during his years on the Government's payroll. Even if this Court chooses not to release the name and address of CS-1, all other details, including his criminal history, should be released.

Both the House, where the Representatives sits, and certain people in the 10th District, also want to know more about this case and not just the details parceled out by the Government. The Representative has been accused of a serious misdeed, which bears on how others see him, including potential election opponents. Accordingly, the Representative has an interest in all of the facts being disclosed about CS-1's background so that people can judge what happened for themselves and not see this case through the eyes of the Government. The highly publicized case involving United States Senator Ted Stevens from Alaska reminds all of us what can happen when our Government officials run unchecked and when their activities are hidden from the public's view and are not transparent. *See again, United States v. Amodeo*, 44 F.3d 141 (2nd Cir. 1995) ("The common law right of public access to judicial documents is said to predate the Constitution...in the citizen's desire to keep a watchful eye on the workings of public agencies...and in a newspaper publisher's intention to publish information concerning the operation of government.") We can ill afford to allow what happened to Senator Stevens to happen again here.

2. The On-Going Investigation

The Government also contends that it needs to withhold information from the public because “the investigation that resulted in charges in this case is ongoing.” (*See*, Motion, p. 3). The Government does not indicate what investigation it is undertaking, only that it is still investigating. It then makes a generalized charge that materials from its on-going investigation should be protected lest they be destroyed. Finally, according to the Government, its investigation will include negative information about other people who have not been charged with wrongdoing. (*See*, Motion, p. 3).

There is an age old adage that the prosecution should be ready to try its case on the day of indictment. In other words, do the investigation first and then file your charges, instead of filing charges and then doing your investigation. That adage has particular relevance here, where it seems as if the Government worked with CS-1 for many years, but did not really know who he or she was. Or worse, the Government knew everything about the CS-1, but failed to disclose that information to Magistrate Nolan. Either way it is not good. Thus, to the extent that the Government is now back peddling as it relates to CS-1, it does not take a lot of imagination to conclude that the Government is working double time to look under every rock to find unfavorable information on the Representative in connection with a complaint that was filed back in March. The Government should not be allowed to conduct its current investigation in the dark, or any investigative activities that occurred after the complaint was filed, any more than necessary. Clearly, any dirt that the Government finds after it filed the complaint will be suspect, because it is linked to their failure regarding CS-1.

The same thing holds true for the Government's broad charge that materials from its investigation could be destroyed. Well, that can happen in any case. Under that rationale, every Government agent should always get to protect every document that results from an investigation. Without more information that argument should fail as should the claim that their investigation will make some people look bad. Investigations are always subject to making people look bad. To the extent necessary, maybe some names and addresses should be withheld, but otherwise the Government has not met its burden of showing why everything resulting from its investigation should be protected.

3. Discovery From Other Law Enforcement Agencies

The same arguments that are made relating to the information from the Government apply to material that are in its files that were given to it by other investigative agencies.

4. Sensitive Financial Information

As it relates to reason number four and the need to protect financial information, the Representative does not oppose concealing the names and social security numbers on financial information. The Representative has already told this to the Government (*See*, Motion, p. 3).

5. The Representative's Personnel Records

In response to reason number five, the Representative does not need the Government to protect *his* personnel information. Unless the Government cites law to the contrary, the Representative should be able to release his personnel information to everyone and anyone as he sees fit.

6. The Juror Pool

Finally, as it relates to the Government's *alleged* interest in an impartial juror pool, that argument rings hollow. First, on the same day that the Government arrested the Representative

(*i.e.*, March 13, 2012), it distributed a four page press release, which generated extensive media coverage to the same potential juror pool that the Government now *allegedly* wants to keep impartial (*See*, press release dated March 13, 2012, entitled "State Rep. Derrick Smith Arrested On Federal Bribery Charge"). Had the Government *genuinely* wanted an impartial jury pool, it would not have issued a press release. Instead, it would have kept quiet. Even if there was a need to issue a press release, it could have been done on one page listing the basic information (*e.g.*, name, the charge, etc.). Rather, the Government released a four page spread that includes details from the same discovery that it now wants to protect, with facts hand-picked by the Government to make the Representative look bad: the facts that support his innocence, of course, are omitted. The Government even highlighted the sentence the Representative could get in its news release (*e.g.*, "...10 years in prison and a \$250,000 fine...") in order to further inflame the jury pool.

Clearly, the Government materially weakened, if not waived, its concerns about an impartial jury when it went on the offensive with the media. The Government should not now complain that the Representative has communicated, or needs to communicate, through that same media, but with facts that point to his innocence. Moreover, the case has not been set for trial. When the case is set for trial there will be more than enough potential jurors from this district who can hear this case with an open mind.

WHEREFORE, Defendant, Derrick Smith, respectfully moves this Court to enter an Order denying the Government's motion for the entry of a protective order governing discovery, except for the documents as identified above, and for such other relief as this Court deems just.

Respectfully submitted,

HENDERSON ADAM, LLC

By: /s/ Victor P. Henderson
Attorney For Defendant, DERRICK SMITH

Dated: May 29, 2012

Victor P. Henderson
Samuel E. Adam
HENDERSON ADAM, LLC
330 South Wells Street, Suite 1410
Chicago, Illinois 60606
Phone: (312) 262-2900
Facsimile: (312) 262-2901

CERTIFICATE OF SERVICE

The undersigned, Victor P. Henderson, an attorney, hereby certifies that the RESPONSE TO MOTION FOR ENTRY OF PROTECTIVE ORDER GOVERNING DISCOVERY, was served on **May 29, 2012**, in accordance with Fed.R.Civ.P. 5, LR 5.5, and the General order on electronic Case filing (ECF), pursuant to the district court's ECF system as the ECF filers.

/s/ Victor P. Henderson
Victor P. Henderson
HENDERSON ADAM, LLC
330 South Wells Street, Suite 1410
Chicago, IL 60606



U. S. Department of Justice

United States Attorney
Northern District of Illinois

Patrick J. Fitzgerald
United States Attorney

Dirksen Federal Courthouse
219 South Dearborn Street, Fifth Floor
Chicago, Illinois, 60604
(312) 353-5300

FOR IMMEDIATE RELEASE
TUESDAY MARCH 13, 2012
www.justice.gov/usa/ndil

PRESS CONTACTS:
ALSA Greg Deas 312-886-7625
Randall Sambrin 312-353-5318

STATE REP. DERRICK SMITH ARRESTED ON FEDERAL BRIBERY CHARGE

CHICAGO — Illinois State Rep. **Derrick Smith**, (D-District 1) was arrested today on a federal bribery charge after an undercover investigation for allegedly accepting a \$7,000 cash bribe to write an official letter of support for a daycare center that he believed was seeking a state grant. Since December 2011, Smith and an individual identified as C.S.-1, who works on Smith's political campaigns and who, unbeknownst to Smith, was cooperating with the FBI, had numerous conversations about the pro-golf-themed daycare owner obtain a purported state grant in exchange for a political contribution, according to a criminal complaint unsealed after Smith's arrest. On March 2, Smith provided C.S.-1 with an official letter of support for the daycare owner to obtain a \$50,000 Early Childhood Construction Grant from the state's Capital Development Board. In return, starting a recorded meeting this past Saturday, C.S.-1 gave Smith \$7,000 cash, purportedly from the local daycare owner, the complaint alleges.

Smith, 48, of Chicago, was charged with one count of accepting a bribe, announced Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, and Robert D. Grant, Special Agent-in-Charge of the Chicago Office of the Federal Bureau of Investigation.

EXHIBIT

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Smith will appear at 5 p.m. today before Magistrate Judge Nan Nolan in U.S. District Court. Smith was appointed state representative for the 10th District, which covers portions of Chicago's near west and near north west sides, in March 2011, and is a candidate for the General Assembly seat in next week's primary election.

According to the complaint, the FBI began receiving information concerning Smith from CS-1 in December 2011. CS-1, who has known Smith for approximately six years, primarily distributes literature for Smith's campaign and worked on Smith's unsuccessful 2010 campaign for Cook County Commissioner. CS-1 told agents that almost immediately following Smith's appointment as a state representative, Smith agreed to present CS-1 as a contractor so that CS-1 could apply for and receive a state grant, which would be used to pay CS-1 for his/her campaign work. In turn, Smith would take a "fee" for approving the grant, but CS-1 declined the offer.

CS-1 further told agents that since his appointment Smith has talked about his need for assistance in campaign fund-raising, and told CS-1 last fall that he wanted donations in the range of \$5,000 to \$7,000. CS-1 said Smith stated that he was willing to accommodate donors' requests so long as they were reasonable.

Acting in coordination with law enforcement, CS-1 met with Smith in December 2011 and told Smith that CS-1 knew a woman who was the owner and a silent partner in a local daycare center, who might be willing to contribute to Smith's campaign. CS-1 told Smith that the daycare needed repairs and the owner might be looking for a state grant. According to CS-1, Smith said he would help the daycare owner with obtaining a state grant in return for a \$5,000 political contribution. Later, Smith related to CS-1 that if the daycare owner was "genuine," she could come up with a \$7,000 contribution.

The complaint affidavit states that the daycare owner was, in fact, fictional, and the daycare center, while a real business, was not applying for a state grant, nor was it seeking to bribe Smith. The Capital Development Board administers an Early Childhood Construction Grant program, which provides funds to assist early childhood centers with the renovation and expansion of their facilities.

The complaint alleges that during multiple consensually recorded in-person meetings and telephone calls since Jan. 24, 2012, Smith agreed to write a letter of support for the purported grant application in exchange for a \$7,000 bribe. On Jan. 26, Smith and CS-1 toured the daycare facility and Smith was given information about its purported expansion plans.

Throughout February, Smith and CS-1 had multiple conversations in which CS-1 told Smith that the daycare was applying for an Early Childhood Construction Grant, and confirming that Smith would provide a letter of support in exchange for the daycare owner's payment of \$7,000. On Feb. 28, Smith directed CS-1 to have the daycare owner draft a letter for Smith to sign, adding that his office would fix it with the correct language. Later that day, law enforcement sent a draft letter of support to Smith's office via email. On Feb. 29, a campaign worker in Smith's office requested additional information to include in the letter, and after receiving a second draft from law enforcement, replied that it would be ready the next day. On March 2, CS-1 retrieved the letter, which was written on Smith's official letterhead and was addressed to the Illinois Capital Development Board. The letter stated in part:

"As a State Representative for the West Humboldt Park neighborhood, I support [Daycare Owner's purported organization] in their application for a \$50,000 Early Childhood Construction Grant from the Illinois Capital Development Board."

Between March 2 and March 8, Smith and CS-1 discussed how Smith wanted to receive the \$7,000 from the daycare owner, and Smith requested payment by cashier's check because he didn't

want any trace of the money. Ultimately, Smith allegedly told CS-1 that he wanted the \$7,000 in cash, and agreed to give CS-1 \$2,000 for arranging the deal.

Just before 7 p.m. on Saturday (March 10), CS-1 met with Smith in Smith's vehicle and CS-1 counted out the \$7,000 - all in \$100 bills - for Smith during their recorded meeting. The next day, Smith called CS-1 and told CS-1 to meet him in his car in an alley behind CS-1's residence, and according to CS-1, Smith gave CS-1 \$1,000 in cash, consisting of \$20 and \$50 bills, which CS-1 gave to agents. In a subsequent phone call on Sunday, Smith said he would pay CS-1 the remaining \$1,000 later by check.

The bribery charge carries a maximum penalty of 10 years in prison and a \$250,000 fine and restitution is mandatory. If convicted, the Court must impose a reasonable sentence under federal statutes and the advisory United States Sentencing Guidelines.

The government is being represented by Assistant U.S. Attorney Greg Deis.

The public is reminded that a complaint contains only charges and is not evidence of guilt. The defendant is presumed innocent and is entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.



U.S. Department of Justice

United States Attorney
Northern District of Illinois

J. Gregory Deis
Assistant United States Attorney

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April 10, 2012

HAND DELIVERY

Hon. Nan R. Nolan
219 S. Dearborn, Room 1858
Chicago, IL 60604

Re: *U.S. v. Derrick Smith, 12 CR 175*

Dear Judge Nolan:

This letter provides the Court with notice of two inaccurate statements in the March 12, 2012 affidavit of Special Agent Bryan Butler in the above-referenced case, which the government discovered on April 6 and April 9, 2012, respectively. On page 3, footnote 1, the affidavit states: "CS-1 has one prior arrest for domestic assault, but no convictions." According to NCIC, CS-1 actually has two prior convictions: (1) a 2004 drug conviction for which CS-1 was sentenced to probation, and (2) a 1978 burglary conviction for which CS-1 was sentenced to probation, as well as approximately 20 prior arrests, including, but not limited to, arrests for burglary, theft, theft by deception, drug offenses, and a weapons charge. On page 3, footnote 1, the affidavit further states: "Over the past 3-4 years, CS-1 has received approximately \$1,200 from the FBI for his/her assistance in other investigations." According to FBI internal records, over the past 3-4 years, CS-1 received approximately \$2,100 from the FBI for his/her assistance in other investigations.

Very truly yours,

PATRICK J. FITZGERALD
United States Attorney

By



J. Gregory Deis
Assistant United States Attorney

cc: Victor P. Henderson, Esq. (Counsel for Derrick Smith)
330 South Wells Street, Suite 1410
Chicago Illinois 60606

EXHIBIT
B



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LOCAL

Secretary Of State: Rep. Smith Not Stepping Down Because He Needs Money



CHICAGO (CBS) —

Rep. Smith says he is not stepping down because he needs money. He says he is stepping down because he needs to spend more time with his family.

Rep. Smith says he is not stepping down because he needs money. He says he is stepping down because he needs to spend more time with his family.

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Caption for the woman speaking thumbnail.



Caption for the group of people thumbnail.



EXHIBIT C

West Side Dems to field third-party candidate vs. Rep. Smith

BY DAVE MCKINNEY

Springfield bureau chief

dmckinney@suntimes.com

Last Modified: May 16, 2012 01:10PM

SPRINGFIELD — A group of West Side Democratic ward committeemen led by Secretary of State Jesse White has signed off on a plan to create a third political party and slate a candidate to challenge indicted state Rep. Derrick Smith this fall, a White aide said Monday.

The 10th District Unity Party will begin interviewing candidates next week. The third-party plan was triggered by Smith's refusal to step down after he was indicted on federal bribery charges.

"They don't think he can represent the people well because of this legal situation," White spokesman Dave Druker said.

Creating a third political party will enable candidates who voted in the Democratic primary to run on the fall ballot, which they could not have done had they chosen an independent bid for the 10th House seat, Druker said.

The move came after Lance Lyson, a municipal bond lawyer who was chief of staff to former Cook County Board President Todd Stroger, said Sunday he'll run against Smith.

Smith (D-Chicago) was accused of taking \$7,000 in exchange for agreeing to write a letter to a state agency recommending what turned out to be a notorious day-care operator in his district for a \$50,000 grant.

Smith has said he'll fight the charge.

Smith's lawyer, Victor Henderson, declined to comment Monday.

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EXHIBIT

D

I have read your letter and the attached. I am sorry to hear that you are having trouble with David Blum and I hope that you will be able to resolve the matter.

Sincerely,



Rep Elaine Nekritz (L) (I)
Special Investigating Committee
Illinois House of Representatives
97th General Assembly



Rep Dan Rostenkowski (D) (I) Spokesman
Special Investigating Committee
Illinois House of Representatives
97th General Assembly

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

DERRICK SMITH

No. 12 CR 175

Judge Sharon Johnson Coleman

PROPOSED PROTECTIVE ORDER GOVERNING DISCOVERY

Upon the motion of the government, pursuant to Fed. R. Crim. P. 16(d), it is hereby
ORDERED:

1. All of the materials provided by the United States in preparation for, or in connection with, any stage of the proceedings in this case (collectively, "the materials") are subject to this protective order and may be used by defendant and defendant's counsel (defined as counsel of record in this case) solely in connection with the defense of this case, and for no other purpose, and in connection with no other proceeding, without further order of this Court.

2. Defendant and defendant's counsel shall not disclose the materials or their contents directly or indirectly to any person or entity other than persons employed to assist in the defense, persons who are interviewed as potential witnesses, counsel for potential witnesses, and other persons to whom the Court may authorize disclosure (collectively, "authorized persons"). Potential witnesses and their counsel may be shown copies of the materials as necessary to prepare the defense, but may not retain copies without prior permission of the Court.

3. Certain materials disclosed or to be disclosed by the government contain particularly sensitive information. These materials shall be plainly marked as sensitive by the government prior to disclosure. No such materials, or the information contained therein, may be disclosed to any persons other than defendant, counsel for defendant, persons employed to assist

EXHIBIT

F

the defense, or the person to whom the sensitive information solely and directly pertains, without prior notice to the government and authorization from the Court. Absent prior permission from the Court, information marked as sensitive shall not be included in any public filing with the Court, and instead shall be submitted under seal (except if the defendant chooses to include in a public document sensitive information relating solely and directly to the defendant).

4. Defendant, defendant's counsel, and authorized persons shall not copy or reproduce the materials except in order to provide copies of the materials for use in connection with this case by defendant, defendant's counsel, and authorized persons. Such copies and reproductions shall be treated in the same manner as the original materials.

5. Defendant, defendant's counsel, and authorized persons shall not disclose any notes or records of any kind that they make in relation to the contents of the materials, other than to authorized persons, and all such notes or records are to be treated in the same manner as the original materials.

6. Before providing materials to an authorized person, defense counsel must provide the authorized person with a copy of this Order.

7. Upon conclusion of all stages of this case, all of the materials and all copies made thereof shall be disposed of in one of three ways, unless otherwise ordered by the Court. The materials may be (1) destroyed; (2) returned to the United States; or (3) retained in defense counsel's case file. The Court may require a certification as to the disposition of any such materials. In the event that the materials are retained by defense counsel, the restrictions of this Order continue in effect for as long as the materials are so maintained, and the materials may not be disseminated or used in connection with any other matter without further order of the Court.

8. To the extent any material is produced by the United States to defendant or defendant's counsel by mistake, the United States shall have the right to request the return of the material and shall do so in writing. Within five days of the receipt of such a request, defendant and/or defendant's counsel shall return all such material if in hard copy, and in the case of electronic materials, shall certify in writing that all copies of the specified material have been deleted from any location in which the material was stored.

9. The restrictions set forth in this Order do not apply to documents that are or become part of the public court record, including documents that have been received in evidence at other trials, nor do the restrictions in this Order limit defense counsel in the use of discovery materials in judicial proceedings in this case, except that any document filed by any party which attaches or otherwise discloses specially identified sensitive information as described in Paragraph 3, above, shall be filed under seal to the extent necessary to protect such information, absent prior permission from this Court.

10. Nothing contained in this Order shall preclude any party from applying to this Court for further relief or for modification of any provision hereof.

ENTER

SHARON JOHNSON COLLETTAN
District Judge
United States District Court
Northern District of Illinois

Date _____

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)
) Case No. 12 CR 175
)
)
 DERRICK SMITH) Honorable Sharon Johnson Coleman

AFFIDAVIT OF REPRESENTATIVE DERRICK SMITH

MY NAME IS DERRICK SMITH AND IF CALLED TO TESTIFY IN CONNECTION WITH THE ABOVE REFERENCED MATTER, I WOULD TESTIFY AS FOLLOWS:

1. My name is Derrick Smith.
2. I am a Representative of the 10th House District in the State of Illinois.
3. In connection with holding office I ran a campaign in 2011 and 2012.
4. My campaign had approximately 25 workers.
5. CS-1 was one of my campaign workers.
6. To the best of my knowledge, at least five to ten of my campaign workers interacted with and know CS-1.

AFFIANT SWEETH FURTHER NOT

Derrick Smith
Derrick Smith

Sworn and subscribed before me
this 29 of May, 2012

Sharan S Swain
Notary Public



EXHIBIT
G