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**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON**

AYMAN LATIF, et al.,  <i>Plaintiffs,</i>	Case 3:10-cv-00750-BR
v.  ERIC H. HOLDER, JR., et al.,  <i>Defendants.</i>	<b>JOINT STATEMENT OF STIPULATED FACTS</b>

JOINT STATEMENT OF STIPULATED FACTS

Counsel for the parties have conferred and do hereby submit the following Joint Statement of Stipulated Facts:

1. The Terrorist Screening Center (“TSC”) develops and maintains the federal government’s consolidated Terrorist Screening Database (“TSDB” or “the Watchlist”). The TSC has a multi-agency staff and is administered by the Federal Bureau of Investigation (“FBI”). The TSC provides identity information concerning known or suspected terrorists from the TSDB to other government agencies that use that information for screening purposes.
2. The “No Fly List” is a subset of the TSDB.
3. The TSC provides the No Fly List to the Transportation Security Administration (“TSA”), a component of the Department of Homeland Security (“DHS”), for use in pre-screening airline passengers.
4. The Department of Homeland Security Traveler Redress Inquiry Program (“DHS TRIP”) is the mechanism for individuals to seek redress for any travel-related screening issues experienced at airports or while crossing U.S. borders. These include:
  - a. denied or delayed airline boarding;
  - b. denied or delayed entry into or exit from the U.S.; or,
  - c. continuous referral for additional (secondary) screening.
5. DHS TRIP is the mechanism to address situations when:
  - a. travelers believe they are the subject of a watchlist misidentification;
  - b. travelers believe they have faced screening problems at ports of entry;
  - c. travelers believe they have been unfairly or incorrectly delayed, denied boarding or identified for additional screening or inspection at our nation's transportation hubs; and/or
  - d. travelers believe they were incorrectly placed on the No Fly List.
6. Travelers who experience difficulties (including denied or delayed boarding) may submit a DHS TRIP Traveler Inquiry Form, either on-line, by electronic mail or via hard copy sent by mail. When a traveler files an inquiry with DHS TRIP on-line or by electronic mail, the system automatically provides the traveler a Redress Control Number to help monitor the progress of the inquiry. When filing is done via hard-copy, the traveler receives the Redress Control Number at the conclusion of the DHS TRIP review with the determination letter. The traveler may provide the Redress Control Number to air carriers the next time he or she travels.
7. On the DHS TRIP Traveler Inquiry Form, travelers are prompted to describe their particular experience, produce documentation related to the subject inquiry (depending

on the inquiry), provide at least one piece of government-issued photo identification documentation, and provide contact information to which a response will be directed.

8. DHS TRIP evaluates each traveler inquiry to determine which DHS component or other governmental agency it must coordinate with to resolve the complaint. For example, if the inquiry relates to an immigration-related admissibility issue, DHS TRIP coordinates with U.S. Customs and Border Protection. If the traveler is an exact or near match to an identity in the TSDB, DHS TRIP deems the complaint to be TSDB-related, and it is forwarded to TSC Redress for further review.
9. Upon receipt of the complaint, TSC Redress reviews the available information, including the information and documentation provided by the traveler, and determines (1) whether the traveler is an exact match to an identity in the TSDB; and, if an exact match, (2) whether the traveler should continue to be in the TSDB. In making this determination, TSC coordinates with the agency that originally nominated the individual to be included in the TSDB. If the traveler is not an exact match to an identity in the TSDB, but has been misidentified as someone who is, TSC Redress informs DHS of the misidentification. DHS – in conjunction with any other relevant agency – addresses the misidentification by correcting information in the traveler’s records or taking other appropriate action.
10. When the review is completed, DHS TRIP then sends a determination letter to the traveler, notifying him/her that it has completed its review, and, where appropriate, provides a redress control number and information about options for further review.
11. A DHS TRIP determination letter neither confirms nor denies whether the complainant is or is not in the TSDB or on the No Fly List, and does not provide any further details about why the complainant may or may not be in the TSDB or on the No Fly List. In some cases, a DHS TRIP determination letter informs the recipient that s/he can pursue an administrative appeal of the determination letter with TSA or that the recipient can seek judicial review in the U.S. Courts of Appeals, pursuant to 49 U.S.C. § 46110.
12. DHS TRIP determination letters do not provide assurances about the complainant’s ability to undertake future travel.
13. All of the Plaintiffs in this action have filed DHS TRIP complaints.
14. At no point in the available administrative process is a complainant told whether s/he is in the TSDB or a subset of the TSDB, or the basis for her/his inclusion on such a list.
15. TSC accepts nominations for inclusion in the TSDB when they satisfy two requirements. First, the biographic information associated with a nomination must contain sufficient identifying data so that a person being screened or encountered can be matched to or disassociated from a watchlisted person in the TSDB. Second, the facts and circumstances pertaining to the nomination must satisfy minimum substantive derogatory criteria for inclusion in the TSDB. Homeland Security Presidential Directives Nos. 6,

11, and 24 generally require nominations to meet a “reasonable suspicion” standard of review.

16. Nominations to the TSDB are generally accepted based on a “reasonable suspicion” that the individual is a known or suspected terrorist derived from the totality of the information reviewed. For watchlisting purposes, TSC’s standard is that “reasonable suspicion requires articulable facts which, taken together with rational inferences, reasonably warrant the determination that an individual ‘is known or suspected to be, or has been engaged in conduct constituting, in preparation for, in aid of or related to, terrorism and terrorist activities.’”

17. The “No Fly List” has its own minimum substantive derogatory criteria, which the federal government does not release. The government also does not release the Watchlisting Guidance it has issued for internal use by the intelligence and law enforcement community.

Dated: January 31, 2013.

Respectfully submitted,

/s/ Hina Shamsi

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