

August 31, 2012

Robert D. Luskin
202-457-6190
rluskin@pattonboggs.com

Hon. Jeh Charles Johnson
General Counsel
Department of Defense
1600 Defense Pentagon
Washington, DC 20301

Re: 'Mark Owen'

Dear Mr. Johnson

We represent Mark Owen and write in response to your letter to him of August 30, 2012, which asserts that Mr. Owen is in "material breach" of his obligation not to disclose classified information.

Mr. Owen takes seriously his obligations to the United States and to his former colleagues. They are as important to him as any mission he undertook while on active duty. Mr. Owen sought legal advice about his responsibilities before agreeing to publish his book and scrupulously reviewed the work to ensure that it did not disclose any material that would breach his agreements or put his former comrades at risk. He remains confident that he has faithfully fulfilled his duty.

As you are well aware, the Classified Information Non-Disclosure Agreement, which you attached to your letter, invites, but by no means requires Mr. Owen to submit materials for pre-publication review. Although the Sensitive Compartmented Information Nondisclosure Statement does require pre-publication security review under certain circumstances, that obligation is expressly limited to specifically identified Special Access Programs. That agreement was executed in January 2007, and the Special Access Programs to

Hon. Jeh Charles Johnson
August 31, 2012
Page 2

which it applies were identified on that date. Accordingly, it is difficult to understand how the matter that is the subject of Mr. Owen's book could conceivably be encompassed by the non-disclosure agreement that you have identified.

Mr. Owen is proud of his service and respectful of his obligations. But he has earned the right to tell his story; his abiding interest is to ensure that he is permitted to tell it while recognizing the letter and spirit of the law and his contractual undertakings. If you have additional information that sheds a different light on these matters, we would be happy to discuss it with you.

Yours sincerely,

A handwritten signature in black ink, appearing to read "R. Luskin", with a long horizontal flourish extending to the right.

Robert D. Luskin