IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

HERITAGE FOUNDATION, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 23-cv-1421-MN
	)	
DAVID WEISS, et al.,	)	
	)	
Defendants.	)	
	)	

DEFENDANTS' NOTICE REGARDING MOTION FOR SUMMARY JUDGMENT

Defendants respectfully provide the following notice to the Court regarding their pending Motion for Summary Judgment (D.I. 17) and in response to the Court's inquiry at the February 24, 2025 status conference. In this Freedom of Information Act ("FOIA") case, Defendants issued a *Glomar* response neither confirming nor denying the existence of records responsive to Plaintiffs' request. In asserting this *Glomar* response, Defendants relied on three FOIA exemptions, each providing a basis for the *Glomar* response: FOIA Exemption 7(A), *see* 5 U.S.C. § 552(b)(7)(A) ("records or information compiled for law enforcement purposes . . . [that] could reasonably be expected to interfere with enforcement proceedings"), Exemption 6, *see* 5 U.S.C. § 552(b)(6) ("personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy"), and Exemption 7(C), *see* 5 U.S.C. § 552(b)(7)(C) ("records or information compiled for law enforcement purposes . . . [that] could reasonably be expected to constitute an unwarranted invasion of personal privacy").

On December 10, 2024, Defendants filed a notice (D.I. 21) stating that Defendants would withdraw their Exemption 7(A) basis for the *Glomar* response, but that Defendants continue to rely on Exemptions 6 and 7(C) for the *Glomar* response, for all the reasons set forth in their summary judgment briefing. Defendants have reviewed this position and information that is now publicly available, including the

January 10, 2025 report of the Special Counsel's Office, *see* https://www.justice.gov/storage/Report-of-Special-Counsel-Weiss-January-2025.pdf [https://perma.cc/5E5P-LW3D], and hereby notify the Court that they withdraw the *Glomar* response. Defendants will confer with Plaintiffs in order to establish a schedule for processing and production of any responsive records. Defendants propose to submit a Joint Status Report no later than April 4, 2025.

Dated: March 14, 2025

Respectfully submitted,

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