

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

Greenpeace, Inc. \*

Plaintiff \*

v. \*

The Dow Chemical Company, et al, \*

Defendants \*

\* Case No. 1:10-CV-02037-RMC

\* \* \* \* \*

**DEFENDANT GEORGE FERRIS'S REPLY IN SUPPORT OF HIS MOTION FOR  
SUMMARY JUDGMENT**

George Ferris submits the following Reply in Support of his Motion for Summary Judgment.

**I. PROCEDURAL STATUS**

On November 29, 2010, Greenpeace filed its Complaint in this matter. On December 20, 2010, Defendant George Ferris filed an answer. (Dkt. 13) On February 18, 2011, Defendant Ferris filed a Motion for Summary Judgment on the basis that he did not work for Beckett Brown International, Inc. ("BBI") during the time period alleged in the Complaint other than an one month overlap from July 13, 1998 until August 21, 2008, and that he never worked on any matters related to Greenpeace nor does he have any personal knowledge of BBI or its employees working on any matters related to Greenpeace. (Dkt. 46)

On February 18, 2011, all of the corporate defendants in this case filed motions to dismiss all claims pled against them. *See* Dkt. Nos. 48, 49, 54, 56. The individual defendants George Ferris, Jay Bly, Timothy Ward, and Michael Mika also filed a combined Motion to Dismiss, which incorporated by reference the arguments, points and authority set forth in the

motions to dismiss filed by Defendant, Sasol North America, Inc. (“Sasol”) and Defendant, Ketchum. (Dkt. 57) All of the Defendants have filed motions to stay discovery pending the resolution of the various motions to dismiss and Defendant Ferris’s Motion for Summary Judgment.

On March 31, 2011, the Court entered a Minute Order taking under advisement the Defendants' motions to stay. The Court ordered that the parties are to meet and confer and propose a mutual discovery plan in stages, and to submit the mutual discovery plan no later than April 21, 2011. The Court has scheduled a status conference on April 29, 2011 to discuss discovery and the motions to stay.

As set forth in his Memorandum in Support of Summary Judgment (“Memorandum”), Mr. Ferris left his employment with BBI on August 21, 1998 – one month after the date that the “facts” in the Complaint are alleged to have occurred.<sup>1</sup> (Dkt. 46, Ferris Aff. Exhibit A, ¶ 3) For the one month that his employment with BBI overlapped with the time period alleged in the Complaint, George Ferris has submitted an affidavit stating that he did not work on any matters related to Greenpeace, nor was he aware that BBI was performing any work relating to Greenpeace. (Dkt. 46, Ferris Aff. Exhibit A, ¶ 10)

## II. ARGUMENT

In response to Mr. Ferris’s Motion for Summary Judgment, Greenpeace alleges that the Court should deny Mr. Ferris’s Motion because his Statement of Facts was not filed as a separate pleading. In an effort to generate a material dispute of fact, Greenpeace also attaches unsworn, unauthenticated documents that it contends are BBI’s records to support its claim that Mr. Ferris

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<sup>1</sup> While the Complaint contains vague references to 1998, the first specific reference to any actual date concerning Mr. Ferris is July 13, 1998, which is one month before he ceased his employment. (Compl. ¶ 26).

worked on Greenpeace matters. As set forth more fully herein, as part of his Motion for Summary Judgment, Mr. Ferris has submitted a statement of facts that complies in all material respects with Local Rule 7(h). Mr. Ferris further submits that the unsworn, unauthenticated documents attached to Greenpeace's Response should not be considered by the Court. To the extent that the Court considers these unauthenticated, unsworn documents in connection with this Motion, Mr. Ferris submits that they do not create any dispute of material fact that Mr. Ferris was not employed by BBI after August 21, 2008. Nor do the unauthenticated documents create a material factual dispute that would enable Greenpeace to establish the essential elements of its case against this Defendant. Moreover, in the event that the Court enters a discovery order in this case and determines that discovery is appropriate (a point not conceded by this Defendant), Defendant requests that the Court defer ruling on Mr. Ferris's motion until such discovery is completed, which will confirm Mr. Ferris's lack of involvement in the alleged activities portrayed in the Complaint.

**A. George Ferris's Statement of Facts Set Forth in His Memorandum Comply In All Material Respects With Local Rule 7(h).**

In an effort to defeat Mr. Ferris's Motion to Summary Judgment, Greenpeace contends that Defendant Ferris has not complied with Local Rule 7(h) by filing a *separate* statement of material facts. Contrary to Greenpeace's characterizations set forth in its Response, Defendant Ferris's Memorandum in Support of his Motion for Summary Judgment (Dkt. 46) did, in fact, include a "statement of material facts", which was clearly titled "**II STATEMENT OF MATERIAL FACTS**". That section of the Memorandum complied with the requirements of Local Rule 7(h) by including a "statement of material facts as to which the moving party contends there is no genuine issue, which shall include references to the parts of the record relied

on to support the statement”. Local Rule 7(h).<sup>2</sup> In Defendant’s Statement of Material Facts section, Defendant isolated the facts that Defendant submits are material, identifying the particular parts of the record upon which he relies, namely, his affidavit, which is based upon Mr. Ferris’s personal knowledge, and which sets forth facts which would be admissible in evidence in conformance with Fed. R. Civ. P. 56(c)(4). To deny Mr. Ferris’s Motion for Summary Judgment, as Greenpeace argues, simply because Mr. Ferris’s Statement of Facts was not filed as a separate document, but was instead clearly titled and outlined in his Memorandum with concise references to the record, would be to elevate form over substance and would be unjust under the circumstances. *See eg. Gardels v. Central Intelligence Agency*, 637 F. 2d 770, 773 (U.S. App. D.C. 1980) (noting that a district court in its discretion, may consider a motion for summary judgment even in the absence of a proper Rule 1-9(h) statement); *Johnson v. American General Insurance Company*, 296 F. Supp. 802, 805, n. 4 (D. D.C. 1969) (Court considered a motion for summary judgment where no Rule 9(h) statement was even filed).

At the most, if Plaintiff’s innuendo is accepted, Mr. Ferris only worked for BBI for a period of *one month* during the time frame described in the Complaint, some 12 years ago. Mr. Ferris has submitted an affidavit stating that he did not work on any matters relating to Greenpeace, and that he has no personal knowledge whatsoever of the allegations set forth in the Complaint. (Dkt. 46, Ferris Aff, Exhibit A) In fact, Mr. Ferris respectfully submits that a denial of his Motion for Summary Judgment because his “Statement of Material Facts” was not filed as a separate pleading would be particularly egregious where the Plaintiff’s so-called “Statement of Facts” (Dkt. 68-1) is nothing more than a regurgitation of the vague and generalized allegations

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<sup>2</sup> Defendant respectfully submits that his Statement of Material Facts (Dkt. 46, p. 5) complied in all material respects to Local Rule 7(h), which the exception that it was not filed as a separate pleading.

from the Complaint, citing only to the Complaint as authority for these so-called “facts”, and the only documentation presented by Greenpeace to refute Mr. Ferris’s Motion are some unauthenticated documents, purportedly appearing to be time sheets or other “records” of BBI. As set forth more fully below, Greenpeace has not properly authenticated these so-called records, which should not be considered by this Court on summary judgment. For these reasons, Defendant Ferris submits that his Motion for Summary Judgment is properly before this Court and the merits of his position should be considered.

**B. Plaintiff’s “Documentary Evidence” of Mr. Ferris’s Employment With BBI are Unsworn, Unauthenticated Documents, Which Should Not be Considered on Summary Judgment.**

In an effort to create a genuine dispute of material fact, Plaintiff has attached to its Response (Dkt. 67) unauthenticated documents consisting of some time sheets (Exhibits A-E), a typewritten “Action Report” allegedly written by Mr. Ferris (Exhibit F); and a resignation letter by which Mr. Ferris officially terminated his employment (Exhibit G). While Plaintiff contends that it received these records from “one of BBI’s former principals”, Plaintiff has not submitted any affidavit from this “principal” to authenticate these so-called records. Defendant respectfully submits that these “documents” cannot be used to contradict his sworn affidavit and defeat his motion for summary judgment. *See Akers v. Liberty Mutual Group*, 774 F. Supp. 2d 92, 97 (D. D.C. 2010) (“Unsworn, unauthenticated documents cannot be considered on a motion for summary judgment”); *Stuart v. Gen. Motors Corp.*, 217 F. 3d 621, 636 (8<sup>th</sup> Cir. 2000) (stating that “[t]o be considered on summary judgment, documents must be authenticated by and attached to an affidavit made on personal knowledge setting forth such facts as would be admissible in evidence or a deposition that meets the requirements of [Rule] 56(e)” and that “[d]ocuments which do not meet those requirements cannot be considered.”). Accordingly, Defendant

respectfully submits that the Court should not consider these exhibits in connection with Defendant's motion for summary judgment.<sup>3</sup>

**C. To the Extent that the Court Considers Plaintiff's Unauthenticated Documents, at Best, the Documents Do Not Create a Dispute of Material Fact that Mr. Ferris Did Not Work at BBI After August 21, 1998.**

The first reference in the Complaint for activity alleged to have been taken by Mr. Ferris is July 13, 1998. *See* Compl. ¶ 26. Mr. Ferris has submitted an affidavit stating that he left BBI's employment on August 21, 1998. (Dkt. 46, Ferris Aff, Exhibit A, ¶¶ 3-4) In an attempt to create a dispute of material fact, Greenpeace attaches a purported "resignation letter" from Mr. Ferris dated September 14, 1998, whereby Greenpeace contends Mr. Ferris first gave his notice of departure (Dkt. 67-1, Exhibit G). In fact, a careful reading of the letter confirms Mr. Ferris's absence from BBI. Paragraph 2 of Exhibit G reflects that Mr. Ferris was absent from the Company because he was on active duty with the United States military. The resignation letter states that "*My current active duty recall will terminate on September 25<sup>th</sup>*", and I will be afforded three working days to complete a turnover of responsibilities and duties. As of October

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<sup>3</sup> Defendant submits that the Court should not consider the unauthenticated "records" attached to Greenpeace's response. In the event that the Court does, in fact, consider these exhibits, Defendant submits that they do not create a material dispute of fact sufficient to overcome summary judgment. Reviewing these documents in the light most favorable to Greenpeace, the exhibits are speculative at best and do not support the outrageous claims made in the Complaint. In its Response, Greenpeace alleges that BBI's internal project number for the "Greenpeace Project" was 125-006-98. Greenpeace's Response (Dkt. 67, p. 14). Exhibit A, which Greenpeace contends is one of Mr. Ferris's timesheets, does not identify any time related to that project number (Dkt. 67-1, Exhibit A). As for the other time sheets, viewing the evidence in the light most favorable to Greenpeace, the most that they could possibly show is that a total of 5 hours of Mr. Ferris's time was attributed to 125-006-98 over three days (Dkt. 61-1, Exhibits B-E). Nor does Exhibit G support Greenpeace's allegations (Dkt. 67-1). That undated report, alleged by Greenpeace to be made by Mr. Ferris, is undated, does not refer to Greenpeace at all, and has a different BBI internal project number than the project number that Greenpeace contends was assigned by BBI to the purported "Greenpeace Project". While Mr. Ferris denies in his affidavits that he worked on any matters relating to Greenpeace, viewing these unauthenticated records in the light most favorable to Greenpeace, Greenpeace cannot establish the essential elements of its case against George Ferris based upon these records.

1, I will return to active duty military service assigned to the Defense Intelligence Agency.” (Dkt. 68-1, Exhibit G) (emphasis added).

As set forth in Mr. Ferris’s supplemental affidavit attached hereto as Exhibit “A”, prior to leaving the employment of BBI, Mr. Ferris was on naval reserve duty from July 16, 1998 until July 19, 1998, and on August 15 and 16, 1998. (Ferris Supp. Aff. Ex. A, ¶ 3) Mr. Ferris’s last day at work at BBI was August 21, 1998. (Ferris Supp. Aff. Ex. A, ¶ 4) Mr. Ferris did not receive any salary or compensation from BBI after August 21, 1998 (Ferris Supp. Aff. Ex. A, ¶ 4) He was on temporary active duty with the US military beginning on August 24, 1998, and was assigned to the United States Defense Intelligence Agency (“DIA”). That assignment turned into permanent active duty on October 1<sup>st</sup>. (Ferris Supp. Aff. Ex. A, ¶¶ 6-7) Mr. Ferris has attached to his affidavit true and correct copies of his order for duty issued by the Department of Navy confirming his dates of service. (Ferris Supp. Aff. ¶¶ 6-7) Mr. Ferris never returned to BBI after August 21<sup>st</sup>, except to drop off a reimbursement check for a health insurance payment. (Ferris Supp. Aff. Ex. A ¶ 10).

The “resignation letter” attached as Exhibit G to Greenpeace’s Complaint does not, in fact, create a material fact as to when Mr. Ferris left the employment of BBI, and in fact, confirms his absence from the Company while he was on temporary active duty. Since there is no dispute of fact as to when Mr. Ferris departed from the Company, he respectfully requests that the Court grant summary judgment in his favor.

**D. To The Extent that the Court Considers Plaintiff's Unauthenticated Documents Attached to Its Response, Defendant Requests that the Court Defer Ruling on his Motion for Summary Judgment Until His Deposition can be Taken Pursuant to Rule 56(d) to Confirm Mr. Ferris's Lack of Employment With the Company During the Time Period in Question, and his Lack of Involvement in any Greenpeace Related Matters.**

Greenpeace has attached several unauthenticated documents in an attempt to create a material dispute of fact to contradict Mr. Ferris's affidavit that he never worked on any Greenpeace related matters (Dkt. 67-1). Greenpeace has requested discovery pursuant to Rule 56(d) to enable it to "authenticate" the exhibits attached to the Complaint, to depose Mr. Ferris on his affidavit, and to obtain documents from Mr. Ferris concerning his employment with BBI and the matters outlined in the Complaint. *See* Affidavit of Victoria Nugent In Support of Plaintiff's Application for Stay of its Opposition to Defendant George Ferris's Motion for Summary Judgment ("Nugent Affidavit") (Dkt. 68-3, ¶ 4.)

Defendant Ferris does not have any documents related to his employment with BBI some 12+ years ago, other than some pay stubs and W-2's issued by the Company for work performed prior to August of 1998. (Ferris Supp. Aff. Ex. A ¶ 11) Moreover, since Defendant did not work on any Greenpeace matters, has no personal knowledge of such matters, and because he ceased his employment with BBI in August, 1998 -- approximately one month after the commencement of the various actions alleged in the Complaint -- there are no documents for him to produce in discovery of this matter.

For the reasons asserted by the Defendants in their motions to dismiss and motions to stay discovery, Defendants do not believe that discovery should commence until the resolution of the various motions to dismiss, including Mr. Ferris's Motion for Summary Judgment. However, in the event that the Court enters an order for discovery in this matter, and to the extent

that the Court determines that additional discovery such as Mr. Ferris's deposition is appropriate under Rule 56(d) to confirm the facts set forth in his affidavits (a point which is not conceded by Mr. Ferris), Mr. Ferris respectfully requests that the Court defer consideration of his motion for summary judgment until after his deposition is available.

WHEREFORE, Defendant George Ferris respectfully requests that this Honorable Court enter summary judgment in his favor and against the Plaintiff on all counts; or alternatively, defer its ruling on the Motion for Summary Judgment in accordance with Rule 56(d) until discovery can be completed, and enter such other and further relief as justice requires.

Respectfully submitted,

/s/

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/s/

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Defendant, George Ferris's Reply in Support of his Motion for Summary Judgment was filed and served this 8th day of April, 2011, electronically by the U. S. District Court for the District of Columbia Electronic Document Filing System (ECF) and/or mailed, postage prepaid, to the following persons on record.

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/s/

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Brynja M. Booth

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

Greenpeace, Inc. \*

Plaintiff \*

v. \*

The Dow Chemical Company, et al, \*

Defendants \*

\* Case No. 1:10-CV-02037-RMC

\* \* \* \* \*

**SUPPLEMENTAL AFFIDAVIT OF GEORGE FERRIS**

1. I am over the age of 18 years, have personal knowledge of the matters contained herein, and I am competent to be a witness.

2. I am a 1983 graduate of the United States Naval Academy.

3. Prior to leaving the employment of Beckett Brown, International (“BBI”), I was on Naval Reserve duty from July 16 through July 19, 1998, and on August 15 and 16, 1998. Attached as Exhibit “1” is a true and correct copy of my Naval Reserve Earnings Statement for that period which reflect my military pay for service on those days.

4. My last day of work at Brown International, Inc. (“BBI”) was August 21, 1998. I neither worked for BBI, nor did I receive any compensation or salary from BBI after August 21, 1998.

5. On August 24, 1998, I commenced my employment with my current employer, the United States Defense Intelligence Agency (“DIA”), where I have continued to be employed since August 24, 1998.

6. From August 24, 1998 until September 25, 1998, I was on temporary active duty with the United States Navy, but was assigned to the DIA in Washington D.C. Attached as Exhibit “2” is a true and correct copy of my Order for Duty, issued by the Department of the Navy, which ordered me to report for temporary active duty August 24, 1998 through September 24, 1998, as well as my fitness report confirming my period of temporary active duty from August 24, 1998 until September 25, 1998.

7. After the temporary active duty concluded on September 24, 1998, on October 1, 1998, my permanent active duty commenced with the DIA. I have continued to work for the DIA since that time.

8. Attached as Exhibit "3" is a true and correct copy of my Defense Meritorious Service Medal and Citation for exceptionally meritorious service from August 1998 until June 2000, which confirms my service to the United States during that time period.

9. While my last day of work at BBI was August 21, 1998, the President of the Company, Richard Beckett, requested a formal resignation letter, which I prepared. That letter confirms that I was away on temporary active duty.

10. I never returned to BBI after August 21<sup>st</sup>, other than to drop off a check to reimburse the Company for a health insurance payment.

11. I have no documents in my possession or control relating to my employment with BBI, other than some pay stubs and my W-2's for some of the years of employment. I have never had possession or control of, and do not now have possession or control of, any records created by, collected by, or generated by BBI.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on:

Date

7 APRIL 2011

George Ferris



# Exhibit 1

DEFENSE FINANCE AND ACCOUNTING SERVICE  
 CLEVELAND CENTER  
 1240 EAST NINTH STREET  
 CLEVELAND OH 44199-2055

NAME AND MAILING ADDRESS

\*\*PRESORT\*\*

GEORGE M FERRIS  
 511 OLD PASTURE LANE  
 SEVERNA PARK MD 21146-2440

NAVAL RESERVE EARNINGS STATEMENT

SSN	CHECK DATE	GRADE	YRS SVC	PEBD	EOS	ASED	ACD	ASI	DFAS ACCTNG MO.
	980730	04	15	830525	000000	000000	000000		JUL 1998
APC	GROSS PAY	TAXABLE PAY	FITW THIS CHECK	FICA THIS CHECK	SITW THIS CHECK	SGLI THIS CHECK	NET PAY		
060J016	1031.13	1031.13	.00	73.35	14.55	33.00	910.23		

DRILLS/INCENTIVE/SPECIAL PAY ENTITLEMENT					CREDITS THIS CHECK				
FORM NO.	APC	DRILL DATE	TYP/NO	AMOUNT	REASON	AMOUNT	REASON	AMOUNT	
69119156	060J016	980719	12	294.61		.00		.00	
69119155	060J016	980718	12	294.61		.00		.00	
69119095	060J016	980717	12	294.61		.00		.00	
69119094	060J016	980716	12	294.61					
69118877	060J016	980417	41	147.31					
						.00		.00	
						.00		.00	
						.00		.00	
TOTAL DRILLS/INCENTIVE/SPECIAL PAY ENTITLEMENT THIS CHECK					TAX TOTALS				
1031.13					TAXABLE INCOME YTD		FITW YTD		
					3977.25		.00		
TOTAL CREDITS THIS CHECK					FICA INCOME YTD		FICA YTD		
.00					3698.46		282.92		
TOTAL DEBITS THIS CHECK					DRILLS THIS FISCAL YEAR				
					RG	AD	ET	UE	AA
					40	05	00	00	00

REMARKS  
 SITW WITHHELD FOR MD  
 SGLI RATE DECREASE EFFECTIVE JUL 1, 1998  
 INCENTIVE DRILLS PAID 008

SEE REVERSE FOR ABBREVIATIONS AND CREDIT/DEBIT CODE EXPLANATIONS



DEFENSE FINANCE AND ACCOUNTING SERVICE  
 CLEVELAND CENTER  
 1240 EAST NINTH STREET  
 CLEVELAND OH 44199-2055

NAME AND MAILING ADDRESS

\*\*PRESORT\*\*

GEORGE M FERRIS  
 511 OLD PASTURE LANE  
 SEVERNA PARK MD 21146-2440

**NAVAL RESERVE EARNINGS STATEMENT**

SSN	CHECK DATE	GRADE	YRS SVC	PEBD	EOS	ASED	ACD	ASI	DFAS ACCTNG MO.	
	980827	04	15	830525	000000	000000	000000		AUG 1998	
APC	GROSS PAY	TAXABLE PAY	FITW THIS CHECK	FICA THIS CHECK	SITW THIS CHECK	SGLI THIS CHECK	NET PAY			
060J016	589.22	589.22	.00	41.92	5.00	16.00	526.30			
DRILLS/INCENTIVE/SPECIAL PAY ENTITLEMENT					CREDITS THIS CHECK					
FORM NO.	APC	DRILL DATE	TYP/NO	AMOUNT	REASON	AMOUNT	REASON	AMOUNT		
69119252	060J016	980816	12	294.61		.00		.00		
69119253	060J016	980815	12	294.61		.00		.00		
						.00		.00		
					DEBITS THIS CHECK					
					REASON	AMOUNT	REASON	AMOUNT		
						.00		.00		
						.00		.00		
						.00		.00		
					TAX TOTALS					
					TOTAL DRILLS/INCENTIVE/ SPECIAL PAY ENTITLEMENT THIS CHECK	TAXABLE INCOME YTD		FITW YTD		
					589.22	4566.47	.00			
					TOTAL CREDITS THIS CHECK	FICA INCOME YTD		FICA YTD		
					.00	4246.38	324.84			
					DRILLS THIS FISCAL YEAR					
					TOTAL DEBITS THIS CHECK	RG	AD	ET	UE	AA
					.00	44	05	00	00	00
					REMARKS					
					SITW WITHHELD FOR MD					
					SGLI RATE DECREASE EFFECTIVE JUL 1, 1998					
					SPECIAL PAY DRILLS PAID 04					

SEE REVERSE FOR ABBREVIATIONS AND CREDIT/DEBIT CODE EXPLANATIONS

# Exhibit 2

ORIGINAL

DEPARTMENT OF THE NAVY  
EXPLOSIVE ORDNANCE DISPOSAL MOBU 10  
FORT STORY, VA 23495-0000

15 AUG 1998

FROM: COMMANDING OFFICER, EXPLOSIVE ORDNANCE DISPOSAL MOBU 10  
TO: LCDR GEORGE MICHAEL FERRIS USNR  
511 OLD PASTURE LANE  
SEVERNA PARK, MD 21146-1122

SUBJ: COMNAVRESFOR SDN: N8263198RT00047  
DUTY IN CONNECTION WITH AT

REF: (A) SEC 270, 271 OR 511, TITLE 10 USC  
(B) PUBLIC LAW 92426

-----ULTIMATE ACTIVITY-----

BY THE AUTHORITY IN REFERENCE (A) OR (B) YOU ARE HEREBY ORDERED TO  
PROCEED AND REPORT AS DIRECTED BELOW FOR A PERIOD OF 0033 DAYS  
TO PERFORM AT WITH PAY, PLUS 0 TRAVEL DAY.

REPORT NOT LATER THAN 0730 ON 24 AUG 1998  
TO: DIRECTOR

EDA: 24 AUG 1998  
UIC: 63415

DEFENSE INTELLIGENCE AGENCY  
ROOM C4-600, DIAC  
BLDG 6000, BOLLING AFB  
WASHINGTON, DC 20340

FOR AT  
PERSONNEL ACCOUNTING SUPPORT: PSD ANACOSTIA

UIC: 42557

UPON COMPLETION OF AT AND WHEN DIRECTED ON 25 SEP 1998 DETACH.

-----ACCOUNTING DATA-----

AA	1781405.7210	011	00072	0	68566	2D	T00047	082631871500	0000602139
AD	1781405.7210	012	00072	0	68566	2D	T00047	082631871501	0000035961
AB	1781405.7210	021	00072	0	68566	2D	T00047	082631874500	0000003400
AC	1781405.7210	021	00072	0	68566	2D	T00047	082631874501	0000000000
AC	1781405.7210	021	00072	0	68566	1K	T00047	082631874501	ADVANCE AMT

TOTAL PAID LUMP SUM LEAVE DAYS ARE: 60  
ALL COST OF PAY AND ALLOWANCES ARE CHARGEABLE TO RPN.  
PAY GRADE/PEBD: O4 / 25 MAY 1983 BAQ W/D: Y  
CSP: 02 Y 00 M 18 D  
FLIGHT PAY AUTHORIZED: N      ASED:      ASI:

REPORTED TO: \_\_\_\_\_  
DATE: \_\_\_\_\_  
TIME: \_\_\_\_\_  
SIGNATURE: \_\_\_\_\_



FITNESS REPORT & COUNSEL 3 RECORD (E7 - O6)

RCS BUPERS 1610-1

1. Name (Last, First MI Suffix) <b>FERRIS, GEORGE M</b>		2. Grade/Rate <b>LCDR</b>		3. Desig <b>1145</b>		4. SSN	
5. ACT <input type="checkbox"/> TAB <input type="checkbox"/> INACT <input type="checkbox"/> AT/ADSW/ <input checked="" type="checkbox"/> 265		6. UIC <b>63415</b>		7. Ship/Station <b>DIA WASHINGTON DC</b>		8. Promotion Status <b>REGULAR</b>	
9. Date Reported <b>98AUG24</b>		10. Periodic <input type="checkbox"/>		11. Detachment of Individual <input checked="" type="checkbox"/>		12. Detachment of Reporting Senior <input type="checkbox"/>	
13. Special <input type="checkbox"/>		14. From: <b>98AUG24</b>		15. To: <b>98SEP25</b>		16. Not Observed Report <input checked="" type="checkbox"/>	
17. Regular <input checked="" type="checkbox"/>		18. Concurrent <input type="checkbox"/>		19. Ops Cdr <input type="checkbox"/>		20. Physical Readiness <b>N/XX</b>	
21. Billet Subcategory (if any) <b>NA</b>		22. Reporting Senior (Last, FI MI) <b>ZUEHLKE, A A</b>		23. Grade <b>SES4</b>		24. Desig <b>CIV</b>	
25. Title <b>CHIEF TRNA WAR</b>		26. UIC <b>63415</b>		27. SSN		28. Command employment and command achievements. <b>TWC-1 provides support to counterterrorism operations world-wide; joint duty assignment at DoD level providing intelligence products and services to U.S. warfighters and senior military and civilian officials.</b>	
29. Primary/Collateral/Watchstanding duties. (Enter primary duty abbreviation in box.) <b>INTEL OFFICER</b> OJT as counterterrorism intelligence analyst-1. Collects, researches, and produces military intelligence in direct support of DoD, JCS, and Combatant Commands.							
30. Date Counseled <b>NOT REQ</b>		31. Counselor		32. Signature of Individual Counseled			

For Mid-term Counseling Use. (When completing FITREP, enter 30 and 31 from counseling record, elgn 32.)

PERFORMANCE TRAITS: 1.0 - Below standards/not progressing or UNSAT in any one standard; 2.0 - Does not yet meet all 3.0 standards; 3.0 - Meets all 3.0 standards; 4.0 - Exceeds most 3.0 standards; 5.0 - Meets overall criteria and most of the specific standards for 5.0. Standards are not all inclusive.

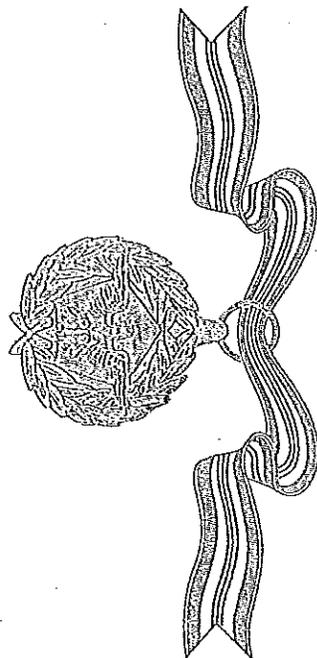
PERFORMANCE TRAITS	1.0* Below Standards	2.0 Pro- gressing	3.0 Meets Standards	4.0 Above Standards	5.0* Greatly Exceeds Standards
33. PROFESSIONAL EXPERTISE: Professional knowledge, proficiency, and qualifications. NOB <input type="checkbox"/>	- Lacks basic professional knowledge to perform effectively. - Cannot apply basic skills. - Falls to develop professionally or achieve timely qualifications.		- Has thorough professional knowledge. - Competently performs both routine and new tasks. - Steadily improves skills, achieves timely qualifications.		- Recognized expert, sought after to solve difficult problems. - Exceptionally skilled, develops and executes innovative ideas. - Achieves early/highly advanced qualifications.
34. EQUAL OPPORTUNITY: Fairness, respect for human worth. NOB <input type="checkbox"/>	- Displays personal bias or engages in harassment. - Tolerates bias, unfairness or harassment in subordinates. - Lacks respect for EO objectives. - Interferes with order and discipline by disregarding rights of others.		- Always treats others with fairness and respect. - Does not condone bias or harassment in or outside of workplace. - Supports Navy EO objectives. - Contributes to unit cohesiveness and morale.		- Admitted for fairness and human respect. - Ensures a climate of fairness and respect for human worth. - Pro-active EO leader, achieves concrete EO objectives. - Leader and model contributor to unit cohesiveness and morale.
35. MILITARY BEARING/CHARACTER: Appearance, conduct, physical fitness, adherence to Navy Core Values. NOB <input type="checkbox"/>	- Consistently unsat appearance. - Unsatisfactory demeanor/conduct. - Unable to meet one or more physical readiness standards. - Falls to live up to one or more Navy Core Values: HONOR, COURAGE, COMMITMENT.		- Excellent personal appearance. - Excellent demeanor or conduct. - Complies with physical readiness program, within all standards. - Always lives up to Navy Core Values: HONOR, COURAGE, COMMITMENT.		- Exemplary personal appearance. - Exemplary representative of Navy. - Excellent or outstanding PRT. A leader in physical readiness. - Exemplifies Navy Core Values: HONOR, COURAGE, COMMITMENT.
36. TEAMWORK: Contributions to team building and team results. NOB <input type="checkbox"/>	- Creates conflict, unwilling to work with others, puts self above team. - Falls to understand team goals or teamwork techniques. - Does not take direction well.		- Reinforces others' efforts, meets personal commitments to team. - Understands team goals, employs good teamwork techniques. - Accepts and offers team direction.		- Team builder, inspires cooperation and progress. - Talented mentor, focuses goals and techniques for team. - The best at accepting and offering team direction.
37. MISSION ACCOMPLISHMENT AND INITIATIVE: Taking initiative, planning, prioritizing, achieving mission. NOB <input type="checkbox"/>	- Lacks initiative - Unable to plan or prioritize. - Does not maintain readiness. - Falls to get the job done.		- Takes initiative to meet goals. - Plans/prioritizes effectively. - Maintains high state of readiness. - Always gets the job done.		- Develops innovative ways to accomplish mission. - Plans/prioritizes with exceptional skill and foresight. - Maintains superior readiness, even with limited resources. - Gets jobs done earlier and far better than expected.

FITNESS REPORT & COUNSELING RECORD (E7 - O6) (cont'd)

RCS BUPERS 1610-1

1. Name (Last, First MI Suffix) <b>FERRIS, GEORGE M</b>		2. Grade/Rate <b>LCDR</b>		3. Desig <b>1145</b>		4. SSN	
PERFORMANCE TRAITS	1.0* Below Standards	2.0 Pro- gressing	3.0 Meets Standards	4.0 Above Standards	5.0* Greatly Exceeds Standards		
38. LEADERSHIP: Organizing, motivating and developing others to accomplish goals.	<ul style="list-style-type: none"> <li>- Falls to motivate, train or develop subordinates.</li> <li>- Falls to organize, creates problems for subordinates.</li> <li>- Does not set or achieve goals relevant to command mission.</li> <li>- Lacks ability to cope with or tolerate stress.</li> <li>- Inadequate communicator.</li> <li>- Tolerates hazards or unsafe practices.</li> <li>- Does not attend to welfare of subordinates.</li> </ul>		<ul style="list-style-type: none"> <li>- Effectively motivates, trains and develops subordinates.</li> <li>- Organizes successfully, solves problems as they occur.</li> <li>- Sets/achieves useful, realistic goals which support command mission.</li> <li>- Performs well in stressful situations.</li> <li>- Clear, timely communicator.</li> <li>- Ensures safety of personnel and equipment.</li> <li>- Routinely considers subordinates' personal and professional welfare.</li> </ul>		<ul style="list-style-type: none"> <li>- Inspiring motivator and trainer, consistently builds winners.</li> <li>- Superb organizer, great foresight, gets ahead of problems.</li> <li>- Leadership achievements dramatically further command mission.</li> <li>- Perseveres through the toughest challenges and inspires others.</li> <li>- Exceptional communicator.</li> <li>- Makes subordinates safety-conscious, maintains top safety record.</li> <li>- Constantly improves the personal and professional lives of others.</li> </ul>		
NOB <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
39. TACTICAL PERFORMANCE: (Warfare qualified officers only) Basic and tactical employment of weapons systems.	<ul style="list-style-type: none"> <li>- Has difficulty attaining qualification expected for rank or experience.</li> <li>- Has difficulty in ship(s), aircraft or weapons systems employment.</li> <li>- Warfare skills in specialty are below standards compared to others of same rank and experience.</li> </ul>		<ul style="list-style-type: none"> <li>- Attains qualifications as required and expected.</li> <li>- Capably employs ship(s), aircraft, or weapons systems. Equal to others in warfare knowledge and employment.</li> <li>- Warfare skills in specialty equal to others of same rank and experience.</li> </ul>		<ul style="list-style-type: none"> <li>- Fully qualified at appropriate level for rank and experience.</li> <li>- Innovatively employs ship(s), aircraft, or weapons systems. Well above others in warfare knowledge and employment.</li> <li>- Warfare skills in specialty exceed others of same rank and experience.</li> </ul>		
NOB <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
40. I recommend screening this individual for next career milestone(s) as follows: (maximum of two) Recommendations may be for competitive schools or duty assignments such as: LCPO, DEPT CPO, SEA, CMC, CWO, LDO, Dept Head, XO, OIG, CO, Major Command, War College, PG School.							
41. COMMENTS ON PERFORMANCE: * All 5.0 and 1.0 marks must be specifically substantiated in comments. No numerical ranking permitted. Comments must be verifiable. Bold, underlined, italic, or other highlighted type is prohibited. Font must be 10 or 12 pitch (10 to 12 point) only. Use upper and lower case. - Not observed report prepared for duty less than 90 days.							
Promotion Recommendation	NOB	Significant Problems	Progressing	Promotable	Must Promote	Early Promote	44. Reporting Senior Address
42. INDIVIDUAL	X						CHIEF, TRANSNATIONAL WARFARE GROUP DEFENSE INTELLIGENCE AGENCY, WASHINGTON, DC 20340-5100
43. SUMMARY							
45. Signature of Reporting Senior <i>Arthur A. [Signature]</i> Date: 98SEP25				46. Signature of Individual evaluated. "I have seen this report, been apprised of my performance, and understand my right to make a statement." I intend to submit a statement <input type="checkbox"/> I do not intend to submit a statement <input type="checkbox"/>			
				Active duty less than 3 months Date:			
47. Typed name, grade, command, UIC, and signature of Regular Reporting Senior on Concurrent Report. Date:							

# Exhibit 3



# THE UNITED STATES OF AMERICA

TO ALL WHO SHALL SEE THESE PRESENTS, GREETING:

THIS IS TO CERTIFY THAT  
THE SECRETARY OF DEFENSE  
HAS AUTHORIZED THE AWARD OF THE

## DEFENSE MERITORIOUS SERVICE MEDAL

TO  
LIEUTENANT COMMANDER GEORGE M. FERRIS, USNR  
AUGUST 1998 TO JUNE 2000  
FOR

EXCEPTIONALLY MERITORIOUS SERVICE  
FOR THE ARMED FORCES OF THE UNITED STATES

GIVEN UNDER MY HAND THIS 12<sup>TH</sup> DAY OF JULY, 20 00

DEFENSE INTELLIGENCE AGENCY  
COMMAND OR OFFICE



*Thomas R. Kelly*  
SECRETARY OF DEFENSE





**Citation to Accompany the Award of  
The Defense Meritorious Service Medal**

**to**

**GEORGE M. FERRIS**



Lieutenant Commander George M. Ferris, United States Naval Reserve, distinguished himself by exceptionally meritorious service as Senior Military Analyst, Weapons Analytic Team, Office for Counterterrorism Analysis, Transnational Warfare Group, Directorate for Intelligence Production, Defense Intelligence Agency from August 1998 to June 2000. Commander Ferris' explosive ordnance disposal background and analytic expertise were pivotal in establishing a first-ever capability within the Interagency Intelligence Community to comprehensively assess the explosive devices, weapons, and tactical capabilities of international terrorist groups. His outstanding analytic expertise resulted in the production of 22 comprehensive intelligence reports and 40 terrorist threat briefings addressing international terrorist group weapons and explosive device capabilities. This intelligence has incalculably enhanced force protection measures and the security of Department of Defense forces worldwide. Commander Ferris also represented the Defense Intelligence Agency in 10 analytic exchanges with foreign governments, and was by-name requested to brief senior officials from the Department of Defense, Department of State, and foreign dignitaries. Through his distinctive accomplishments, Commander Ferris reflects great credit upon himself, the United States Naval Reserve, the Defense Intelligence Agency, and the Department of Defense.

