



*Office of Inspector General*

**MEMORANDUM**

To: Lisa Terry, Suspension and Debarment Official

From: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Date: March 26, 2019

Subject: Recommendation for the Suspension of:

BERND ZALKE RIND

(b) (6)

B&T TRUST LLC

(b) (6)

(b) (5)









Suspension and Debarment Official  
Suspension and Notice of Debarment Determination  
(Conviction-based)

Date: May 8, 2019

Party: Bernd Zalke Rind (the "Party")

OGC Summary Memo Date: May 1, 2019

The Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Suspension

  X   The SDO finds that there is sufficient basis to conclude that immediate suspension of the Party is necessary in order to protect the interests of the Federal Government, and that a Notice of Immediate Suspension should be delivered to the Party. These bases include: [check appropriate boxes below – at least one box must be checked.]

       The Party has been indicted<sup>1</sup> for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including<sup>2</sup>: [See below for convicted offenses]

       There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists; and immediate action is necessary to protect the public interest. [add description of relevant evidence and basis for concluding that immediate action is necessary]:

  X   The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: Wire Fraud and Aggravated Identity Theft (18 U.S.C. §§ 1343, 1028A(a)(1))

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<sup>1</sup> Indictment counts that have been dismissed as of the time the SDO makes the suspension determination cannot form the basis for a suspension.

<sup>2</sup> A copy of 2 CFR 180.800 is attached to this Suspension and Notice of Debarment Determination for ease of reference.

\_\_\_\_\_ The SDO finds that immediate suspension of the Party is not necessary or appropriate at this time. [add explanation]

Debarment

  X   The SDO finds that a Notice of Proposed Debarment should be sent to the Party. The basis for this determination is: [check appropriate boxes below.]

  X   The Party has been convicted for an offence(s) included in the “causes for debarment” listed in 2 CFR 180.800 (a) including: Wire Fraud and Aggravated Identity Theft (18 U.S.C. §§ 1343, 1028A(a)(1))

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists. [add description of relevant evidence]:

\_\_\_\_\_ Pursuant to 2 CFR 180.630, there is adequate cause for debarment based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

\_\_\_\_\_ The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]

LISA  
TERRY

Digitally signed  
by LISA TERRY  
Date: 2019.05.08  
11:08:29 -04'00'

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Lisa V. Terry, Suspension and Debarment Official

Attachment to Form of Suspension and Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701);  
or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>3</sup>.

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<sup>3</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.





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June 21, 2019

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Bernd Zalke Rind

(b) (6)

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

B&T Trust LLC

(b) (6)

Re: Notice of Debarment – Bernd Zalke Rind and B&T Trust LLC Company

Dear Mr. Rind:

On May 10, 2019, Export-Import Bank of the United States ("EXIM Bank" or "the Bank") sent you, Bernd Zalke Rind and B&T Trust LLC Company, a Notice of Suspension and Proposed Debarment ("Notice"). The Notice advised that you and your company had thirty (30) calendar days to submit information and arguments in opposition to the suspension and proposed debarment. To date, EXIM Bank has not received any response to the Notice or protest of the proposal or to the contents of the Notice.

In the absence of any evidence to the contrary, the Bank finds by a preponderance of the evidence that the information in the Notice is accurate and the conclusions drawn are warranted. Specifically, the Bank finds that you and your company are not presently responsible contractors/participants.

EXIM Bank is debarring you and your company based on your convictions for (i) wire fraud under Title 18 U.S.C. § 1343 and (ii) aggravated identity theft under Title 18 U.S.C. § 1028A(a)(1). A copy of the judgment was attached to your Notice.

After careful consideration of the entire administrative record, the Bank has concluded that a three year debarment term is required to protect the Government. The effects of debarment are as stated in the Notice.

Therefore, effective as of this date, EXIM Bank has debarred you, Bernd Zalke Rind and B&T Trust LLC Company, for three (3) years, from participation in programs of the United States. This action is undertaken pursuant to Title two, part 180.800 et seq. of the Code of Federal Regulations (2 C.F.R. §§ 180.800 et seq.).



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Your name, as well as your company's name, will be published in the System for Award Management (SAM), where it will be noted that you are "Ineligible – Proceedings Completed" for the effective three year period. You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa V. Terry".

Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States





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May 9, 2019

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Bernd Zalke Rind

(b) (6)

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

B&T Trust LLC

(b) (6)

Re: Notice of Proposed Debarment – Bernd Zalke Rind and B&T Trust LLC Company

Dear Mr. Rind:

I am the Suspending and Debarment Official at the Export-Import Bank of the United States (the Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title two, part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I am suspending both you and your company, B&T Trust LLC Company, immediately from participation in programs of the United States. See 2 C.F.R. §§ 180.700 et seq. I also propose to debar you and your company for three (3) years from participating in such programs. See 2 C.F.R. §§ 180.800 et seq.

**REGULATORY FRAMEWORK**

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal Suspension and Debarment official may immediately suspend a person when the official determines that there exists an indictment for, or other adequate evidence to suspect an offense under 2 C.F.R. § 180.800(a), or any other cause for debarment under § 180.800(b) through (d), and that immediate action is necessary to protect the public interest. See 2 C.F.R. § 180.700.

In determining whether to suspend, the official reviews the adequacy of the evidence to support the suspension, and considers how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn. See 2 C.F.R. § 180.705(a). An indictment, conviction, civil judgment, or other official findings by Federal, State, or local bodies that determine factual and/or legal matters, constitutes adequate evidence for purposes of suspension actions. See 2 C.F.R. § 180.705(b). The official may infer the necessity for immediate action to protect the public interest either from the nature of the circumstances giving rise to a cause for suspension or from potential business relationships or involvement with a program of the Federal Government. See 2 C.F.R. § 180.705(c).

If legal or debarment proceedings are initiated at the time of, or during your suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed twelve (12) months. See 2 C.F.R. § 180.760(a). The official may extend the twelve-month limit for an additional six (6) months if an office of a U.S. Assistant Attorney General, U.S. Attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed eighteen (18) months without initiating legal or debarment proceedings. See 2 C.F.R. § 180.760(b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a





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voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).

## SUSPENSION

As stated above, you, Bernd Zalke Rind and B&T Trust LLC Company, have both been suspended. The basis of the suspension is your conviction and sentencing in the Southern District of Florida on April 9, 2019 for violating 18 U.S.C. § 1343, Wire Fraud and 18 U.S.C. § 1028A(a)(1) Aggravated Identity Theft. See 2 C.F.R. §§ 180.700, 705, & 800. The conduct underlying your conviction is imputed to your company, B&T Trust LLC Company, as well. See 2 C.F.R. § 630(a) and (b), or in case of an affiliate, 2 C.F.R. § 180.905. A suspending official may extend a suspension to any affiliate if that affiliate is (1) specifically named in the Notice of Suspension and (2) given written notice of the suspension and an opportunity to respond. See 2 C.F.R. § 180.625(b).

I have determined that the evidence is adequate to suspend you because you have been convicted and there is sufficient information available that such information is credible, corroborated and that an examination of the information leads to the reasonable inference that you committed the conduct underlying your conviction.

The cause for your suspension is a criminal conviction of Bernd Zalke Rind for committing fraud in connection with obtaining or performing a public or private agreement, making false statements, committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility, and willfully violating 18 U.S.C. § 1343 and 18 U.S.C. § 1028A(a)(1), thereby engaging in malfeasance so serious as to affect the integrity of the Export-Import Bank's credit program. Immediate action is necessary to protect the public interest. The public has a genuine expectation that the Government will conduct business with only responsible persons.

Accordingly, you are immediately excluded from participating as either a participant or a principal, as defined at 2 C.F.R. §§ 180.980 and 180.995, in covered transactions, as defined and described at 2 C.F.R. § 180.200, § 180.210 and § 180.215, under United States programs through the Executive Branch of the United States Government. 2 C.F.R. § 180.1015; § 180.130. Pursuant to 2 C.F.R. § 180.140, the suspension will be recognized by, and be effective for, Executive Branch agencies as a suspension under the Federal Acquisition Regulation as well.

This suspension is for a temporary period, pending the completion of debarment proceedings. See 2 C.F.R. § 180.760.

## PROPOSED DEBARMENTS



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Based on the facts stated herein, I am proposing to debar Mr. Bernd Zalke Rind and B&T Trust LLC from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.

Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.

The reasons for your debarment are based on your convictions for (i) wire fraud under Title 18 U.S.C. § 1343 and (ii) aggravated identity theft under Title 18 U.S.C. § 1028A(a)(1). Between October 2017 and May 2018, you willfully engaged in a fraudulent scheme to entice various parties, on numerous occasions, to pay you retainer fees on the basis of the misrepresentation of your ability to help such parties obtain loans the Export-Import Bank of the United States ("EXIM Bank"). Throughout this time period you falsely claimed that your victims were eligible to receive EXIM Bank financing and fraudulently misrepresented yourself as an intermediary between them and EXIM Bank.

Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. § 180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Upon debarment, your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

#### ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and G, govern the suspension decision-making process. The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.720 and 180.815, you may contest the suspension and proposed debarment. Pursuant to 2 C.F.R. §§ 180.725 and 180.820, within thirty (30)





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calendar days after receipt of this notice, you may submit information and arguments in opposition to the suspension and proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Suspension and Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.725(b) and 180.820(b).

Pursuant to 2 C.F.R. §§ 180.730 and 180.825, if you choose to contest your suspension and proposed debarment from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter; all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which your suspension and proposed debarment is based will be determined in accordance with 2 C.F.R. §§ 180.735 and 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Suspension and Proposed Debarment. However, unlike in criminal matters, the U.S. Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment within the required 30-day period, the debarment will be automatically entered. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you must contest the proposed debarment within the required 30-day period. See 2 C.F.R. § 180.820 and § 180.860.

Any communications or written submission should be directed to Attorney Ricardo Exantus in the Office of General Counsel at the address listed below:

Ricardo Exantus  
Office of General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.



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Washington, D.C. 20571  
(202) 565-3434

For your information, a copy of regulations relevant to your suspension and proposed debarment is enclosed.

Very truly yours,

LISA  
TERRY

Digitally signed  
by LISA TERRY  
Date: 2019.05.10  
11:07:09 -04'00'

Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180;
- 2) Plea Agreement – U.S. v. Bernd Zalke Rind, U.S. District Court, So. D. of FL, Case No. 18-CR-60323WJZ, April 9, 2019;
- 3) Factual Proffer – U.S. v. Bernd Zalke Rind, U.S. District Court, So. D. of FL, Case No. 18-CR-60323WJZ, April 9, 2019; and
- 4) Office of the Florida Secretary of State, Corporation File Detail Report, B&T Trust LLC



## **MEMORANDUM**

**DATE:** July 14, 2017

**TO:** Lisa Terry, Suspension and Debarment Official

**FROM:** OGC Litigation, Fraud and Compliance Group

**SUBJECT:** Notice of Suspension and Proposed Debarment of Carlos Del Valle and Lion Trading Corporation; EXIM Bank Claim No. I20004501

(b) (5), (b) (6), (b) (7)(C)



























Suspension and Debarment Official  
Suspension and Notice of Debarment Determination  
(Conviction-based)

Date: August 14, 2017

Party: Lion Trading Corp. (the "Party")

OGC Summary Memo Date: July 14, 2017

The Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Suspension

**X** The SDO finds that there is sufficient basis to conclude that immediate suspension of the Party is necessary in order to protect the interests of the Federal Government, and that a Notice of Immediate Suspension should be delivered to the Party. These bases include: [check appropriate boxes below – at least one box must be checked.]

\_\_\_\_\_ The Party has been indicted<sup>1</sup> for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including<sup>2</sup>: [See below for convicted offenses]

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists; and immediate action is necessary to protect the public interest. [add description of relevant evidence and basis for concluding that immediate action is necessary]

\_\_\_\_\_ The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a).

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<sup>1</sup> Indictment counts that have been dismissed as of the time the SDO makes the suspension determination cannot form the basis for a suspension.

<sup>2</sup> A copy of 2 CFR 180.800 is attached to this Suspension and Notice of Debarment Determination for ease of reference.

☒ Pursuant to 2 CFR 180.630, the Party should be suspended based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

☒ The Party is wholly owned and/or controlled by Carlos Del Valle, another party that is being or has been suspended, and proposed for debarment, or debarred.

\_\_\_\_\_ The SDO finds that immediate suspension of the Party is not necessary or appropriate at this time. [add explanation]

#### Debarment

☒ The SDO finds that a Notice of Proposed Debarment should be sent to the Party<sup>3</sup>. The basis for this determination is: [check appropriate boxes below.]

\_\_\_\_\_ The Party has been convicted for an offence(s) included in the “causes for debarment” listed in 2 CFR 180.800 (a).

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists. [add description of relevant evidence]

☒ Pursuant to 2 CFR 180.630, there is adequate cause for debarment based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

☒ The Party is wholly owned and/or controlled by Carlos Del Valle, another party that is being or has been suspended, and proposed for debarment, or debarred.

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<sup>3</sup> If the SDO concludes that a Suspension is warranted, then the SDO must find that there is adequate cause for debarment of the Party as well.

\_\_\_\_\_ The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]

**LISA TERRY**

Digitally signed by LISA TERRY  
DN: c=US, o=U.S. Government,  
ou=Export Import Bank, cn=LISA TERRY,  
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\_\_\_\_\_  
Lisa Terry, Suspension and Debarment Official

Attachment to Form of Suspension and Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A non-procurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701);  
or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>4</sup>.

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<sup>4</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.







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February 27, 2018

Carlos Del Valle

(b) (6)

Lion Trading Corp.

(b) (6)

Attn: Carlos Del Valle, Registered Agent

Re: Notice of Debarment: Carlos Del Valle, and Lion Trading Corp.

Dear Mr. Del Valle:

On October 2, 2017, the Export-Import Bank of the United States ("EXIM Bank" or "the Bank") sent you, Carlos Del Valle and your company, Lion Trading Corp., a Notice of Suspension and Proposed Debarment ("Notice"). The Notice advised that you and your company had 60 (sixty) calendar days after receipt of the Notice to submit information and arguments in opposition to the suspension and proposed debarment. USPS tracking shows that the Notice was delivered on November 8, 2017. To date, EXIM Bank has not received any response to the Notice or protest of the proposal or to the contents of the Notice.

In the absence of any evidence to the contrary, the Bank finds by a preponderance of the evidence that the information in the Notice is accurate and the conclusions drawn are warranted. Specifically, the Bank finds that you and your company are not presently responsible contractors/participants.

EXIM Bank is debarring you and your company based on your conviction for Grand Theft in the First Degree (over \$100,000), in violation of Florida criminal statute, sections 812.014(1) and (20) and 777.001, in connection with a program of EXIM Bank. A copy of the judgment was attached to your Notice.

After careful consideration of the entire administrative record, the Bank has concluded that a three year debarment term is required to protect the Government. The effects of debarment are as stated in the Notice.

Therefore, effective as of this date, EXIM Bank has debarred you, Carlos Del Valle and Lion Trading Corp., for three (3) years, from participation in programs of the United States. This action is undertaken pursuant to Title two, part 180.800 et seq. of the Code of Federal Regulations (2 C.F.R. §§ 180.800 et seq.).





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Your name, as well as your company's name, will be published in the System for Award Management (SAM), where it will be noted that you are "Ineligible – Proceedings Completed" for the effective three year period. You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

Very truly yours,

A handwritten signature in blue ink, reading "Lisa V. Terry".

Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States



*Reducing Risk. Unleashing Opportunity.*

October 2, 2017

Carlos Del Valle

(b) (6)

Lion Trading Corp.

(b) (6)

Attn: Carlos Del Valle, Registered Agent

Re: Notice of Suspension and Debarment: Carlos Del Valle, and Lion Trading Corp.

Dear Mr. Del Valle:

I am the Suspending and Debarring Official at the Export-Import Bank of the United States ("the Bank", or EXIM Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title two, part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I am suspending both you and your company, Lion Trading Corp. immediately from participation in programs of the United States. See 2 C.F.R. §§ 180.700 et seq. I also propose to debar you and your company for three (3) years from participating in such programs. See 2 C.F.R. §§ 180.800 et seq.

#### REGULATORY FRAMEWORK

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal Suspension and Debarment official may immediately suspend a person when the official determines that there exists an indictment for, or other adequate evidence to suspect an offense under 2 C.F.R. § 180.800(a), or any other cause for debarment under § 180.800(b) through (d), and that immediate action is necessary to protect the public interest. See 2 C.F.R. § 180.700.

In determining whether to suspend, the official reviews the adequacy of the evidence to support the suspension, and considers how much information is available, how credible

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it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn. See 2 C.F.R. § 180.705(a). An indictment, conviction, civil judgment, or other official findings by Federal, State, or local bodies that determine factual and/or legal matters, constitutes adequate evidence for purposes of suspension actions. See 2 C.F.R. § 180.705(b). The official may infer the necessity for immediate action to protect the public interest either from the nature of the circumstances giving rise to a cause for suspension or from potential business relationships or involvement with a program of the Federal Government. See 2 C.F.R. § 180.705(c).

If legal or debarment proceedings are initiated at the time of, or during your suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed twelve (12) months. See 2 C.F.R. § 180.760(a). The official may extend the twelve-month limit for an additional six (6) months if an office of a U.S. Assistant Attorney General, U.S. Attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed eighteen (18) months without initiating legal or debarment proceedings. See 2 C.F.R. § 180.760(b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the



debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).

## SUSPENSION

As stated above, you (both Carlos Del Valle and Lion Trading Corp.) have been suspended. The basis of the suspension is the conviction of Carlos Del Valle, as an individual, in Florida state court, Miami-Dade County, State of Florida vs Carlos Del Valle, Case No. F15014851. See 2 C.F.R. §§ 180.700, 705, & 800. The conduct underlying your conviction is imputed to your company, Lion Trading Corp., as well. See 2 C.F.R. § 180.630. Your suspension or debarment constitutes suspension or debarment of all of your divisions and other organizational elements, unless the decision is otherwise limited. See 2 C.F.R. § 180.625. Further, a suspending official may extend a suspension to any affiliate if that affiliate is (1) specifically named in the Notice of Suspension and (2) given written notice of the suspension and an opportunity to respond. See 2 C.F.R. § 180.625(b).

I have determined that the evidence is adequate to suspend (1) Carlos Del Valle because you have been convicted and there is sufficient information available that such information is credible, corroborated and that an examination of the information leads to the reasonable inference that you committed the conduct underlying your conviction, and (2) Lion Trading Corp. because the conduct of Carlos Del Valle is imputed to your company.

The cause for your suspension is a criminal conviction of Carlos Del Valle for Grand Theft in the First Degree (over \$100,000), in violation of Florida criminal statute, sections 812.014(1) and (20 and 777.001, in connection with a program of EXIM Bank. This is an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility, thereby affecting the integrity of EXIM Bank's credit program. Immediate action is necessary to protect the public interest. The public has a genuine expectation that the Government will conduct business with only responsible persons.

Accordingly, you are immediately excluded from participating as either a participant or a principal, as defined at 2 C.F.R. §§ 180.980 and 180.995, in covered transactions, as defined and described at 2 C.F.R. § 180.200, § 180.210 and § 180.215, under United



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States programs through the Executive Branch of the United States Government. 2 C.F.R. § 180.1015; § 180.130. Pursuant to 2 C.F.R. § 180.140, the suspension will be recognized by, and be effective for, Executive Branch agencies as a suspension under the Federal Acquisition Regulation as well.

This suspension is for a temporary period, pending the completion of debarment proceedings. See 2 C.F.R. § 180.760.

#### PROPOSED DEBARMENTS

Based on the facts stated above, I am proposing to debar Carlos Del Valle and Lion Trading Corp. from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.

Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.

The reasons for your debarment are based on Carlos Del Valle's conviction for Grand Theft in the First Degree (over \$100,000), in violation of Florida criminal statute, sections 812.014(1) and (2), and 777.001, in connection with an export credit insurance program of the Bank. In and around early 2011 through early 2012, you submitted false documents to your lender, Plus International Bank, Miami, FLA ("PIB"), in order to obtain a line of credit of \$750,500. Approximately \$754,000 was disbursed to you and/or your company, Lion Trading Corp. The documents you submitted, which included bills of lading, purported to show that you and/or Lion Trading Corp., shipped goods to purported buyers in the Dominican Republic, when in fact, none of the shipments were made—and the supporting documents were either completely fabricated or contained altered dates (using documentation for past shipments purporting to be new shipments). Pursuant to an EXIM Bank short-term multi-buyer insurance ("STMB") policy, which insures against non-payment by foreign buyers, EXIM Bank paid PIB's claim and suffered a loss of \$754,220.57.

Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. §180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met

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additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

#### ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and G, govern the suspension decision-making process. The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.720 and 180.815, you may contest the suspension and proposed debarment. Pursuant to 2 C.F.R. §§ 180.725 and 180.820, information and arguments in opposition to the suspension and proposed debarment must be submitted within thirty (30) calendar days after receipt of the suspension and proposed debarment notice. However, in light of the recent hurricane in Florida, **you may have sixty (60) calendar days after receipt of this notice** to submit such information. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Suspension and Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.725(b) and 180.820(b).

Pursuant to 2 C.F.R. §§ 180.730 and 180.825, if you choose to contest your suspension from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter, all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the suspension and proposed debarment is based will be determined in accordance with 2



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C.F.R. §§ 180.735 and 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Suspension and Proposed Debarment. However, unlike in criminal matters, the Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment **within 60-days**, as specified above, the debarment will be automatically entered. If, because of any related hurricane damage, you need additional time beyond sixty days after receipt of this notice, please advise EXIM Bank as soon as possible at the address listed below. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you must contest the proposed debarment. See 2 C.F.R. § 180.820 and § 180.860.

Any communications or written submission should be directed to Attorney Lauren Nguyen in the Office of General Counsel at:

Lauren Nguyen  
Office of General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.  
Washington, D.C. 20571  
(202) 565-3471

For your information, a copy of regulations relevant to your suspension and proposed debarment is enclosed.

Very truly yours,

**LISA TERRY**

Digitally signed by LISA TERRY  
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Lisa V. Terry  
Suspension and Debarment Official of the Export-Import Bank of the United States

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180
- 2) Judgment in a Criminal Case, Case Number F15014851 (as listed on Judgment, also listed in Plea Agreement as F15-14851), State of Florida, Miami-Dade County
- 3) Plea Agreement, Case Number F15-14851, State of Florida, Miami-Dade County

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*Office of Inspector General*

**MEMORANDUM**

To: Lisa Terry, Suspension and Debarment Official

From: (b) (6), (b) (7)(C)

Date: June 13, 2018

Subject: Recommendation for the Debarment of:

DANIEL FERNANDO ARENAS-LEON

(b) (6)

CAMPOLLO S.A.  
Calle 54 #28-10  
Barrio-Bolarqui  
Bucaramanga, Santander, Colombia

(b) (5)









Suspension and Debarment Official  
Notice of Debarment Determination  
(Conviction-based)

Date: February 19, 2019

Party: Daniel F. Arenas-Leon (the "Party")

OGC Summary Memo Date: February 19, 2019

The Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Debarment

  X   The SDO finds that a Notice of Proposed Debarment should be sent to the Party. The basis for this determination is: [check appropriate boxes below.]

  X   The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: Wire Fraud (18 U.S.C. §§ 1343)

       There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists. [add description of relevant evidence]:

       Pursuant to 2 CFR 180.630, there is adequate cause for debarment based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

       The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]

LISA  
TERRY

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Lisa Terry, Suspension and Debarment Official

Attachment to Form of Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701); or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>1</sup>.

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<sup>1</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.

Suspension and Debarment Official  
Notice of Debarment Determination  
(Conviction-based)

Date: February 19, 2019

Party: Campollo, S.A. (the "Party")

OGC Summary Memo Date: February 19, 2019

The Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Debarment

  X   The SDO finds that a Notice of Proposed Debarment should be sent to the Party. The basis for this determination is: [check appropriate boxes below.]

\_\_\_\_\_ The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: Wire Fraud (18 U.S.C. §§ 1343)

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists. [add description of relevant evidence]:

  X   Pursuant to 2 CFR 180.630, there is adequate cause for debarment based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

\_\_\_\_\_ The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]



LISA  
TERRY

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Lisa Terry, Suspension and Debarment Official

Attachment to Form of Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701); or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>1</sup>.

---

<sup>1</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.



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February 28, 2019

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Daniel F. Arenas-Leon

(b) (6)

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Campollo, S.A.

Calle 54 #28-10

Bucaramanga, Santander, Colombia

Re: Notice of Proposed Debarment – Daniel F. Arenas-Leon and Campollo, S.A.

Dear Mr. Arenas-Leon:

I am the Suspending and Debarment Official at the Export-Import Bank of the United States (the Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title 2, part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I propose to debar you and your company for three (3) years from participation in programs of the United States. See 2 C.F.R. §§ 180.800 et seq.

**REGULATORY FRAMEWORK**

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction



of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).

## PROPOSED DEBARMENTS

Based on the facts stated above, I am proposing to debar Mr. Daniel F. Arenas-Leon and Campollo, S.A. from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.

Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.

The reasons for your debarment are based on your conviction for wire fraud under Title 18 U.S.C. § 1343. In February 2014, you willfully, with the intent to defraud, made false representations regarding your company's financial condition, and to further the fraud, knowingly distributed such misrepresentations via email in order to secure a line of credit that was guaranteed by the Export-Import Bank of the United States ("EXIM Bank"). Moreover, you made the false representations in question shortly after seeking bankruptcy protection for your company in Colombia. While the District Court's ruling did not specify the loss suffered by EXIM Bank, you were assessed a criminal penalty of \$100.



Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. §180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Upon debarment, your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

#### ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.815, you may contest the proposed debarment. Pursuant to 2 C.F.R. §§ 180.820, within thirty (30) calendar days after receipt of this notice, you may submit information and arguments in opposition to the proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.820(b).

Pursuant to 2 C.F.R. §§ 180.825, if you choose to contest your proposed debarment from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter; all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the proposed





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debarment is based will be determined in accordance with 2 C.F.R. §§ 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Proposed Debarment. However, unlike in criminal matters, the U.S. Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment within the required 30-day period, the debarment will be automatically entered. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you must contest the proposed debarment within the required 30-day period. See 2 C.F.R. § 180.820 and § 180.860.

Any communications or written submission should be directed to Attorney Ricardo Exantus in the Office of General Counsel at the address listed below:

Ricardo Exantus  
Office of General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.  
Washington, D.C. 20571  
(202) 565-3434

For your information, a copy of regulations relevant to your proposed debarment is enclosed.

Sincerely,

LISA  
TERRY

Digitally signed by LISA TERRY  
DN: cn=U.S. Government,  
ou=Export-Import Bank,  
email=LISA.TERRY,  
0.9.2342.19200300.100.1.1=81  
01/00221931  
Date: 2019.02.28 17:42:58  
+05'00'

Lisa V. Terry  
Suspension and Debarment Official of the Export-Import Bank of the United States

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180
- 2) Plea Agreement – U.S. v. Daniel F. Arenas-Leon, 17-CR-20143-WILLIAMS(s), April 17, 2018
- 3) Judgment in a Criminal Case – U.S. v. Daniel F. Arenas-Leon, 17-CR-20143-WILLIAMS(s), April 17, 2018



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cc: (by first-class mail)

Dutko & Kroll, P.A.  
Attn: Michael E. Dutko  
600 South Andrews Avenue  
Suite 500  
Fort Lauderdale, FL 33301





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March 6, 2019

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Daniel F. Arenas-Leon

(b) (6)

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Campollo, S.A.  
Calle 54 No. 28 - 10 B.  
Nuevo Sotomayor  
Bucaramanga, Santander 542810  
Colombia

Re: Notice of Proposed Debarment – Daniel F. Arenas-Leon and Campollo, S.A.

Dear Mr. Arenas-Leon:

I am the Suspending and Debarment Official at the Export-Import Bank of the United States (the Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title 2, part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I propose to debar you and your company for three (3) years from participation in programs of the United States. See 2 C.F.R. §§ 180.800 et seq.

**REGULATORY FRAMEWORK**

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making



false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).

## PROPOSED DEBARMENTS

Based on the facts stated above, I am proposing to debar Mr. Daniel F. Arenas-Leon and Campollo, S.A. from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.

Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.

The reasons for your debarment are based on your conviction for wire fraud under Title 18 U.S.C. § 1343. In February 2014, you willfully, with the intent to defraud, made false representations regarding your company's financial condition, and to further the fraud, knowingly distributed such misrepresentations via email in order to secure a line of credit that was guaranteed by the Export-Import Bank of the United States ("EXIM Bank"). Moreover, you made the false representations in question shortly after seeking bankruptcy protection for your company in Colombia. While the District Court's ruling





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did not specify the loss suffered by EXIM Bank, you were assessed a criminal penalty of \$100.

Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. §180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Upon debarment, your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

#### ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.815, you may contest the proposed debarment. Pursuant to 2 C.F.R. §§ 180.820, within thirty (30) calendar days after receipt of this notice, you may submit information and arguments in opposition to the proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.820(b).

Pursuant to 2 C.F.R. §§ 180.825, if you choose to contest your proposed debarment from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter; all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause





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stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the proposed debarment is based will be determined in accordance with 2 C.F.R. §§ 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Proposed Debarment. However, unlike in criminal matters, the U.S. Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment within the required 30-day period, the debarment will be automatically entered. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you must contest the proposed debarment within the required 30-day period. See 2 C.F.R. § 180.820 and § 180.860.

Any communications or written submission should be directed to Attorney Ricardo Exantus in the Office of General Counsel at the address listed below:

Ricardo Exantus  
Office of General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.  
Washington, D.C. 20571  
(202) 565-3434

For your information, a copy of regulations relevant to your proposed debarment is enclosed.

Sincerely,

LISA

TERRY

Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States

Digitally signed by LISA TERRY  
DN: c=US, o=U.S. Government,  
ou=Export-Import Bank,  
cn=LISA TERRY,  
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001002321071  
Date: 2019.03.06 12:08:39  
-05'00'

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180
- 2) Plea Agreement – U.S. v. Daniel F. Arenas-Leon, 17-CR-20143-WILLIAMS(s), April 17, 2018
- 3) Judgment in a Criminal Case – U.S. v. Daniel F. Arenas-Leon, 17-CR-20143-WILLIAMS(s), April 17, 2018



*Reducing Risk. Unleashing Opportunity.*

cc: (by first-class mail)

Dutko & Kroll, P.A.  
Attn: Michael E. Dutko  
600 South Andrews Avenue  
Suite 500  
Fort Lauderdale, FL 33301



















EXPORT-IMPORT BANK  
OF THE UNITED STATES

---

January 6, 2012

**VIA CERTIFIED MAIL, REGULAR MAIL AND E-MAIL**

Mr. Luis Manuel Juarez Parra  
c/o Miguel A. Torres, Esq.

(b) (6)

A large black rectangular redaction box covers the address and any other identifying information that might have been present in the envelope or on the letterhead.

**Re: Notice of Suspension and Proposed Debarment of Luis Manuel Juarez Parra**

Dear Mr. Juarez Parra:

On behalf of the Export-Import Bank of the United States ("Ex-Im Bank"), I hereby suspend and propose to debar you from conducting business with the United States Government for ten (10) years. I have initiated this action pursuant to the authority and procedures of, the government- wide Debarment and Suspension Regulations set forth at 12 C.F.R. Part 413 and 2 C.F.R. Part 180 (the "Debarment Regulations"). The specific grounds for the suspension and proposed debarment, as well as your procedural rights, are explained below.

**I. Grounds for Suspension and Proposed Debarment**

The debarment and suspension system is intended to protect the public interest and the integrity of U.S. federal programs by ensuring that the U.S. Government conducts business only with responsible persons. U.S. federal agencies use the debarment and suspension system to exclude from U.S. federal programs persons who are not presently responsible. Based upon the facts set forth below, it is my view that suspension and debarment are appropriate in this case.

Applicable Debarment Regulations

The specific provisions of the Debarment Regulations that apply to these facts are the following subsections of 2 C.F.R. §180.800:

(b) violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as (1) a willful failure to perform in



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accordance with the terms of one or more public agreements or transactions; ...

(d) any other cause of so serious or compelling a nature that it affects your present responsibility.

### Applicable Facts

From approximately 2003 to approximately 2009, you participated in a criminal conspiracy with Guillermo Mondino and others to defraud the Export-Import Bank of the United States (Ex-Im). You created false financial statements and provided advice in support of the fraud to Mr. Mondino and other co-conspirators. You were compensated for your participation in the fraud via checks, wire transfers, and intra-bank transfers.

## **II. Effect of Suspension and Debarment**

Because you have been suspended and proposed for debarment, your name will be published in the List of Parties Excluded From Federal Procurement and Nonprocurement Programs, a publication of the General Services Administration. As such, you will be barred from participating in a "covered transaction," as defined in 12 C.F.R. Part 413. You will also be barred from acting as a principal for any person participating in a "covered transaction." This restriction will apply U.S. Government wide and to both procurement and non-procurement programs. If debarment ultimately is imposed, the limitations set forth above will continue to apply, and your name will continue to be published in the List of Parties Excluded From Federal Procurement and Nonprocurement Programs. Your status, however, will be changed to reflect that you are debarred.

## **III. Procedural Rights**

Within thirty (30) days after your receipt of this notice, you may submit information and argument in opposition to the proposed debarment. Submission may be made orally or in writing, but any important information provided orally must also be submitted in writing for the official record. Submissions should be made to the following address:

Mr. Michael Cushing  
Suspending and Debarring Official  
Export-Import Bank of the United States  
811 Vermont Avenue, N.W.  
Washington, D.C. 20571

Submissions may include any additional information believed to raise a genuine dispute concerning the material facts cited above. In the event that any such submission raises a genuine dispute concerning the material facts, you will be provided the opportunity to appear with counsel, submit documentary evidence, present witnesses, and confront any agency witnesses. We will handle the suspension and debarment process as informally as practicable, consistent with principles of fundamental fairness. See 12 C.F.R. Part 413, Subpart F.

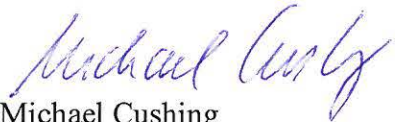
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#### IV. Conclusion

Based on the foregoing, and in the interest of the United States Government, I propose that you be debarred from conducting business with the United States Government for a period of ten (10) years.

Sincerely,

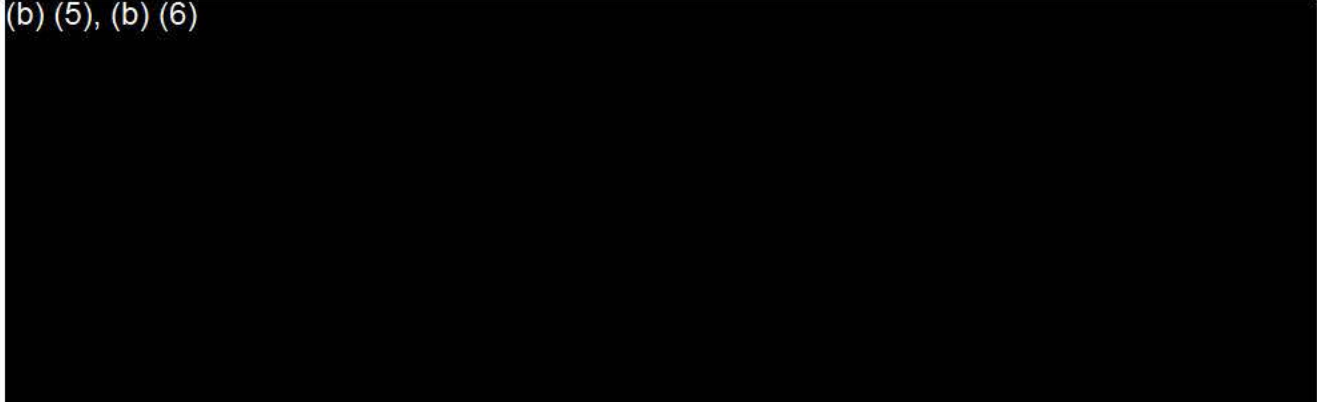
A handwritten signature in blue ink that reads "Michael Cushing". The signature is written in a cursive style with a large, stylized "M" and "C".

Michael Cushing  
Suspending and Debarring Official  
Export-Import Bank of the United States

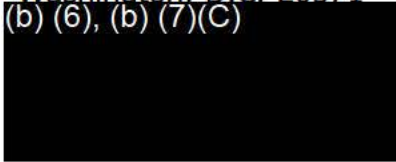
**From:** (b) (6), (b) (7)(C)  
**To:** [John Connor](#)  
**Cc:** [larry.valett@exim.gov](mailto:larry.valett@exim.gov)  
**Subject:** Proposed Suspension and Debarment of Subject  
**Date:** 01/06/2012 08:58 AM  
**Attachments:** [Juarez Parra Suspension Letter.docx](#)

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(b) (5), (b) (6)




(b) (6), (b) (7)(C)  
OIG, Investigations  
Export-Import Bank of the United States  
811 Vermont Avenue, N.W., (b) (7)(C)  
Washington, D.C. 20571  
(b) (6), (b) (7)(C)



From: [John Connor](#)  
To: (b) (6), (b) (7)(C)  
Cc: [larry.valett@exim.gov](mailto:larry.valett@exim.gov)  
Subject: Re: Proposed Suspension and Debarment of Subject  
Date: 01/06/2012 10:00 AM

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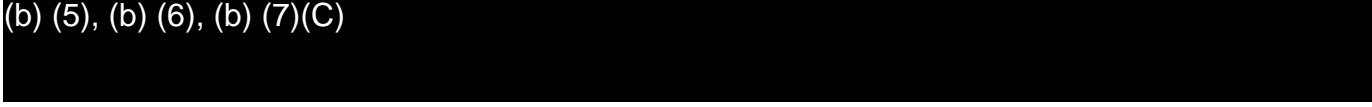
(b) (5), (b) (6), (b) (7)(C)



John G. Connor, Lead Counsel for Fraud and Compliance  
Office of the General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave. NW  
Washington D.C. 20571

Tel.: (202) 565-3815  
Fax: (202)565-3463  
E-Mail: [john.connor@exim.gov](mailto:john.connor@exim.gov)


(b) (5), (b) (6), (b) (7)(C)



From: (b) (6), (b) (7)(C)  
To: John Connor/GC/EXIMBANK  
Cc: [larry.valett@exim.gov](mailto:larry.valett@exim.gov)  
Date: 01/06/2012 08:58 AM  
Subject: Proposed Suspension and Debarment of Subject

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(b) (5), (b) (6)



(b) (6), (b) (7)(C)  
OIG, Investigations  
Export-Import Bank of the United States

811 Vermont Avenue, N.W.  
Washington, D.C. 20571  
(b) (6), (b) (7)(C)

(b) (7)(C)



From: (b) (6), (b) (7)(C)  
To: John Connor  
Cc: [larry.valett@exim.gov](mailto:larry.valett@exim.gov)  
Subject: Re: Proposed Suspension and Debarment of Subject  
Date: 01/06/2012 10:02 AM

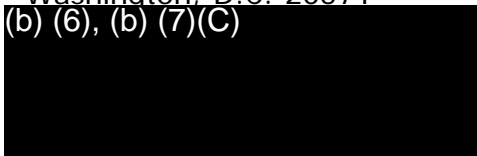
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(b) (6)

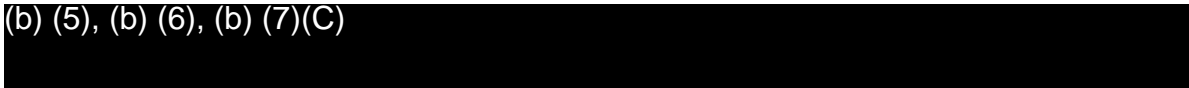


(b) (6), (b) (7)(C)  
OIG, Investigations  
Export-Import Bank of the United States  
811 Vermont Avenue, N.W., (b) (7)(C)  
Washington, D.C. 20571

(b) (6), (b) (7)(C)



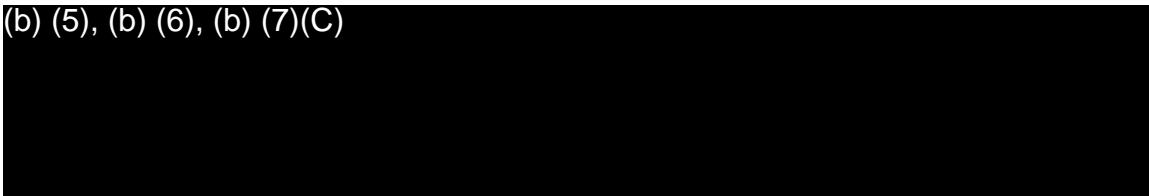
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From: John Connor/GC/EXIMBANK  
To: (b) (6), (b) (7)(C)  
Cc: [larry.valett@exim.gov](mailto:larry.valett@exim.gov)  
Date: 01/06/2012 10:00 AM  
Subject: Re: Proposed Suspension and Debarment of Subject

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(b) (5), (b) (6), (b) (7)(C)



John G. Connor, Lead Counsel for Fraud and Compliance  
Office of the General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave. NW  
Washington D.C. 20571

Tel.: (202) 565-3815  
Fax: (202) 565-3463  
E-Mail: [john.connor@exim.gov](mailto:john.connor@exim.gov)

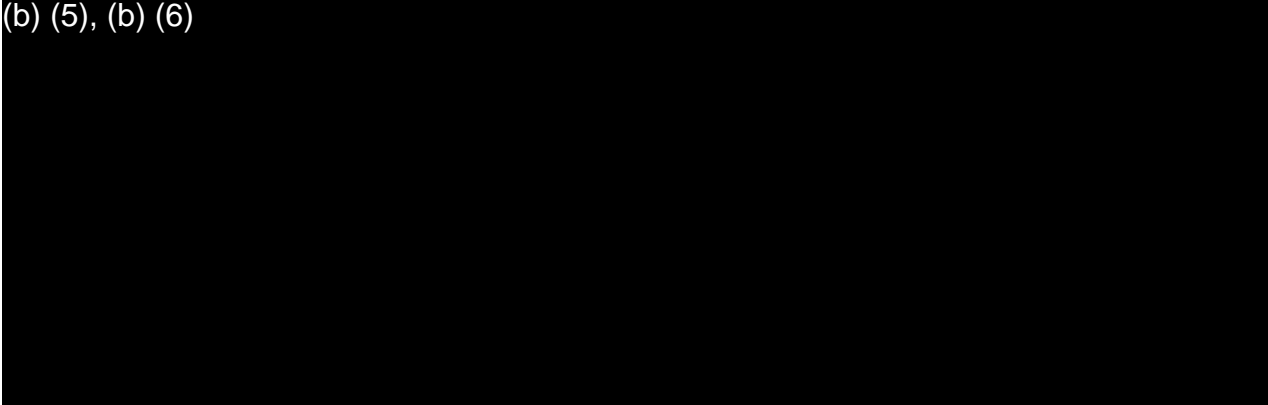
(b) (5), (b) (6), (b) (7)(C)



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(b) (5), (b) (6)



(b) (6), (b) (7)(C)

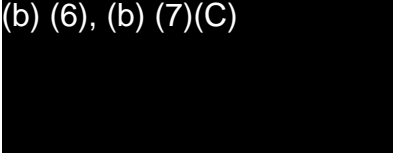
OIG, Investigations

Export-Import Bank of the United States

811 Vermont Avenue, N.W., (b) (7)(C)

Washington, D.C. 20571

(b) (6), (b) (7)(C)





## MEMORANDUM

**DATE:** April 16, 2020

**TO:** Lisa V. Terry

**FROM:** Marina Braginskaya

**CC:** John G. Connor

**SUBJECT:** Notice of Suspension and Proposed Debarment for Alan Michael Leschyshyn

(b) (5)

A large, solid black rectangular box covers the majority of the page below the subject line, indicating that the content has been redacted under FOIA exemption (b)(5).

























Suspension and Debarment Official  
Suspension and Notice of Debarment Determination  
(Conviction-based)

Date: December 6, 2017

Party: Alan Michael Leschyshyn (the "Party")

OGC Summary Memo Date: September 13, 2017

The Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Suspension

☒ The SDO finds that there is sufficient basis to conclude that immediate suspension of the Party is necessary in order to protect the interests of the Federal Government, and that a Notice of Immediate Suspension should be delivered to the Party. These bases include: [check appropriate boxes below – at least one box must be checked.]

\_\_\_\_\_ The Party has been indicted<sup>1</sup> for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including<sup>2</sup>: [See below for convicted offenses]

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists; and immediate action is necessary to protect the public interest. [add description of relevant evidence and basis for concluding that immediate action is necessary]:

☒ The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: Conspiracy to Commit Wire

<sup>1</sup> Indictment counts that have been dismissed as of the time the SDO makes the suspension determination cannot form the basis for a suspension.

<sup>2</sup> A copy of 2 CFR 180.800 is attached to this Suspension and Notice of Debarment Determination for ease of reference.

Fraud, Wire Fraud, and Conspiracy to Commit Money Laundering (18 U.S.C. §§ 1349, 1343, 1956(h))

\_\_\_\_\_ The SDO finds that immediate suspension of the Party is not necessary or appropriate at this time. [add explanation]

Debarment


X The SDO finds that a Notice of Proposed Debarment should be sent to the Party<sup>3</sup>. The basis for this determination is: [check appropriate boxes below.]

X The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: Conspiracy to Commit Wire Fraud, Wire Fraud, and Conspiracy to Commit Money Laundering (18 U.S.C. §§ 1349, 1343, 1956(h))

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists. [add description of relevant evidence]:

\_\_\_\_\_ Pursuant to 2 CFR 180.630, there is adequate cause for debarment based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

\_\_\_\_\_ The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]

 [signature – hard or electronic]  
Lisa V. Terry, Suspension and Debarment Official

<sup>3</sup> If the SDO concludes that a Suspension is warranted, then the SDO must find that there is adequate cause for debarment of the Party as well.

Attachment to Form of Suspension and Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;



(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701);  
or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>4</sup>.

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<sup>4</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.



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December 6, 2017

Alan Michael Leschyshyn  
La Tuna FCI  
8500 Doniphan Road  
Anthony, TX 79821

Re: Notice of Suspension and Debarment – Alan Michael Leschyshyn

Dear Mr. Leschyshyn:

I am the Suspending and Debarment Official at the Export-Import Bank of the United States (the Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title two, part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I am suspending you immediately from participation in programs of the United States. See 2 C.F.R. §§ 180.700 et seq. I also propose to debar you and your company for three (3) years from participating in such programs. See 2 C.F.R. §§ 180.800 et seq.

#### REGULATORY FRAMEWORK

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal Suspension and Debarment official may immediately suspend a person when the official determines that there exists an indictment for, or other adequate evidence to suspect an offense under 2 C.F.R. § 180.800(a), or any other cause for debarment under § 180.800(b) through (d), and that immediate action is necessary to protect the public interest. See 2 C.F.R. § 180.700.

In determining whether to suspend, the official reviews the adequacy of the evidence to support the suspension, and considers how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn. See 2 C.F.R. § 180.705(a). An indictment, conviction, civil judgment, or other official findings by Federal, State, or local bodies that determine factual and/or legal matters, constitutes adequate evidence for purposes of

suspension actions. See 2 C.F.R. § 180.705(b). The official may infer the necessity for immediate action to protect the public interest either from the nature of the circumstances giving rise to a cause for suspension or from potential business relationships or involvement with a program of the Federal Government. See 2 C.F.R. § 180.705(c).

If legal or debarment proceedings are initiated at the time of, or during your suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed twelve (12) months. See 2 C.F.R. § 180.760(a). The official may extend the twelve-month limit for an additional six (6) months if an office of a U.S. Assistant Attorney General, U.S. Attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed eighteen (18) months without initiating legal or debarment proceedings. See 2 C.F.R. § 180.760(b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).



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## SUSPENSION

As stated above, you have been suspended. The basis of the suspension is your conviction and sentencing in the Southern District of Texas on November 8, 2016 for violating 18 U.S.C. § 1349, Conspiracy to Commit Wire Fraud; 18 U.S.C. § 1343, Wire Fraud and 18 U.S.C. § 1956(h) Conspiracy to Commit Money Laundering. See 2 C.F.R. §§ 180.700, 705, & 800.

I have determined that the evidence is adequate to suspend you because you have been convicted and there is sufficient information available that such information is credible, corroborated and that an examination of the information leads to the reasonable inference that you committed the conduct underlying your conviction.

The cause for your suspension is a criminal conviction of Alan Michael Leschyshyn for committing fraud in connection with obtaining or performing a public or private agreement, making false statements, committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility, and willfully violating 18 U.S.C. § 1349; 18 U.S.C. § 1343 and 18 U.S.C. § 1956(h), thereby engaging in a transaction so serious as to affect the integrity of the Export-Import Bank's credit program. Immediate action is necessary to protect the public interest. The public has a genuine expectation that the Government will conduct business with only responsible persons.

Accordingly, you are immediately excluded from participating as either a participant or a principal, as defined at 2 C.F.R. §§ 180.980 and 180.995, in covered transactions, as defined and described at 2 C.F.R. § 180.200, § 180.210 and § 180.215, under United States programs through the Executive Branch of the United States Government. 2 C.F.R. § 180.1015; § 180.130. Pursuant to 2 C.F.R. § 180.140, the suspension will be recognized by, and be effective for, Executive Branch agencies as a suspension under the Federal Acquisition Regulation as well.

This suspension is for a temporary period, pending the completion of debarment proceedings. See 2 C.F.R. § 180.760.

## PROPOSED DEBARMENTS

Based on the facts stated above, I am proposing to debar Alan Michael Leschyshyn from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.



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Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.

The reasons for your debarment are based on your conviction for conspiracy to commit wire fraud under Title 18 U.S.C. § 1349, wire fraud under Title 18 U.S.C. § 1343 and conspiracy to commit money laundering under Title 18 U.S.C. § 1956(h). On or about April 2012 through in or around February 2015, you willfully, with the intent to defraud carried out a scheme to defraud factoring companies and credit insurance providers, including EXIM Bank. The conspiracy and scheme caused a loss of approximately \$1 million to the Export-Import Bank and to the United States government.

Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. §180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

## ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and G, govern the suspension decision-making process. The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.720 and 180.815, you may contest the suspension and proposed debarment. Pursuant to 2 C.F.R. §§ 180.725 and 180.820, within thirty (30) calendar days after receipt of this notice, you may submit information and arguments in opposition to the suspension and proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Suspension and Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is



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undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.725(b) and 180.820(b).

Pursuant to 2 C.F.R. §§ 180.730 and 180.825, if you choose to contest your suspension from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter, all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the suspension and proposed debarment is based will be determined in accordance with 2 C.F.R. §§ 180.735 and 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Suspension and Proposed Debarment. However, unlike in criminal matters, the Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment within the required 30-day period, the debarment will be automatically entered. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you must contest the proposed debarment within the required 30-day period. See 2 C.F.R. § 180.820 and § 180.860.

Any communications or written submission should be directed to Attorney Marina Braginskaya in the Office of General Counsel at the address listed below:

Marina Braginskaya  
Office of General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.  
Washington, D.C. 20571  
(202) 565-3193





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For your information, a copy of regulations relevant to your suspension and proposed debarment is enclosed.

Very truly yours,

Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180
- 2) Judgment in a Criminal Case, Case Number 4:15-cr-00068



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February 14, 2018

Alan Michael Leschyshyn  
La Tuna FCI  
8500 Doniphan Road  
Anthony, TX 79821

Re: Notice of Debarment – Alan Michael Leschyshyn

Dear Mr. Leschyshyn:

On December 6, 2017, Export-Import Bank of the United States (“EXIM Bank” or “the Bank”) sent you a Notice of Suspension and Proposed Debarment (“Notice”). The Notice advised that you had 30 (thirty) calendar days to submit information and arguments in opposition to the suspension and proposed debarment. To date, EXIM Bank has not received any response to the Notice or protest of the proposal or to the contents of the Notice.

In the absence of any evidence to the contrary, the Bank finds by a preponderance of the evidence that the information in the Notice is accurate and the conclusions drawn are warranted. Specifically, the Bank finds that you are not presently responsible contractor/participant.

EXIM Bank is debarring you based on your conviction for conspiracy to commit wire fraud under Title 18 U.S.C. § 1349, wire fraud under Title 18 U.S.C. § 1343 and conspiracy to commit money laundering under Title 18 U.S.C. § 1956(h). A copy of the judgment was attached to your Notice.

After careful consideration of the entire administrative record, the Bank has concluded that a three year debarment term is required to protect the Government. The effects of debarment are as stated in the Notice.

Therefore, effective as of this date, EXIM Bank has debarred you, Alan Michael Leschyshyn, for three (3) years, from participation in programs of the United States. This action is undertaken pursuant to Title two, part 180.800 et seq. of the Code of Federal Regulations (2 C.F.R. §§ 180.800 et seq.).



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Your name will be published in the System for Award Management (SAM), where it will be noted that you are "Ineligible – Proceedings Completed" for the effective three year period. You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

Very truly yours,

A handwritten signature in blue ink that reads "Lisa V. Terry".

Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States



## MEMORANDUM

**DATE:** April 16, 2020

**TO:** Lisa V. Terry

**FROM:** Marina Braginskaya

**CC:** John G. Connor

**SUBJECT:** Notice of Suspension and Proposed Debarment for Bree Ann Davis

(b) (5)

























Suspension and Debarment Official

Suspension and Notice of Debarment Determination

(Conviction-based)

Date: November 20, 2017

Party: Bree Ann Davis (the "Party")

OGC Summary Memo Date: September 20, 2017

The Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Suspension

  X   The SDO finds that there is sufficient basis to conclude that immediate suspension of the Party is necessary in order to protect the interests of the Federal Government, and that a Notice of Immediate Suspension should be delivered to the Party. These bases include: [check appropriate boxes below – at least one box must be checked.]

       The Party has been indicted<sup>1</sup> for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including<sup>2</sup>: [See below for convicted offenses]

       There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists; and immediate action is necessary to protect the public interest. [add description of relevant evidence and basis for concluding that immediate action is necessary]:

  X   The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: Conspiracy to Commit Wire

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<sup>1</sup> Indictment counts that have been dismissed as of the time the SDO makes the suspension determination cannot form the basis for a suspension.

<sup>2</sup> A copy of 2 CFR 180.800 is attached to this Suspension and Notice of Debarment Determination for ease of reference.

Fraud, and Conspiracy to Commit Money Laundering (18 U.S.C. §§ 1349, 1956(h))

\_\_\_\_\_ The SDO finds that immediate suspension of the Party is not necessary or appropriate at this time. [add explanation]

#### Debarment

  X   The SDO finds that a Notice of Proposed Debarment should be sent to the Party<sup>3</sup>. The basis for this determination is: [check appropriate boxes below.]

  X   The Party has been convicted for an offence(s) included in the “causes for debarment” listed in 2 CFR 180.800 (a) including: Conspiracy to Commit Wire Fraud, and Conspiracy to Commit Money Laundering (18 U.S.C. §§ 1349, 1956(h))

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists. [add description of relevant evidence]:

\_\_\_\_\_ Pursuant to 2 CFR 180.630, there is adequate cause for debarment based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

\_\_\_\_\_ The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]

**LISA TERRY**

Digitally signed by LISA  
TERRY  
Date: 2017.11.20 15:30:53  
-05'00'

Lisa V. Terry, Suspension and Debarment Official

<sup>3</sup> If the SDO concludes that a Suspension is warranted, then the SDO must find that there is adequate cause for debarment of the Party as well.

Attachment to Form of Suspension and Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701); or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>4</sup>.

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<sup>4</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.



May 9, 2018

Bree Ann Davis

(b) (6)

Re: Notice of Debarment – Bree Ann Davis

Dear Ms. Davis:

On March 30, 2018, Export-Import Bank of the United States ("EXIM Bank" or "the Bank") sent you a Notice of Suspension and Proposed Debarment ("Notice"). The Notice advised that you had 30 (thirty) calendar days to submit information and arguments in opposition to the suspension and proposed debarment. To date, EXIM Bank has not received any response to the Notice or protest of the proposal or to the contents of the Notice.

In the absence of any evidence to the contrary, the Bank finds by a preponderance of the evidence that the information in the Notice is accurate and the conclusions drawn are warranted. Specifically, the Bank finds that you are not presently responsible contractor/participant.

EXIM Bank is debarring you based on your conviction for conspiracy to commit wire fraud under Title 18 U.S.C. § 1349, and conspiracy to commit money laundering under Title 18 U.S.C. § 1956(h). A copy of the judgment was attached to your Notice.

After careful consideration of the entire administrative record, the Bank has concluded that a three year debarment term is required to protect the Government. The effects of debarment are as stated in the Notice.

Therefore, effective as of this date, EXIM Bank has debarred you, Bree Ann Davis, for three (3) years, from participation in programs of the United States. This action is undertaken pursuant to Title two, part 180.800 et seq. of the Code of Federal Regulations (2 C.F.R. §§ 180.800 et seq.).





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Your name will be published in the System for Award Management (SAM), where it will be noted that you are "Ineligible – Proceedings Completed" for the effective three year period. You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

Very truly yours,

A handwritten signature in blue ink, appearing to read "Lisa V. Terry".

Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States



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December 6, 2017

Bree Ann Davis  
Phoenix FCI  
37900 N. 45<sup>th</sup> Avenue  
Phoenix, AZ 85086

Re: Notice of Suspension and Debarment – Bree Ann Davis

Dear Ms. Davis:

I am the Suspending and Debarring Official at the Export-Import Bank of the United States (the Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title two, part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I am suspending you immediately from participation in programs of the United States. See 2 C.F.R. §§ 180.700 et seq. I also propose to debar you and your company for three (3) years from participating in such programs. See 2 C.F.R. §§ 180.800 et seq.

#### REGULATORY FRAMEWORK

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal Suspension and Debarment official may immediately suspend a person when the official determines that there exists an indictment for, or other adequate evidence to suspect an offense under 2 C.F.R. § 180.800(a), or any other cause for debarment under § 180.800(b) through (d), and that immediate action is necessary to protect the public interest. See 2 C.F.R. § 180.700.

In determining whether to suspend, the official reviews the adequacy of the evidence to support the suspension, and considers how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn. See 2 C.F.R. § 180.705(a). An indictment, conviction, civil judgment, or other official findings by Federal, State, or local bodies that determine factual and/or legal matters, constitutes adequate evidence for purposes of suspension actions. See 2 C.F.R. § 180.705(b). The official may infer the necessity for

immediate action to protect the public interest either from the nature of the circumstances giving rise to a cause for suspension or from potential business relationships or involvement with a program of the Federal Government. See 2 C.F.R. § 180.705(c).

If legal or debarment proceedings are initiated at the time of, or during your suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed twelve (12) months. See 2 C.F.R. § 180.760(a). The official may extend the twelve-month limit for an additional six (6) months if an office of a U.S. Assistant Attorney General, U.S. Attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed eighteen (18) months without initiating legal or debarment proceedings. See 2 C.F.R. § 180.760(b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).



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## SUSPENSION

As stated above, you have been suspended. The basis of the suspension is your conviction and sentencing in the Southern District of Texas on January 23, 2017 for violating 18 U.S.C. § 1349, Conspiracy to Commit Wire Fraud and 18 U.S.C. § 1956(h) Conspiracy to Commit Money Laundering. See 2 C.F.R. §§ 180.700, 705, & 800.

I have determined that the evidence is adequate to suspend you because you have been convicted and there is sufficient information available that such information is credible, corroborated and that an examination of the information leads to the reasonable inference that you committed the conduct underlying your conviction.

The cause for your suspension is a criminal conviction of Bree Ann Davis for committing fraud in connection with obtaining or performing a public or private agreement, making false statements, committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility, and willfully violating 18 U.S.C. § 1349 and 18 U.S.C. § 1956(h), thereby engaging in a transaction so serious as to affect the integrity of the Export-Import Bank's credit program. Immediate action is necessary to protect the public interest. The public has a genuine expectation that the Government will conduct business with only responsible persons.

Accordingly, you are immediately excluded from participating as either a participant or a principal, as defined at 2 C.F.R. §§ 180.980 and 180.995, in covered transactions, as defined and described at 2 C.F.R. § 180.200, § 180.210 and § 180.215, under United States programs through the Executive Branch of the United States Government. 2 C.F.R. § 180.1015; § 180.130. Pursuant to 2 C.F.R. § 180.140, the suspension will be recognized by, and be effective for, Executive Branch agencies as a suspension under the Federal Acquisition Regulation as well.

This suspension is for a temporary period, pending the completion of debarment proceedings. See 2 C.F.R. § 180.760.

## PROPOSED DEBARMENTS

Based on the facts stated above, I am proposing to debar Bree Ann Davis from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.

Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.



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The reasons for your debarment are based on your conviction for conspiracy to commit wire fraud under Title 18 U.S.C. § 1349, and conspiracy to commit money laundering under Title 18 U.S.C. § 1956(h). On or about April 2012 through in or around February 2015, you willfully, with the intent to defraud carried out a scheme to defraud factoring companies and credit insurance providers, including EXIM Bank. The conspiracy and scheme caused a loss of approximately \$1 million to the Export-Import Bank and to the United States government.

Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. §180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

## ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and G, govern the suspension decision-making process. The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.720 and 180.815, you may contest the suspension and proposed debarment. Pursuant to 2 C.F.R. §§ 180.725 and 180.820, within thirty (30) calendar days after receipt of this notice, you may submit information and arguments in opposition to the suspension and proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Suspension and Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is



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undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.725(b) and 180.820(b).

Pursuant to 2 C.F.R. §§ 180.730 and 180.825, if you choose to contest your suspension from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter, all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the suspension and proposed debarment is based will be determined in accordance with 2 C.F.R. §§ 180.735 and 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Suspension and Proposed Debarment. However, unlike in criminal matters, the Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment within the required 30-day period, the debarment will be automatically entered. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you must contest the proposed debarment within the required 30-day period. See 2 C.F.R. § 180.820 and § 180.860.

Any communications or written submission should be directed to Attorney Marina Braginskaya in the Office of General Counsel at the address listed below:

Marina Braginskaya  
Office of General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.  
Washington, D.C. 20571  
(202) 565-3193



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For your information, a copy of regulations relevant to your suspension and proposed debarment is enclosed.

Very truly yours,

Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180
- 2) Judgment in a Criminal Case, Case Number 4:15-cr-00068





## MEMORANDUM

**DATE:** April 16, 2020

**TO:** Lisa V. Terry

**FROM:** Marina Braginskaya

**CC:** John G. Connor

**SUBJECT:** Notice of Suspension and Proposed Debarment for Edward Peter Hanania

(b) (5)

























Suspension and Debarment Official  
Suspension and Notice of Debarment Determination  
(Conviction-based)

Date: November 20, 2017

Party: Edward Hanania (the "Party")

OGC Summary Memo Date: September 20, 2017

The Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Suspension

X  The SDO finds that there is sufficient basis to conclude that immediate suspension of the Party is necessary in order to protect the interests of the Federal Government, and that a Notice of Immediate Suspension should be delivered to the Party. These bases include: [check appropriate boxes below – at least one box must be checked.]

\_\_\_\_\_ The Party has been indicted<sup>1</sup> for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including<sup>2</sup>: [See below for convicted offenses]

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists; and immediate action is necessary to protect the public interest. [add description of relevant evidence and basis for concluding that immediate action is necessary]:

X  The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: Conspiracy to Commit Wire

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<sup>1</sup> Indictment counts that have been dismissed as of the time the SDO makes the suspension determination cannot form the basis for a suspension.

<sup>2</sup> A copy of 2 CFR 180.800 is attached to this Suspension and Notice of Debarment Determination for ease of reference.

Fraud, and Conspiracy to Commit Money Laundering (18 U.S.C. §§ 1349, 1956(h))

\_\_\_\_\_ The SDO finds that immediate suspension of the Party is not necessary or appropriate at this time. [add explanation]

#### Debarment

  X   The SDO finds that a Notice of Proposed Debarment should be sent to the Party<sup>3</sup>. The basis for this determination is: [check appropriate boxes below.]

  X   The Party has been convicted for an offence(s) included in the “causes for debarment” listed in 2 CFR 180.800 (a) including: Conspiracy to Commit Wire Fraud, and Conspiracy to Commit Money Laundering (18 U.S.C. §§ 1349, 1956(h))

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists. [add description of relevant evidence]:

\_\_\_\_\_ Pursuant to 2 CFR 180.630, there is adequate cause for debarment based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

\_\_\_\_\_ The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]

**LISA  
TERRY**

Digitally signed by  
LISA TERRY  
Date: 2017.11.20  
15:33:47 -05'00'

Lisa V. Terry, Suspension and Debarment Official

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<sup>3</sup> If the SDO concludes that a Suspension is warranted, then the SDO must find that there is adequate cause for debarment of the Party as well.

Attachment to Form of Suspension and Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

(1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;

(2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or

(4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

(1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;

(2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or

(3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

(1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;



(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701);  
or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>4</sup>.

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<sup>4</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.



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May 9, 2018

Edward Peter Hanania

(b) (6)

Re: Notice of Debarment – Edward Peter Hanania

Dear Mr. Hanania:

On March 30, 2018, Export-Import Bank of the United States ("EXIM Bank" or "the Bank") sent you a Notice of Suspension and Proposed Debarment ("Notice"). The Notice advised that you had 30 (thirty) calendar days to submit information and arguments in opposition to the suspension and proposed debarment. To date, EXIM Bank has not received any response to the Notice or protest of the proposal or to the contents of the Notice.

In the absence of any evidence to the contrary, the Bank finds by a preponderance of the evidence that the information in the Notice is accurate and the conclusions drawn are warranted. Specifically, the Bank finds that you are not presently responsible contractor/participant.

EXIM Bank is debarring you based on your conviction for conspiracy to commit wire fraud under Title 18 U.S.C. § 1349, and conspiracy to commit money laundering under Title 18 U.S.C. § 1956(h). A copy of the judgment was attached to your Notice.

After careful consideration of the entire administrative record, the Bank has concluded that a three year debarment term is required to protect the Government. The effects of debarment are as stated in the Notice.

Therefore, effective as of this date, EXIM Bank has debarred you, Edward Hanania, for three (3) years, from participation in programs of the United States. This action is undertaken pursuant to Title two, part 180.800 et seq. of the Code of Federal Regulations (2 C.F.R. §§ 180.800 et seq.).



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Your name will be published in the System for Award Management (SAM), where it will be noted that you are "Ineligible – Proceedings Completed" for the effective three year period. You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

Very truly yours,

Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States



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December 6, 2017

Edward Peter Hanania

(b) (6)

Re: Notice of Suspension and Debarment – Edward Peter Hanania

Dear Mr. Hanania:

I am the Suspending and Debarring Official at the Export-Import Bank of the United States (the Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title two, part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I am suspending you immediately from participation in programs of the United States. See 2 C.F.R. §§ 180.700 et seq. I also propose to debar you and your company for three (3) years from participating in such programs. See 2 C.F.R. §§ 180.800 et seq.

#### REGULATORY FRAMEWORK

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal Suspension and Debarment official may immediately suspend a person when the official determines that there exists an indictment for, or other adequate evidence to suspect an offense under 2 C.F.R. § 180.800(a), or any other cause for debarment under § 180.800(b) through (d), and that immediate action is necessary to protect the public interest. See 2 C.F.R. § 180.700.

In determining whether to suspend, the official reviews the adequacy of the evidence to support the suspension, and considers how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn. See 2 C.F.R. § 180.705(a). An indictment, conviction, civil judgment, or other official findings by Federal, State, or local bodies that determine factual and/or legal matters, constitutes adequate evidence for purposes of suspension actions. See 2 C.F.R. § 180.705(b). The official may infer the necessity for immediate action to protect the public interest either from the nature of the circumstances giving rise to a cause for suspension or from potential business





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relationships or involvement with a program of the Federal Government. See 2 C.F.R. § 180.705(c).

If legal or debarment proceedings are initiated at the time of, or during your suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed twelve (12) months. See 2 C.F.R. § 180.760(a). The official may extend the twelve-month limit for an additional six (6) months if an office of a U.S. Assistant Attorney General, U.S. Attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed eighteen (18) months without initiating legal or debarment proceedings. See 2 C.F.R. § 180.760(b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).



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## SUSPENSION

As stated above, you have been suspended. The basis of the suspension is your conviction and sentencing in the Southern District of Texas on November 14, 2016 for violating 18 U.S.C. § 1349, Conspiracy to Commit Wire Fraud and 18 U.S.C. § 1956(h) Conspiracy to Commit Money Laundering. See 2 C.F.R. §§ 180.700, 705, & 800.

I have determined that the evidence is adequate to suspend you because you have been convicted and there is sufficient information available that such information is credible, corroborated and that an examination of the information leads to the reasonable inference that you committed the conduct underlying your conviction.

The cause for your suspension is a criminal conviction of Edward Peter Hanania for committing fraud in connection with obtaining or performing a public or private agreement, making false statements, committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility, and willfully violating 18 U.S.C. § 1349 and 18 U.S.C. § 1956(h), thereby engaging in a transaction so serious as to affect the integrity of the Export-Import Bank's credit program. Immediate action is necessary to protect the public interest. The public has a genuine expectation that the Government will conduct business with only responsible persons.

Accordingly, you are immediately excluded from participating as either a participant or a principal, as defined at 2 C.F.R. §§ 180.980 and 180.995, in covered transactions, as defined and described at 2 C.F.R. § 180.200, § 180.210 and § 180.215, under United States programs through the Executive Branch of the United States Government. 2 C.F.R. § 180.1015; § 180.130. Pursuant to 2 C.F.R. § 180.140, the suspension will be recognized by, and be effective for, Executive Branch agencies as a suspension under the Federal Acquisition Regulation as well.

This suspension is for a temporary period, pending the completion of debarment proceedings. See 2 C.F.R. § 180.760.

## PROPOSED DEBARMENTS

Based on the facts stated above, I am proposing to debar Edward Peter Hanania from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.

Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.



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The reasons for your debarment are based on your conviction for conspiracy to commit wire fraud under Title 18 U.S.C. § 1349, and conspiracy to commit money laundering under Title 18 U.S.C. § 1956(h). On or about April 2012 through in or around February 2015, you willfully, with the intent to defraud carried out a scheme to defraud factoring companies and credit insurance providers, including EXIM Bank. The conspiracy and scheme caused a loss of approximately \$1 million to the Export-Import Bank and to the United States government.

Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. §180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

## ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and G, govern the suspension decision-making process. The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.720 and 180.815, you may contest the suspension and proposed debarment. Pursuant to 2 C.F.R. §§ 180.725 and 180.820, within thirty (30) calendar days after receipt of this notice, you may submit information and arguments in opposition to the suspension and proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Suspension and Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is





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undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.725(b) and 180.820(b).

Pursuant to 2 C.F.R. §§ 180.730 and 180.825, if you choose to contest your suspension from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter, all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the suspension and proposed debarment is based will be determined in accordance with 2 C.F.R. §§ 180.735 and 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Suspension and Proposed Debarment. However, unlike in criminal matters, the Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment within the required 30-day period, the debarment will be automatically entered. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you must contest the proposed debarment within the required 30-day period. See 2 C.F.R. § 180.820 and § 180.860.

Any communications or written submission should be directed to Attorney Marina Braginskaya in the Office of General Counsel at the address listed below:

Marina Braginskaya  
Office of General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.  
Washington, D.C. 20571  
(202) 565-3193



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For your information, a copy of regulations relevant to your suspension and proposed debarment is enclosed.

Very truly yours,

Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180
- 2) Judgment in a Criminal Case, Case Number 4:15-cr-00068

Suspension and Debarment Official  
Suspension and Notice of Debarment Determination  
(Conviction-based)

Date: December 6, 2017

Party: PC & D Exports LLC (the "Party")

OGC Summary Memo Date: September 13, 2017

The Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Suspension

☒ The SDO finds that there is sufficient basis to conclude that immediate suspension of the Party is necessary in order to protect the interests of the Federal Government, and that a Notice of Immediate Suspension should be delivered to the Party. These bases include: [check appropriate boxes below – at least one box must be checked.]

\_\_\_\_\_ The Party has been indicted<sup>1</sup> for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including<sup>2</sup>: [See below for convicted offenses]

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists; and immediate action is necessary to protect the public interest. [add description of relevant evidence and basis for concluding that immediate action is necessary]:

\_\_\_\_\_ The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: Conspiracy to Commit Wire

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<sup>1</sup> Indictment counts that have been dismissed as of the time the SDO makes the suspension determination cannot form the basis for a suspension.

<sup>2</sup> A copy of 2 CFR 180.800 is attached to this Suspension and Notice of Debarment Determination for ease of reference.

Fraud, Wire Fraud, and Conspiracy to Commit Money Laundering (18 U.S.C. §§ 1349, 1343, 1956(h))

X Pursuant to 2 CFR 180.630, there is adequate cause for debarment based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

\_\_\_\_\_ The SDO finds that immediate suspension of the Party is not necessary or appropriate at this time. [add explanation]

#### Debarment

X The SDO finds that a Notice of Proposed Debarment should be sent to the Party<sup>3</sup>. The basis for this determination is: [check appropriate boxes below.]

\_\_\_\_\_ The Party has been convicted for an offence(s) included in the “causes for debarment” listed in 2 CFR 180.800 (a) including: Conspiracy to Commit Wire Fraud, Wire Fraud, and Conspiracy to Commit Money Laundering (18 U.S.C. §§ 1349, 1343, 1956(h))

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists. [add description of relevant evidence]:

X Pursuant to 2 CFR 180.630, there is adequate cause for debarment based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

\_\_\_\_\_ The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]



[signature – hard or electronic]

Lisa V. Terry, Suspension and Debarment Official

<sup>3</sup> If the SDO concludes that a Suspension is warranted, then the SDO must find that there is adequate cause for debarment of the Party as well.

Attachment to Form of Suspension and Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701); or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>4</sup>.

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<sup>4</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.



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December 6, 2017

Stefano Guido Vitale  
Lompoc FCI  
3600 Guard Road  
Lompoc, CA 93436

PC&D Exports LLC  
992 S. 4<sup>th</sup> Street, Suite 100-248  
Brighton, CO 80601

Re: Notice of Suspension and Debarment – Stefano Guido Vitale and PC&D Exports LLC

Dear Mr. Vitale:

I am the Suspending and Debarring Official at the Export-Import Bank of the United States (the Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title two, part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I am suspending both you and your company, PC&D Exports LLC, immediately from participation in programs of the United States. See 2 C.F.R. §§ 180.700 et seq. I also propose to debar you and your company for three (3) years from participating in such programs. See 2 C.F.R. §§ 180.800 et seq.

#### REGULATORY FRAMEWORK

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal Suspension and Debarment official may immediately suspend a person when the official determines that there exists an indictment for, or other adequate evidence to suspect an offense under 2 C.F.R. § 180.800(a), or any other cause for debarment under § 180.800(b) through (d), and that immediate action is necessary to protect the public interest. See 2 C.F.R. § 180.700.



In determining whether to suspend, the official reviews the adequacy of the evidence to support the suspension, and considers how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn. See 2 C.F.R. § 180.705(a). An indictment, conviction, civil judgment, or other official findings by Federal, State, or local bodies that determine factual and/or legal matters, constitutes adequate evidence for purposes of suspension actions. See 2 C.F.R. § 180.705(b). The official may infer the necessity for immediate action to protect the public interest either from the nature of the circumstances giving rise to a cause for suspension or from potential business relationships or involvement with a program of the Federal Government. See 2 C.F.R. § 180.705(c).

If legal or debarment proceedings are initiated at the time of, or during your suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed twelve (12) months. See 2 C.F.R. § 180.760(a). The official may extend the twelve-month limit for an additional six (6) months if an office of a U.S. Assistant Attorney General, U.S. Attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed eighteen (18) months without initiating legal or debarment proceedings. See 2 C.F.R. § 180.760(b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and



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administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).

## SUSPENSION

As stated above, you (both Stefano Guido Vitale and PC&D Exports LLC) have been suspended. The basis of the suspension is your conviction and sentencing in the Southern District of Texas on January 9, 2017 for violating 18 U.S.C. § 1349, Conspiracy to Commit Wire Fraud; 18 U.S.C. § 1343, Wire Fraud and 18 U.S.C. § 1956(h) Conspiracy to Commit Money Laundering. See 2 C.F.R. §§ 180.700, 705, & 800. The conduct underlying your conviction is imputed to your company, PC&D Exports LLC, as well. See 2 C.F.R. § 630(a) and (b), or in case of an affiliate, 2 C.F.R. § 180.905. A suspending official may extend a suspension to any affiliate if that affiliate is (1) specifically named in the Notice of Suspension and (2) given written notice of the suspension and an opportunity to respond. See 2 C.F.R. § 180.625(b).

I have determined that the evidence is adequate to suspend you because you have been convicted and there is sufficient information available that such information is credible, corroborated and that an examination of the information leads to the reasonable inference that you committed the conduct underlying your conviction.

The cause for your suspension is a criminal conviction of Stefano Guido Vitale for committing fraud in connection with obtaining or performing a public or private agreement, making false statements, committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility, and willfully violating 18 U.S.C. § 1349; 18 U.S.C. § 1343 and 18 U.S.C. § 1956(h), thereby engaging in a transaction so serious as to affect the integrity of the Export-Import Bank's credit program. Immediate action is necessary to protect the public interest. The public has a genuine expectation that the Government will conduct business with only responsible persons.

Accordingly, you are immediately excluded from participating as either a participant or a principal, as defined at 2 C.F.R. §§ 180.980 and 180.995, in covered transactions, as defined and described at 2 C.F.R. § 180.200, § 180.210 and § 180.215, under United States programs through the Executive Branch of the United States Government. 2 C.F.R. § 180.1015; § 180.130. Pursuant to 2 C.F.R. § 180.140, the suspension will be recognized by, and be effective for, Executive Branch agencies as a suspension under the Federal Acquisition Regulation as well.



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This suspension is for a temporary period, pending the completion of debarment proceedings. See 2 C.F.R. § 180.760.

## PROPOSED DEBARMENTS

Based on the facts stated above, I am proposing to debar Stefano Guido Vitale and PC&D Exports LLC from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.

Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.

The reasons for your debarment are based on your conviction for conspiracy to commit wire fraud under Title 18 U.S.C. § 1349, wire fraud under Title 18 U.S.C. § 1343 and conspiracy to commit money laundering under Title 18 U.S.C. § 1956(h). On or about April 2012 through in or around February 2015, you willfully, with the intent to defraud carried out a scheme to defraud factoring companies and credit insurance providers, including EXIM Bank. The conspiracy and scheme caused a loss of approximately \$1 million to the Export-Import Bank and to the United States government.

Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. §180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).



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## ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and G, govern the suspension decision-making process. The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.720 and 180.815, you may contest the suspension and proposed debarment. Pursuant to 2 C.F.R. §§ 180.725 and 180.820, within thirty (30) calendar days after receipt of this notice, you may submit information and arguments in opposition to the suspension and proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Suspension and Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is

undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.725(b) and 180.820(b).

Pursuant to 2 C.F.R. §§ 180.730 and 180.825, if you choose to contest your suspension from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter, all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the suspension and proposed debarment is based will be determined in accordance with 2 C.F.R. §§ 180.735 and 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Suspension and Proposed Debarment. However, unlike in criminal matters, the Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment within the required 30-day period, the debarment will be automatically entered. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you



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must contest the proposed debarment within the required 30-day period. See 2 C.F.R. § 180.820 and § 180.860.

Any communications or written submission should be directed to Attorney Marina Braginskaya in the Office of General Counsel at the address listed below:

Marina Braginskaya  
Office of General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.  
Washington, D.C. 20571  
(202) 565-3193

For your information, a copy of regulations relevant to your suspension and proposed debarment is enclosed.

Very truly yours,

Lisa V. Terry  
Suspension and Debarment Official of the Export-Import Bank of the United States

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180
- 2) Judgment in a Criminal Case, Case Number 4:15-cr-00068
- 3) Colorado Secretary of State filing Articles of Amendment for PC&D Exports LLC



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December 6, 2017

Stefano Guido Vitale  
Lompoc FCI  
3600 Guard Road  
Lompoc, CA 93436

PC&D Exports LLC  
992 S. 4<sup>th</sup> Street, Suite 100-248  
Brighton, CO 80601

Re: Notice of Suspension and Debarment – Stefano Guido Vitale and PC&D Exports LLC

Dear Mr. Vitale:

I am the Suspending and Debarring Official at the Export-Import Bank of the United States (the Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title two, part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I am suspending both you and your company, PC&D Exports LLC, immediately from participation in programs of the United States. See 2 C.F.R. §§ 180.700 et seq. I also propose to debar you and your company for three (3) years from participating in such programs. See 2 C.F.R. §§ 180.800 et seq.

#### REGULATORY FRAMEWORK

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal Suspension and Debarment official may immediately suspend a person when the official determines that there exists an indictment for, or other adequate evidence to suspect an offense under 2 C.F.R. § 180.800(a), or any other cause for debarment under § 180.800(b) through (d), and that immediate action is necessary to protect the public interest. See 2 C.F.R. § 180.700.

In determining whether to suspend, the official reviews the adequacy of the evidence to support the suspension, and considers how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn. See 2 C.F.R. § 180.705(a). An indictment, conviction, civil judgment, or other official findings by Federal, State, or local bodies that determine factual and/or legal matters, constitutes adequate evidence for purposes of suspension actions. See 2 C.F.R. § 180.705(b). The official may infer the necessity for immediate action to protect the public interest either from the nature of the circumstances giving rise to a cause for suspension or from potential business relationships or involvement with a program of the Federal Government. See 2 C.F.R. § 180.705(c).

If legal or debarment proceedings are initiated at the time of, or during your suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed twelve (12) months. See 2 C.F.R. § 180.760(a). The official may extend the twelve-month limit for an additional six (6) months if an office of a U.S. Assistant Attorney General, U.S. Attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed eighteen (18) months without initiating legal or debarment proceedings. See 2 C.F.R. § 180.760(b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

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administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).

## SUSPENSION

As stated above, you (both Stefano Guido Vitale and PC&D Exports LLC) have been suspended. The basis of the suspension is your conviction and sentencing in the Southern District of Texas on January 9, 2017 for violating 18 U.S.C. § 1349, Conspiracy to Commit Wire Fraud; 18 U.S.C. § 1343, Wire Fraud and 18 U.S.C. § 1956(h) Conspiracy to Commit Money Laundering. See 2 C.F.R. §§ 180.700, 705, & 800. The conduct underlying your conviction is imputed to your company, PC&D Exports LLC, as well. See 2 C.F.R. § 630(a) and (b), or in case of an affiliate, 2 C.F.R. § 180.905. A suspending official may extend a suspension to any affiliate if that affiliate is (1) specifically named in the Notice of Suspension and (2) given written notice of the suspension and an opportunity to respond. See 2 C.F.R. § 180.625(b).

I have determined that the evidence is adequate to suspend you because you have been convicted and there is sufficient information available that such information is credible, corroborated and that an examination of the information leads to the reasonable inference that you committed the conduct underlying your conviction.

The cause for your suspension is a criminal conviction of Stefano Guido Vitale for committing fraud in connection with obtaining or performing a public or private agreement, making false statements, committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility, and willfully violating 18 U.S.C. § 1349; 18 U.S.C. § 1343 and 18 U.S.C. § 1956(h), thereby engaging in a transaction so serious as to affect the integrity of the Export-Import Bank's credit program. Immediate action is necessary to protect the public interest. The public has a genuine expectation that the Government will conduct business with only responsible persons.

Accordingly, you are immediately excluded from participating as either a participant or a principal, as defined at 2 C.F.R. §§ 180.980 and 180.995, in covered transactions, as defined and described at 2 C.F.R. § 180.200, § 180.210 and § 180.215, under United States programs through the Executive Branch of the United States Government. 2 C.F.R. § 180.1015; § 180.130. Pursuant to 2 C.F.R. § 180.140, the suspension will be recognized by, and be effective for, Executive Branch agencies as a suspension under the Federal Acquisition Regulation as well.



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This suspension is for a temporary period, pending the completion of debarment proceedings. See 2 C.F.R. § 180.760.

## PROPOSED DEBARMENTS

Based on the facts stated above, I am proposing to debar Stefano Guido Vitale and PC&D Exports LLC from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.

Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.

The reasons for your debarment are based on your conviction for conspiracy to commit wire fraud under Title 18 U.S.C. § 1349, wire fraud under Title 18 U.S.C. § 1343 and conspiracy to commit money laundering under Title 18 U.S.C. § 1956(h). On or about April 2012 through in or around February 2015, you willfully, with the intent to defraud carried out a scheme to defraud factoring companies and credit insurance providers, including EXIM Bank. The conspiracy and scheme caused a loss of approximately \$1 million to the Export-Import Bank and to the United States government.

Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. §180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).



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## ADMINISTRATIVE PROCESS

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undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.725(b) and 180.820(b).

Pursuant to 2 C.F.R. §§ 180.730 and 180.825, if you choose to contest your suspension from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter, all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the suspension and proposed debarment is based will be determined in accordance with 2 C.F.R. §§ 180.735 and 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Suspension and Proposed Debarment. However, unlike in criminal matters, the Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment within the required 30-day period, the debarment will be automatically entered. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you



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must contest the proposed debarment within the required 30-day period. See 2 C.F.R. § 180.820 and § 180.860.

Any communications or written submission should be directed to Attorney Marina Braginskaya in the Office of General Counsel at the address listed below:

Marina Braginskaya  
Office of General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.  
Washington, D.C. 20571  
(202) 565-3193

For your information, a copy of regulations relevant to your suspension and proposed debarment is enclosed.

Very truly yours,

Lisa V. Terry  
Suspension and Debarment Official of the Export-Import Bank of the United States

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180
- 2) Judgment in a Criminal Case, Case Number 4:15-cr-00068
- 3) Colorado Secretary of State filing Articles of Amendment for PC&D Exports LLC



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December 6, 2017

Stefano Guido Vitale  
Lompoc FCI  
3600 Guard Road  
Lompoc, CA 93436

PC&D Exports LLC  
992 S. 4<sup>th</sup> Street, Suite 100-248  
Brighton, CO 80601

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#### REGULATORY FRAMEWORK

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

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In determining whether to suspend, the official reviews the adequacy of the evidence to support the suspension, and considers how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn. See 2 C.F.R. § 180.705(a). An indictment, conviction, civil judgment, or other official findings by Federal, State, or local bodies that determine factual and/or legal matters, constitutes adequate evidence for purposes of suspension actions. See 2 C.F.R. § 180.705(b). The official may infer the necessity for immediate action to protect the public interest either from the nature of the circumstances giving rise to a cause for suspension or from potential business relationships or involvement with a program of the Federal Government. See 2 C.F.R. § 180.705(c).

If legal or debarment proceedings are initiated at the time of, or during your suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed twelve (12) months. See 2 C.F.R. § 180.760(a). The official may extend the twelve-month limit for an additional six (6) months if an office of a U.S. Assistant Attorney General, U.S. Attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed eighteen (18) months without initiating legal or debarment proceedings. See 2 C.F.R. § 180.760(b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and



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administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).

## SUSPENSION

As stated above, you (both Stefano Guido Vitale and PC&D Exports LLC) have been suspended. The basis of the suspension is your conviction and sentencing in the Southern District of Texas on January 9, 2017 for violating 18 U.S.C. § 1349, Conspiracy to Commit Wire Fraud; 18 U.S.C. § 1343, Wire Fraud and 18 U.S.C. § 1956(h) Conspiracy to Commit Money Laundering. See 2 C.F.R. §§ 180.700, 705, & 800. The conduct underlying your conviction is imputed to your company, PC&D Exports LLC, as well. See 2 C.F.R. § 630(a) and (b), or in case of an affiliate, 2 C.F.R. § 180.905. A suspending official may extend a suspension to any affiliate if that affiliate is (1) specifically named in the Notice of Suspension and (2) given written notice of the suspension and an opportunity to respond. See 2 C.F.R. § 180.625(b).

I have determined that the evidence is adequate to suspend you because you have been convicted and there is sufficient information available that such information is credible, corroborated and that an examination of the information leads to the reasonable inference that you committed the conduct underlying your conviction.

The cause for your suspension is a criminal conviction of Stefano Guido Vitale for committing fraud in connection with obtaining or performing a public or private agreement, making false statements, committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility, and willfully violating 18 U.S.C. § 1349; 18 U.S.C. § 1343 and 18 U.S.C. § 1956(h), thereby engaging in a transaction so serious as to affect the integrity of the Export-Import Bank's credit program. Immediate action is necessary to protect the public interest. The public has a genuine expectation that the Government will conduct business with only responsible persons.

Accordingly, you are immediately excluded from participating as either a participant or a principal, as defined at 2 C.F.R. §§ 180.980 and 180.995, in covered transactions, as defined and described at 2 C.F.R. § 180.200, § 180.210 and § 180.215, under United States programs through the Executive Branch of the United States Government. 2 C.F.R. § 180.1015; § 180.130. Pursuant to 2 C.F.R. § 180.140, the suspension will be recognized by, and be effective for, Executive Branch agencies as a suspension under the Federal Acquisition Regulation as well.





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This suspension is for a temporary period, pending the completion of debarment proceedings. See 2 C.F.R. § 180.760.

## PROPOSED DEBARMENTS

Based on the facts stated above, I am proposing to debar Stefano Guido Vitale and PC&D Exports LLC from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.

Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.

The reasons for your debarment are based on your conviction for conspiracy to commit wire fraud under Title 18 U.S.C. § 1349, wire fraud under Title 18 U.S.C. § 1343 and conspiracy to commit money laundering under Title 18 U.S.C. § 1956(h). On or about April 2012 through in or around February 2015, you willfully, with the intent to defraud carried out a scheme to defraud factoring companies and credit insurance providers, including EXIM Bank. The conspiracy and scheme caused a loss of approximately \$1 million to the Export-Import Bank and to the United States government.

Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. §180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).



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## ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and G, govern the suspension decision-making process. The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.720 and 180.815, you may contest the suspension and proposed debarment. Pursuant to 2 C.F.R. §§ 180.725 and 180.820, within thirty (30) calendar days after receipt of this notice, you may submit information and arguments in opposition to the suspension and proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Suspension and Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is

undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.725(b) and 180.820(b).

Pursuant to 2 C.F.R. §§ 180.730 and 180.825, if you choose to contest your suspension from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter, all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the suspension and proposed debarment is based will be determined in accordance with 2 C.F.R. §§ 180.735 and 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Suspension and Proposed Debarment. However, unlike in criminal matters, the Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment within the required 30-day period, the debarment will be automatically entered. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you



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must contest the proposed debarment within the required 30-day period. See 2 C.F.R. § 180.820 and § 180.860.

Any communications or written submission should be directed to Attorney Marina Braginskaya in the Office of General Counsel at the address listed below:

Marina Braginskaya  
Office of General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.  
Washington, D.C. 20571  
(202) 565-3193

For your information, a copy of regulations relevant to your suspension and proposed debarment is enclosed.

Very truly yours,

Lisa V. Terry  
Suspension and Debarment Official of the Export-Import Bank of the United States

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180
- 2) Judgment in a Criminal Case, Case Number 4:15-cr-00068
- 3) Colorado Secretary of State filing Articles of Amendment for PC&D Exports LLC



## MEMORANDUM

**DATE:** April 16, 2020

**TO:** Lisa V. Terry

**FROM:** Marina Braginskaya

**CC:** John G. Connor

**SUBJECT:** Notice of Suspension and Proposed Debarment for Stefano Guido Vitale and PC & D Exports LLC

(b) (5)



























Suspension and Debarment Official  
Suspension and Notice of Debarment Determination  
(Conviction-based)

Date: December 6, 2017

Party: Stefano Guido Vitale (the "Party")

OGC Summary Memo Date: September 13, 2017

The Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Suspension

X The SDO finds that there is sufficient basis to conclude that immediate suspension of the Party is necessary in order to protect the interests of the Federal Government, and that a Notice of Immediate Suspension should be delivered to the Party. These bases include: [check appropriate boxes below – at least one box must be checked.]

\_\_\_\_\_ The Party has been indicted<sup>1</sup> for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including<sup>2</sup>: [See below for convicted offenses]

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists; and immediate action is necessary to protect the public interest. [add description of relevant evidence and basis for concluding that immediate action is necessary]:

X The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: Conspiracy to Commit Wire

---

<sup>1</sup> Indictment counts that have been dismissed as of the time the SDO makes the suspension determination cannot form the basis for a suspension.

<sup>2</sup> A copy of 2 CFR 180.800 is attached to this Suspension and Notice of Debarment Determination for ease of reference.

Fraud, Wire Fraud, and Conspiracy to Commit Money Laundering (18 U.S.C. §§ 1349, 1343, 1956(h))

\_\_\_\_\_ The SDO finds that immediate suspension of the Party is not necessary or appropriate at this time. [add explanation]

Debarment

X The SDO finds that a Notice of Proposed Debarment should be sent to the Party<sup>3</sup>. The basis for this determination is: [check appropriate boxes below.]

X The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: Conspiracy to Commit Wire Fraud, Wire Fraud, and Conspiracy to Commit Money Laundering (18 U.S.C. §§ 1349, 1343, 1956(h))

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists. [add description of relevant evidence]:

\_\_\_\_\_ Pursuant to 2 CFR 180.630, there is adequate cause for debarment based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

\_\_\_\_\_ The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]

Lisa V. Terry [signature – hard or electronic]

Lisa V. Terry, Suspension and Debarment Official

<sup>3</sup> If the SDO concludes that a Suspension is warranted, then the SDO must find that there is adequate cause for debarment of the Party as well.

Attachment to Form of Suspension and Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701); or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>4</sup>.

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<sup>4</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.



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February 14, 2018

Stefano Guido Vitale  
Lompoc FCI  
3600 Guard Road  
Lompoc, CA 93436

PC&D Exports LLC  
992 S. 4th Street, Suite 100-248  
Brighton, CO 80601

Re: Notice of Debarment – Stefano Guido Vitale and PC&D Exports LLC

Dear Mr. Vitale:

On December 6, 2017, Export-Import Bank of the United States (“EXIM Bank” or “the Bank”) sent you, Stefano Guido Vitale and PC&D Exports LLC, a Notice of Suspension and Proposed Debarment (“Notice”). The Notice advised that you and your company had 30 (thirty) calendar days to submit information and arguments in opposition to the suspension and proposed debarment. To date, EXIM Bank has not received any response to the Notice or protest of the proposal or to the contents of the Notice.

In the absence of any evidence to the contrary, the Bank finds by a preponderance of the evidence that the information in the Notice is accurate and the conclusions drawn are warranted. Specifically, the Bank finds that you and your company are not presently responsible contractors/participants.

EXIM Bank is debarring you and your company based on your conviction for conspiracy to commit wire fraud under Title 18 U.S.C. § 1349, wire fraud under Title 18 U.S.C. § 1343 and conspiracy to commit money laundering under Title 18 U.S.C. § 1956(h). A copy of the judgment was attached to your Notice.

After careful consideration of the entire administrative record, the Bank has concluded that a three year debarment term is required to protect the Government. The effects of debarment are as stated in the Notice.

Therefore, effective as of this date, EXIM Bank has debarred you, Stefano Guido Vitale and PC&D Exports LLC, for three (3) years, from participation in programs of the United States. This action is undertaken pursuant to Title two, part 180.800 et seq. of the Code of Federal Regulations (2 C.F.R. §§ 180.800 et seq.).





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Your name, as well as your company's name, will be published in the System for Award Management (SAM), where it will be noted that you are "Ineligible – Proceedings Completed" for the effective three year period. You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

Very truly yours,

A handwritten signature in blue ink, appearing to read "Lisa V. Terry".

Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States



## MEMORANDUM

**DATE:** April 16, 2020

**TO:** Lisa V. Terry

**FROM:** Marina Braginskaya

**CC:** John G. Connor

**SUBJECT:** Notice of Suspension and Proposed Debarment for Tammie Roth Hanania

(b) (5)

























Suspension and Debarment Official  
Suspension and Notice of Debarment Determination  
(Conviction-based)

Date: November 20, 2017

Party: Tammie Roth Hanania (the "Party")

OGC Summary Memo Date: September 20, 2017

The Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Suspension

  X   The SDO finds that there is sufficient basis to conclude that immediate suspension of the Party is necessary in order to protect the interests of the Federal Government, and that a Notice of Immediate Suspension should be delivered to the Party. These bases include: [check appropriate boxes below – at least one box must be checked.]

\_\_\_\_\_ The Party has been indicted<sup>1</sup> for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including<sup>2</sup>: [See below for convicted offenses]

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists; and immediate action is necessary to protect the public interest. [add description of relevant evidence and basis for concluding that immediate action is necessary]:

  X   The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: Conspiracy to Commit Wire

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<sup>1</sup> Indictment counts that have been dismissed as of the time the SDO makes the suspension determination cannot form the basis for a suspension.

<sup>2</sup> A copy of 2 CFR 180.800 is attached to this Suspension and Notice of Debarment Determination for ease of reference.

Fraud, and Conspiracy to Commit Money Laundering (18 U.S.C. §§ 1349, 1956(h))

\_\_\_\_\_ The SDO finds that immediate suspension of the Party is not necessary or appropriate at this time. [add explanation]

#### Debarment

\_\_X\_\_ The SDO finds that a Notice of Proposed Debarment should be sent to the Party<sup>3</sup>. The basis for this determination is: [check appropriate boxes below.]

\_\_X\_\_ The Party has been convicted for an offence(s) included in the “causes for debarment” listed in 2 CFR 180.800 (a) including: Conspiracy to Commit Wire Fraud, and Conspiracy to Commit Money Laundering (18 U.S.C. §§ 1349, 1956(h))

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists. [add description of relevant evidence]:

\_\_\_\_\_ Pursuant to 2 CFR 180.630, there is adequate cause for debarment based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

\_\_\_\_\_ The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]

**LISA  
TERRY**

Digitally signed  
by LISA TERRY  
Date: 2017.11.20  
15:25:21 -05'00'

Lisa V. Terry, Suspension and Debarment Official

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<sup>3</sup> If the SDO concludes that a Suspension is warranted, then the SDO must find that there is adequate cause for debarment of the Party as well.

Attachment to Form of Suspension and Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701);  
or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>4</sup>.

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<sup>4</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.





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December 6, 2017

Tammie Roth Hanania

(b) (6)

Re: Notice of Suspension and Debarment – Tammie Roth Hanania

Dear Ms. Hanania:

I am the Suspending and Debarment Official at the Export-Import Bank of the United States (the Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title two, part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I am suspending you immediately from participation in programs of the United States. See 2 C.F.R. §§ 180.700 et seq. I also propose to debar you and your company for three (3) years from participating in such programs. See 2 C.F.R. §§ 180.800 et seq.

#### REGULATORY FRAMEWORK

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal Suspension and Debarment official may immediately suspend a person when the official determines that there exists an indictment for, or other adequate evidence to suspect an offense under 2 C.F.R. § 180.800(a), or any other cause for debarment under § 180.800(b) through (d), and that immediate action is necessary to protect the public interest. See 2 C.F.R. § 180.700.

In determining whether to suspend, the official reviews the adequacy of the evidence to support the suspension, and considers how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn. See 2 C.F.R. § 180.705(a). An indictment, conviction, civil judgment, or other official findings by Federal, State, or local bodies that determine factual and/or legal matters, constitutes adequate evidence for purposes of suspension actions. See 2 C.F.R. § 180.705(b). The official may infer the necessity for immediate action to protect the public interest either from the nature of the



circumstances giving rise to a cause for suspension or from potential business relationships or involvement with a program of the Federal Government. See 2 C.F.R. § 180.705(c).

If legal or debarment proceedings are initiated at the time of, or during your suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed twelve (12) months. See 2 C.F.R. § 180.760(a). The official may extend the twelve-month limit for an additional six (6) months if an office of a U.S. Assistant Attorney General, U.S. Attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed eighteen (18) months without initiating legal or debarment proceedings. See 2 C.F.R. § 180.760(b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).





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## SUSPENSION

As stated above, you have been suspended. The basis of the suspension is your conviction and sentencing in the Southern District of Texas on November 14, 2016 for violating 18 U.S.C. § 1349, Conspiracy to Commit Wire Fraud and 18 U.S.C. § 1956(h) Conspiracy to Commit Money Laundering. See 2 C.F.R. §§ 180.700, 705, & 800.

I have determined that the evidence is adequate to suspend you because you have been convicted and there is sufficient information available that such information is credible, corroborated and that an examination of the information leads to the reasonable inference that you committed the conduct underlying your conviction.

The cause for your suspension is a criminal conviction of Tammie Roth Hanania for committing fraud in connection with obtaining or performing a public or private agreement, making false statements, committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility, and willfully violating 18 U.S.C. § 1349 and 18 U.S.C. § 1956(h), thereby engaging in a transaction so serious as to affect the integrity of the Export-Import Bank's credit program. Immediate action is necessary to protect the public interest. The public has a genuine expectation that the Government will conduct business with only responsible persons.

Accordingly, you are immediately excluded from participating as either a participant or a principal, as defined at 2 C.F.R. §§ 180.980 and 180.995, in covered transactions, as defined and described at 2 C.F.R. § 180.200, § 180.210 and § 180.215, under United States programs through the Executive Branch of the United States Government. 2 C.F.R. § 180.1015; § 180.130. Pursuant to 2 C.F.R. § 180.140, the suspension will be recognized by, and be effective for, Executive Branch agencies as a suspension under the Federal Acquisition Regulation as well.

This suspension is for a temporary period, pending the completion of debarment proceedings. See 2 C.F.R. § 180.760.

## PROPOSED DEBARMENTS

Based on the facts stated above, I am proposing to debar Tammie Roth Hanania from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.

Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.



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The reasons for your debarment are based on your conviction for conspiracy to commit wire fraud under Title 18 U.S.C. § 1349, and conspiracy to commit money laundering under Title 18 U.S.C. § 1956(h). On or about April 2012 through in or around February 2015, you willfully, with the intent to defraud carried out a scheme to defraud factoring companies and credit insurance providers, including EXIM Bank. The conspiracy and scheme caused a loss of approximately \$1 million to the Export-Import Bank and to the United States government.

Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. §180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

## ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and G, govern the suspension decision-making process. The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.720 and 180.815, you may contest the suspension and proposed debarment. Pursuant to 2 C.F.R. §§ 180.725 and 180.820, within thirty (30) calendar days after receipt of this notice, you may submit information and arguments in opposition to the suspension and proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Suspension and Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is



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undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.725(b) and 180.820(b).

Pursuant to 2 C.F.R. §§ 180.730 and 180.825, if you choose to contest your suspension from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter, all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the suspension and proposed debarment is based will be determined in accordance with 2 C.F.R. §§ 180.735 and 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Suspension and Proposed Debarment. However, unlike in criminal matters, the Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment within the required 30-day period, the debarment will be automatically entered. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you must contest the proposed debarment within the required 30-day period. See 2 C.F.R. § 180.820 and § 180.860.

Any communications or written submission should be directed to Attorney Marina Braginskaya in the Office of General Counsel at the address listed below:

Marina Braginskaya  
Office of General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.  
Washington, D.C. 20571  
(202) 565-3193



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For your information, a copy of regulations relevant to your suspension and proposed debarment is enclosed.

Very truly yours,

Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180
- 2) Judgment in a Criminal Case, Case Number 4:15-cr-00068



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May 9, 2018

Tammie Roth Hanania

(b) (6)

Re: Notice of Debarment – Tammie Roth Hanania

Dear Ms. Hanania:

On March 30, 2018, Export-Import Bank of the United States ("EXIM Bank" or "the Bank") sent you a Notice of Suspension and Proposed Debarment ("Notice"). The Notice advised that you had 30 (thirty) calendar days to submit information and arguments in opposition to the suspension and proposed debarment. To date, EXIM Bank has not received any response to the Notice or protest of the proposal or to the contents of the Notice.

In the absence of any evidence to the contrary, the Bank finds by a preponderance of the evidence that the information in the Notice is accurate and the conclusions drawn are warranted. Specifically, the Bank finds that you are not presently responsible contractor/participant.

EXIM Bank is debarring you based on your conviction for conspiracy to commit wire fraud under Title 18 U.S.C. § 1349, and conspiracy to commit money laundering under Title 18 U.S.C. § 1956(h). A copy of the judgment was attached to your Notice.

After careful consideration of the entire administrative record, the Bank has concluded that a three year debarment term is required to protect the Government. The effects of debarment are as stated in the Notice.

Therefore, effective as of this date, EXIM Bank has debarred you, Tammie Roth Hanania, for three (3) years, from participation in programs of the United States. This action is undertaken pursuant to Title two, part 180.800 et seq. of the Code of Federal Regulations (2 C.F.R. §§ 180.800 et seq.).



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Your name will be published in the System for Award Management (SAM), where it will be noted that you are "Ineligible – Proceedings Completed" for the effective three year period. You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

Very truly yours,

A handwritten signature in blue ink, appearing to read "Lisa V. Terry".

Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States



*Office of Inspector General*

**MEMORANDUM**

To: Lisa Terry, Suspension and Debarment Official  
(b) (6), (b) (7)(C)

From:

Date: August 13, 2018

Subject: Recommendation for the Debarment of:

LUYI VICTOR OGBEBOR  
(b) (6)

AEGIS TRADING & SHIPPING CO.  
2021 Midwest Road, Suite 200  
Oak Brook, IL 60523

(b) (5)









Suspension and Debarment Official  
Notice of Debarment Determination  
(Conviction-based)

Date: March 14, 2019

Party: Aegis Trading & Shipping Company (the "Party")

OGC Summary Memo Date: March 7, 2019

The Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Debarment

  X   The SDO finds that a Notice of Proposed Debarment should be sent to the Party. The basis for this determination is: [check appropriate boxes below.]

\_\_\_\_\_ The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: Making False Statements to a Bank (18 U.S.C. §§ 1014)

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists. [add description of relevant evidence]:

  X   Pursuant to 2 CFR 180.630, there is adequate cause for debarment based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

\_\_\_\_\_ The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]

LISA  
TERRY

Digitally signed by LISA TERRY  
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ou=Export Import Bank, cn=LISA  
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Lisa Terry, Suspension and Debarment Official

Attachment to Form of Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701);  
or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>1</sup>.

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<sup>1</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.

Suspension and Debarment Official  
Notice of Debarment Determination  
(Conviction-based)

Date: March 14, 2019

Party: Luyi Victor Ogbemor (the "Party")

OGC Summary Memo Date: March 7, 2019

The Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Debarment

  X   The SDO finds that a Notice of Proposed Debarment should be sent to the Party. The basis for this determination is: [check appropriate boxes below.]

  X   The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: Making False Statements to a Bank (18 U.S.C. §§ 1014)

       There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists. [add description of relevant evidence]:

       Pursuant to 2 CFR 180.630, there is adequate cause for debarment based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

       The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]

LISA  
TERRY

Digitally signed by LISA TERRY  
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ou=Export Import Bank, cn=LISA  
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Lisa Terry, Suspension and Debarment Official



Attachment to Form of Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701);  
or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>1</sup>.

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<sup>1</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.



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May 10, 2019

Mr. Luyi Victor Ogbebor

(b) (6)

Aegis Trading & Shipping Company  
2021 Midwest Road  
Suite 200  
Oak Brook, IL 60523

Re: Notice of Debarment – Luyi Victor Ogbebor and Aegis Trading & Shipping Company

Dear Mr. Ogbebor:

On March 20, 2019, Export-Import Bank of the United States (“EXIM Bank” or “the Bank”) sent you, Luyi Victor Ogbebor and Aegis Trading & Shipping Company, a Notice of Proposed Debarment (“Notice”). The Notice advised that you and your company had thirty (30) calendar days to submit information and arguments in opposition to the proposed debarment. To date, EXIM Bank has not received any response to the Notice or protest of the proposal or to the contents of the Notice.

In the absence of any evidence to the contrary, the Bank finds by a preponderance of the evidence that the information in the Notice is accurate and the conclusions drawn are warranted. Specifically, the Bank finds that you and your company are not presently responsible contractors/participants.

EXIM Bank is debarring you and your company based on your conviction for making a false claim under Title 18 U.S.C. § 287. A copy of the judgment was attached to your Notice.

After careful consideration of the entire administrative record, the Bank has concluded that a three year debarment term is required to protect the Government. The effects of debarment are as stated in the Notice.

Therefore, effective as of this date, EXIM Bank has debarred you, Luyi Victor Ogbebor and Aegis Trading & Shipping Company, for three (3) years, from participation in programs of the United States. This action is undertaken pursuant to Title two, part 180.800 et seq. of the Code of Federal Regulations (2 C.F.R. §§ 180.800 et seq.).



*Reducing Risk. Unleashing Opportunity.*

Your name, as well as your company's name, will be published in the System for Award Management (SAM), where it will be noted that you are "Ineligible – Proceedings Completed" for the effective three year period. You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

Sincerely,

LISA  
TERRY

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by LISA TERRY  
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Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States





*Reducing Risk. Unleashing Opportunity.*

March 19, 2019

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Luyi Victor Ogbemor

(b) (6)

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Aegis Trading & Shipping Company  
2021 Midwest Road  
Suite 200  
Oak Brook, IL 60523

Re: Notice of Proposed Debarment – Luyi Victor Ogbemor and Aegis Trading & Shipping Company

Dear Mr. Ogbemor:

I am the Suspending and Debarment Official at the Export-Import Bank of the United States (the Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title 2, part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I propose to debar you and your company for three (3) years from participation in programs of the United States. See 2 C.F.R. §§ 180.800 et seq.

**REGULATORY FRAMEWORK**

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making

false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).

## PROPOSED DEBARMENTS

Based on the facts stated below, I am proposing to debar Mr. Luyi Victor Ogbebor and Aegis Trading & Shipping Company from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.

Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.

The reasons for your debarment are based on your conviction for making false claims under Title 18 U.S.C. § 287. In each of August 2011 and January 2012, you willfully, with the intent to defraud, made false claims under your export credit insurance policy with the Export-Import Bank of the United States ("EXIM Bank"). In each instance you submitted claims to EXIM Bank for payment default by foreign buyers even though the Company had already received such payments. This caused EXIM Bank to pay out over \$95,000 in claims. Accordingly, the District Court's ordered you to pay \$92,817.66 in restitution.



Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. §180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Upon debarment, your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

#### ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.815, you may contest the proposed debarment. Pursuant to 2 C.F.R. §§ 180.820, within thirty (30) calendar days after receipt of this notice, you may submit information and arguments in opposition to the proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.820(b).

Pursuant to 2 C.F.R. §§ 180.825, if you choose to contest your proposed debarment from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter; all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the proposed



[exim.gov](http://exim.gov)





## **MEMORANDUM**

**DATE:** December 11, 2016

**TO:** Michael Cushing, Suspension  
and Debarment Official

**FROM:** OGC Litigation, Fraud and  
Compliance Group

**SUBJECT:** Notice of Suspension and  
Proposed Debarment of Martin  
Slone and Woolie Enterprises

(b) (5)

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Suspension and Debarment Official

Suspension and Notice of Debarment Determination

Party: Martin Slone, Woolie Enterprises, Inc. (collectively or individually, the "Party")

OGC Summary Memo Date: December 11, 2016

Michael Cushing, Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Suspension

X The SDO finds that there is sufficient basis to conclude that immediate suspension of the Party is necessary in order to protect the interests of the Federal Government, and that a Notice of Immediate Suspension should be delivered to the Party. These bases include: [check appropriate boxes below.]

     X The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including<sup>1</sup>: wire fraud (18 USC 1343)

     There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists; and immediate action is necessary to protect the public interest. [add description of relevant evidence and basis for concluding that immediate action is necessary]:

The party pled guilty to one count of wire fraud under 18 USC 1343.

The record provides two possible sources of mitigation, which I have considered in making this determination of suspension and proposed debarment. As discussed below, other factors outweigh these possible mitigants.

First, the record contains some indications that the Party is not likely to reoffend. The party is, however, a sophisticated and well-educated business person. The scheme that was the subject of the plea was a direct and blatant fraud against the government. The fraud was not the result of any confusion, lack of knowledge, or other mitigating state of mind or intent. In addition, the Party has the knowledge

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<sup>1</sup> A copy of 2 CFR 180.800 is attached to this Suspension and Notice of Debarment Determination for ease of reference.

and intelligence to prosecute an additional offense. Most important, the Party is not incarcerated, and will be permitted to travel while on probation, increasing the opportunity for an additional offense.

Second, the record shows that the Party made some attempts at partial restitution. I infer, however, that these attempts began only after EXIM discovered the fraud and had made recovery attempts against counterparties in the scheme, and the Party was aware that the fraud had been uncovered. Under these circumstances, I do not consider the partial restitution a strong mitigant.

☐ X Pursuant to 2 CFR 180.630, the Party should be suspended based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

☐ The SDO finds that there is not an immediate need to suspend the Party at this time. [add explanation]

#### Debarment

X The SDO finds that there is adequate cause for debarment of the Party and that a Notice of Proposed Debarment should be sent to the Party<sup>2</sup>. The basis for this determination is: [check appropriate boxes below.]

X There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists: Conviction for wire fraud (18 USC 1343)

X Pursuant to 2 CFR 180.630, there is adequate cause for debarment based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

☐ The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]

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<sup>2</sup> If the SDO concludes that a Suspension is warranted, then the SDO must find that there is adequate cause for debarment of the Party as well.

MICHAEL  
CUSHING

Digitally signed by MICHAEL CUSHING  
DN: c=US, o=U.S. Government, ou=Export  
Import Bank, cn=MICHAEL CUSHING,  
0.9.2342.19200300.100.1.1=830010017233

49  
[signature hard on electronic]

Michael Cushing, Suspension and Debarment Official

Date: \_\_\_\_\_

Attachment to Form of Suspension and Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

(1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701); or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>3</sup>.

---

<sup>3</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.







*Reducing Risk. Unleashing Opportunity.*

January 13, 2017

Mr. Martin Slone, Individually  
c/o of Woolie Enterprises, Inc.

(b) (6)

Woolie Enterprises, Inc.  
Attn.: Mr. Martin Slone

(b) (6)

Re: Notice of Suspension and Debarment – Martin Slone and Woolie Enterprises, Inc.

Dear Mr. Slone:

I am the Suspending and Debarring Official at the Export-Import Bank of the United States (the Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title two, part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I am suspending both you and your company, Woolie Enterprises, Inc. immediately from participation in programs of the United States. See 2 C.F.R. §§ 180.700 et seq. I also propose to debar you and your company for three (3) years from participating in such programs. See 2 C.F.R. §§ 180.800 et seq.

#### REGULATORY FRAMEWORK

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal Suspension and Debarment official may immediately suspend a person when the official determines that there exists an indictment for, or other adequate evidence to suspect an offense under 2 C.F.R. § 180.800(a), or any other cause for debarment under § 180.800(b) through (d), and that immediate action is necessary to protect the public interest. See 2 C.F.R. § 180.700.

In determining whether to suspend, the official reviews the adequacy of the evidence to support the suspension, and considers how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn. See 2 C.F.R. § 180.705(a). An indictment,



conviction, civil judgment, or other official findings by Federal, State, or local bodies that determine factual and/or legal matters, constitutes adequate evidence for purposes of suspension actions. See 2 C.F.R. § 180.705(b). The official may infer the necessity for immediate action to protect the public interest either from the nature of the circumstances giving rise to a cause for suspension or from potential business relationships or involvement with a program of the Federal Government. See 2 C.F.R. § 180.705(c).

If legal or debarment proceedings are initiated at the time of, or during your suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed twelve (12) months. See 2 C.F.R. § 180.760(a). The official may extend the twelve-month limit for an additional six (6) months if an office of a U.S. Assistant Attorney General, U.S. Attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed eighteen (18) months without initiating legal or debarment proceedings. See 2 C.F.R. § 180.760(b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal



agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).

## SUSPENSION

As stated above, you (both Martin Slone and Woolie Enterprises, Inc.) have been suspended. The basis of the suspension is your conviction and sentencing in the Middle District of Florida on April 21, 2016 to one count of violating 18 U.S.C. § 1343, Wire Fraud. See 2 C.F.R. §§ 180.700, 705, & 800. The conduct underlying your conviction is imputed to your company, Woolie Enterprises, Inc., as well. See 2 C.F.R. § 630(a) and (b), or in case of an affiliate, 2 C.F.R. § 180.905. A suspending official may extend a suspension to any affiliate if that affiliate is (1) specifically named in the Notice of Suspension and (2) given written notice of the suspension and an opportunity to respond. See 2 C.F.R. § 180.625(b).

I have determined that the evidence is adequate to suspend you because you have been convicted and there is sufficient information available that such information is credible, corroborated and that an examination of the information leads to the reasonable inference that you committed the conduct underlying your conviction.

The cause for your suspension is a criminal conviction of Martin Slone for committing fraud in connection with obtaining or performing a public or private agreement, making false statements, committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility, and willfully violating § 18 U.S.C. 1343, thereby engaging in a transaction so serious as to affect the integrity of the Export-Import Bank's credit program. Immediate action is necessary to protect the public interest. The public has a genuine expectation that the Government will conduct business with only responsible persons.

Accordingly, you are immediately excluded from participating as either a participant or a principal, as defined at 2 C.F.R. §§ 180.980 and 180.995, in covered transactions, as defined and described at 2 C.F.R. § 180.200, § 180.210 and § 180.215, under United States programs through the Executive Branch of the United States Government. 2 C.F.R. § 180.1015; § 180.130. Pursuant to 2 C.F.R. § 180.140, the suspension will be recognized by, and be effective for, Executive Branch agencies as a suspension under the Federal Acquisition Regulation as well.

This suspension is for a temporary period, pending the completion of debarment proceedings. See 2 C.F.R. § 180.760.

## PROPOSED DEBARMENTS

Based on the facts stated above, I am proposing to debar Martin Slone and Woolie Enterprises, Inc. from participating as either a participant or a principal, as defined in 2



C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.

Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.

The reasons for your debarment are based on your conviction for wire fraud under Title 18 U.S.C. § 1343. On or about August 30, 2010, you knowingly, with the intent to defraud, transmitted or had transmitted \$73,057.50 by wire communication in interstate or foreign commerce from a private finance company account in Miami, FL to Woolie Enterprises, Inc. ("Woolie") account at Regions Bank. The conspiracy and scheme caused a loss of \$131,215.00 to the Export-Import Bank and to the United States government.

Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. §180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

#### ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and G, govern the suspension decision-making process. The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.720 and 180.815, you may contest the suspension and proposed debarment. Pursuant to 2 C.F.R. §§ 180.725 and 180.820, within thirty (30) calendar days after receipt of this notice, you may submit information and arguments in opposition to the suspension and proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Suspension and Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five



(5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.725(b) and 180.820(b).

Pursuant to 2 C.F.R. §§ 180.730 and 180.825, if you choose to contest your suspension from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter, all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the suspension and proposed debarment is based will be determined in accordance with 2 C.F.R. §§ 180.735 and 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Suspension and Proposed Debarment. However, unlike in criminal matters, the Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment within the required 30-day period, the debarment will be automatically entered. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you must contest the proposed debarment within the required 30-day period. See 2 C.F.R. § 180.820 and § 180.860.

Any communications regarding this matter should be directed to Attorney John Connor in the Office of General Counsel at (202) 565-3815. Any written submission should be forwarded to my attention at the address listed below:

John G. Connor  
Office of General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.  
Washington, D.C. 20571

For your information, a copy of regulations relevant to your suspension and proposed debarment is enclosed.



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Very truly yours,

Michael Cushing

Suspension and Debarment Official of the Export-Import Bank of the United States

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180
- 2) Judgement in a Criminal Case, Case Number 8:13-cr-345-T-33AEP
- 3) Florida Department of State, Division of Corporations, Woolie Enterprises, Inc.





*Reducing Risk. Unleashing Opportunity.*

March 1, 2017

Mr. Martin Slone, Individually

(b) (6)

Woolie Enterprises, Inc.

Attn.: Mr. Martin Slone

(b) (6)

Re: Notice of Debarment – Martin Slone and Woolie Enterprises, Inc.

Dear Mr. Slone:

On January 13, 2017, Export-Import Bank of the United States (“EXIM Bank” or “the Bank”) sent you, Martin Slone, and your company, Woolie Enterprises, Inc., a Notice of Suspension and Proposed Debarment (“Notice”). The Notice advised that you and your company had 30 (thirty) calendar days to submit information and arguments in opposition to the suspension and proposed debarment. To date, EXIM Bank has not received any response to the Notice or protest of the proposal or to the contents of the Notice.

In the absence of any evidence to the contrary, the Bank finds by a preponderance of the evidence that the information in the Notice is accurate and the conclusions drawn are warranted. Specifically, the Bank finds that you and your company are not presently responsible contractors/participants.

EXIM Bank is debarring you and your company based on your conviction for wire fraud under Title 18 U.S.C. § 1343. A copy of the judgment was attached to your Notice.

After careful consideration of the entire administrative record, the Bank has concluded that a three year debarment term is required to protect the Government. The effects of debarment are as stated in the Notice.

Therefore, effective as of this date, EXIM Bank has debarred you, Martin Slone, and your company, Woolie Enterprises, Inc., for three (3) years, from participation in programs of the United States. This action is undertaken pursuant to Title two, part 180.800 et seq. of the Code of Federal Regulations (2 C.F.R. §§ 180.800 et seq.).

Your name, as well as your company’s name, will be published in the System for Award Management (SAM), where it will be noted that you are “Ineligible – Proceedings



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Completed" for the effective three year period. You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

Sincerely,

**LISA TERRY**

Digitally signed by LISA TERRY  
DN: c=US, o=U.S. Government,  
ou=Export Import Bank, cn=LISA TERRY,  
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21971  
Date: 2017.03.01 11:44:48 -05'00'

Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States





**MEMORANDUM**

**DATE: December 8, 2016**

**TO: Michael Cushing, Suspension  
and Debarment Official**

**FROM: OGC Litigation, Fraud and  
Compliance Group**

**SUBJECT: Notice of Suspension and  
Proposed Debarment of Guillermo  
A. Sanchez-Badia**

(b) (5)

























Suspension and Debarment Official

Suspension and Notice of Debarment Determination

Date:

Party: Guillermo Sanchez (the "Party")

OGC Summary Memo Date:

Michael Cushing, Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Suspension

X The SDO finds that there is sufficient basis to conclude that immediate suspension of the Party is necessary in order to protect the interests of the Federal Government, and that a Notice of Immediate Suspension should be delivered to the Party. These bases include: [check appropriate boxes below.]

\_\_\_\_\_ The Party has been indicted<sup>1</sup> for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including<sup>2</sup>: [add specific relevant offenses included in indictment]

X There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists; and immediate action is necessary to protect the public interest: The Party had a leading role as orchestrator and manager of a large-scale, ongoing complex fraud, resulting in a total losses of \$9.5 million, and a loss to EXIM of \$1.95 million. He pled guilty to two counts of conspiracy and one count of wire fraud. He was incarcerated for a period of 12 years and is subject to a restitution order of \$11,503,068. The record indicates that the Party's fraudulent scheme was carried out over a considerable period, involved multiple fraudulent acts, and resulted insubstantial losses for both the defrauded factors an

<sup>1</sup> Indictment counts that have been dismissed as of the time the SDO makes the suspension determination cannot form the basis for a suspension.

<sup>2</sup> A copy of 2 CFR 180.800 is attached to this Suspension and Notice of Debarment Determination for ease of reference.

EXIM. He was a principal in the management of the scheme. I did not find any evidence that the Party is a currently responsible party or any mitigating evidence that would affect my determination on either the suspension or debarment.

X The Party has been convicted for an offence(s) included in the “causes for debarment” listed in 2 CFR 180.800 (a) including: 18 U.S.C. §§ 1349, 1343, 1956(h) (Conspiracy to Commit Wire Fraud, Wire Fraud, and Conspiracy to Commit Money Laundering)

\_\_\_\_\_ The SDO finds that suspension of the Party is not necessary or appropriate at this time.  
[add explanation]

#### Debarment

X The SDO finds that there is adequate cause for debarment of the Party and that a Notice of Proposed Debarment should be sent to the Party<sup>3</sup>. The basis for this determination is: [check appropriate boxes below.]

X The Party has been convicted for an offence(s) included in the “causes for debarment” listed in 2 CFR 180.800 (a) including: [See above]

X There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists: [See discussion above]

\_\_\_\_\_ The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]

**MICHAEL CUSHING**  
Digitally signed by MICHAEL CUSHING  
DN: c=US, o=U.S. Government, ou=Export Import Bank, cn=MICHAEL CUSHING, 0.9.2342.19200300.100.1.1=8300 1001723349 [signature – hard or electronic]  
Date: 2017.01.10 16:07:59 -05'00'

<sup>3</sup> If the SDO concludes that a Suspension is warranted, then the SDO must find that there is adequate cause for debarment of the Party as well.

Michael Cushing, Suspension and Debarment Official

Attachment to Form of Suspension and Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;



- (2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;
- (3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;
- (4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or
- (5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701); or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>4</sup>.

---

<sup>4</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.





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March 10, 2017

Mr. Guillermo A. Sanchez-Badia  
FDC Miami  
FEDERAL DETENTION CENTER  
P.O. BOX 019120  
MIAMI, FL 33101

Re: Notice of Debarment – Guillermo A. Sanchez-Badia

Dear Mr. Sanchez-Badia:

On January 13, 2017, Export-Import Bank of the United States ("EXIM Bank" or "the Bank") sent you, Guillermo A. Sanchez-Badia, a Notice of Suspension and Proposed Debarment ("Notice"). The Notice advised that you and your company had 30 (thirty) calendar days to submit information and arguments in opposition to the suspension and proposed debarment. To date, EXIM Bank has not received any response to the Notice or protest of the proposal or to the contents of the Notice.

In the absence of any evidence to the contrary, the Bank finds by a preponderance of the evidence that the information in the Notice is accurate and the conclusions drawn are warranted. Specifically, the Bank finds that you are not presently responsible contractors/participants.

EXIM Bank is debarring you based on your conviction for conspiracy to commit wire fraud under Title 18 U.S.C. § 1349, wire fraud under Title 18 U.S.C. § 1343 and conspiracy to commit money laundering under Title 18 §1956(h). A copy of the judgment was attached to your Notice.

After careful consideration of the entire administrative record, the Bank has concluded that a three year debarment term is required to protect the Government. The effects of debarment are as stated in the Notice.

Therefore, effective as of this date, EXIM Bank has debarred you, Guillermo A. Sanchez-Badia, for three (3) years, from participation in programs of the United States. This action is undertaken pursuant to Title two, part 180.800 et seq., of the Code of Federal Regulations (2 C.F.R. §§ 180.800 et seq.).



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Your name will be published in the System for Award Management (SAM), where it will be noted that you are "Ineligible – Proceedings Completed" for the effective three year period. You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

Sincerely,

**LISA TERRY**

Digitally signed by LISA TERRY  
DN: c=US, o=U.S. Government, ou=Export  
Import Bank, cn=LISA TERRY,  
0.9.2342.19200300.100.1.1=83001002321971  
Date: 2017.03.10 12:47:43 -05'00'

Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States



*Reducing Risk. Unleashing Opportunity.*

January 13, 2017

Mr. Guillermo A. Sanchez-Badia  
FDC Miami  
FEDERAL DETENTION CENTER  
P.O. BOX 019120  
MIAMI, FL 33101

Re: Notice of Suspension and Debarment – Guillermo A. Sanchez-Badia

Dear Mr. Sanchez:

I am the Suspending and Debarring Official at the Export-Import Bank of the United States (the Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title two, part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I am suspending you immediately from participation in programs of the United States. See 2 C.F.R. §§ 180.700 et seq. I also propose to debar you for three (3) years from participating in such programs. See 2 C.F.R. §§ 180.800 et seq.

#### REGULATORY FRAMEWORK

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal Suspension and Debarment official may immediately suspend a person when the official determines that there exists an indictment for, or other adequate evidence to suspect an offense under 2 C.F.R. § 180.800(a), or any other cause for debarment under § 180.800(b) through (d), and that immediate action is necessary to protect the public interest. See 2 C.F.R. § 180.700.

In determining whether to suspend, the official reviews the adequacy of the evidence to support the suspension, and considers how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn. See 2 C.F.R. § 180.705(a). An indictment, conviction, civil judgment, or other official findings by Federal, State, or local bodies that determine factual and/or legal matters, constitutes adequate evidence for purposes of suspension actions. See 2 C.F.R. § 180.705(b). The official may infer the necessity for immediate action to protect the public interest either from the nature of the circumstances giving rise to a cause for suspension or from potential business



relationships or involvement with a program of the Federal Government. See 2 C.F.R. § 180.705(c).

If legal or debarment proceedings are initiated at the time of, or during your suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed twelve (12) months. See 2 C.F.R. § 180.760(a). The official may extend the twelve-month limit for an additional six (6) months if an office of a U.S. Assistant Attorney General, U.S. Attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed eighteen (18) months without initiating legal or debarment proceedings. See 2 C.F.R. § 180.760(b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).



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## SUSPENSION

As stated above, you have been suspended. The basis of the suspension is your conviction and sentencing in the United States District Court for the Southern District of Florida on June 9, 2016 to: one count of violating 18 U.S.C. § 1349, Conspiracy to Commit Wire Fraud; one count of violating 18 U.S.C. § 1343, Wire Fraud; and one count of violating 18 U.S.C. § 1956(h), Conspiracy to Commit Money Laundering. See 2 C.F.R. § 180.700, 705, & 800.

I have determined that the evidence is adequate to suspend you because you have been convicted and there is sufficient information available that such information is credible, corroborated and that an examination of the information leads to the reasonable inference that you committed the conduct underlying your conviction.

The cause for your suspension is a criminal conviction of Guillermo Sanchez for committing fraud in connection with obtaining or performing a public or private agreement, making false statements, committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility, and willfully violating §§ 18 U.S.C. 1343, 1349 and 1956(h) thereby engaging in a transaction so serious as to affect the integrity of the Export-Import Bank's credit program. Immediate action is necessary to protect the public interest. The public has a genuine expectation that the Government will conduct business with only responsible persons.

Accordingly, you are immediately excluded from participating as either a participant or a principal, as defined at 2 C.F.R. §§ 180.980 and 180.995, in covered transactions, as defined and described at 2 C.F.R. § 180.200, § 180.210 and § 180.215, under United States programs through the Executive Branch of the United States Government. 2 C.F.R. § 180.1015; § 180.130. Pursuant to 2 C.F.R. § 180.140, the suspension will be recognized by, and be effective for, Executive Branch agencies as a suspension under the Federal Acquisition Regulation as well.

This suspension is for a temporary period, pending the completion of debarment proceedings. See 2 C.F.R. § 180.760.

## PROPOSED DEBARMENTS

Based on the facts stated above, I am proposing to debar you from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.

Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.

The reasons for your debarment are based on your conviction for: Conspiracy to Commit Wire Fraud under Title 18 § 1349, Wire Fraud under Title 18 U.S.C. § 1343; and Conspiracy to Commit Money Laundering under Title 18 U.S.C. § 1956(h). On numerous occasions from February 2007 through December 2012, you knowingly, with the intent to defraud, transmitted or had transmitted \$11,503,068 by wire communication in interstate or foreign commerce from a private factors and lenders to various companies owned by you and your co-conspirators. The conspiracy and scheme caused a loss of \$1,951,643 to the Export-Import Bank and to the United States government.

Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. §180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

#### ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and G, govern the suspension decision-making process. The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.720 and 180.815, you may contest the suspension and proposed debarment. Pursuant to 2 C.F.R. §§ 180.725 and 180.820, within thirty (30) calendar days after receipt of this notice, you may submit information and arguments in opposition to the suspension and proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Suspension and Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5)





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days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.725(b) and 180.820(b).

Pursuant to 2 C.F.R. §§ 180.730 and 180.825, if you choose to contest your suspension from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter, all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the suspension and proposed debarment is based will be determined in accordance with 2 C.F.R. §§ 180.735 and 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Suspension and Proposed Debarment. However, unlike in criminal matters, the Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment within the required 30-day period, the debarment will be automatically entered. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you must contest the proposed debarment within the required 30-day period. See 2 C.F.R. § 180.820 and § 180.860.

Any communications regarding this matter should be directed to John G. Connor, of the Office of General Counsel, at (202) 565-3815. Any written submission should be forwarded to my attention at the address listed below:

John G. Connor  
Office of General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.  
Washington, D.C. 20571

For your information, a copy of regulations relevant to your suspension and proposed debarment is enclosed.



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Very truly yours,

Michael Cushing

Suspension and Debarment Official of the Export-Import Bank of the United States

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180
- 2) Judgement in a Criminal Case, Case Number 1:15-cr-20545, U.S.D.Ct., So. D. of FL.



**MEMORANDUM**

**DATE:** December 8, 2016

**TO:** Michael Cushing, Suspension  
and Debarment Official

**FROM:** OGC Litigation, Fraud and  
Compliance Group

**SUBJECT:** Notice of Suspension and  
Proposed Debarment of Gustavo  
Giral and Global Export Machinery,  
Inc.

(b) (5)



























Suspension and Debarment Official  
Suspension and Notice of Debarment Determination  
(Conviction-based)

Date:

Party: Gustavo Giral (the "Party")

OGC Summary Memo Date: December 8, 2016

Michael Cushing, Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Suspension

X The SDO finds that there is sufficient basis to conclude that immediate suspension of the Party is necessary in order to protect the interests of the Federal Government, and that a Notice of Immediate Suspension should be delivered to the Party. These bases include: [check appropriate boxes below – at least one box must be checked.]

The Party has been indicted<sup>1</sup> for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including<sup>2</sup>:

X There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists; and immediate action is necessary to protect the public interest:

The Party had a leading role as principal of a large-scale, ongoing complex fraud, resulting in a total losses of \$9.5 million, and a loss to EXIM of \$1.95 million. He pleaded guilty to three count including conspiracy to commit wire fraud, wire fraud, and conspiracy to commit money laundering. The Party, as a principal in an

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<sup>1</sup> Indictment counts that have been dismissed as of the time the SDO makes the suspension determination cannot form the basis for a suspension.

<sup>2</sup> A copy of 2 CFR 180.800 is attached to this Suspension and Notice of Debarment Determination for ease of reference.

ongoing “Ponzi-scheme” fraud, played a critical and essential role to perpetrate the fraud. The Party was responsible for preparing and submitting numerous fraudulent documents to the defrauded lenders and to EXIM Bank to obtain EXIM guaranteed loans. The record indicates that the Party’s fraudulent scheme was carried out over a considerable period, involved multiple fraudulent acts, and resulted in substantial losses. I did not find any evidence that the Party is a currently responsible party. I have reviewed mitigating circumstances, including cooperation with the government as described in the downward departure memorandum, but find any mitigating evidence and cooperation would not affect my determination on either the suspension or proposed debarment.

X The Party has been convicted for an offence(s) included in the “causes for debarment” listed in 2 CFR 180.800 (a) including: 18 U.S.C. §§ 1349, 1343, 1956(h) Conspiracy to Commit Wire Fraud, Wire Fraud, and Conspiracy to Commit Money Laundering

\_\_\_\_\_ The SDO finds that immediate suspension of the Party is not necessary or appropriate at this time.

#### Debarment

X The SDO finds that a Notice of Proposed Debarment should be sent to the Party<sup>3</sup>. The basis for this determination is: [check appropriate boxes below.]

X The Party has been convicted for an offence(s) included in the “causes for debarment” listed in 2 CFR 180.800 (a) including: Conspiracy to Commit Wire Fraud, Wire Fraud, and Conspiracy to Commit Money Laundering (18 U.S.C. §§ 1349, 1343, 1956(h))

X There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists. See discussion above:

\_\_\_\_\_ Pursuant to 2 CFR 180.630, there is adequate cause for debarment based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

---

<sup>3</sup> If the SDO concludes that a Suspension is warranted, then the SDO must find that there is adequate cause for debarment of the Party as well.



\_\_\_\_\_ The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [Add description of relevant considerations.]

**MICHAEL  
CUSHING**

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Michael Cushing, Suspension and Debarment Official

Attachment to Form of Suspension and Notice of Debarment Determination

2 C.F.R. § 180.800 what are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701);  
or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>4</sup>.

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<sup>4</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.



Suspension and Debarment Official  
Suspension and Notice of Debarment Determination  
(Conviction-based)

Date:

Party: Global Export Machinery, Inc. (the "Party")

OGC Summary Memo Date: December 8, 2016

Michael Cushing, Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Suspension

X The SDO finds that there is sufficient basis to conclude that immediate suspension of the Party is necessary in order to protect the interests of the Federal Government, and that a Notice of Immediate Suspension should be delivered to the Party. These bases include: [check appropriate boxes below. At least one box below must be checked.]

\_\_\_\_\_ The Party has been indicted<sup>1</sup> for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including<sup>2</sup>: [See below for convicted offenses]

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (a)-(d) exists; and immediate action is necessary to protect the public interest:

\_\_\_\_\_ The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: Conspiracy to Commit Wire Fraud, Wire Fraud, and Conspiracy to Commit Money Laundering (18 U.S.C. §§ 1349, 1343, 1956(h))

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<sup>1</sup> Indictment counts that have been dismissed as of the time the SDO makes the suspension determination cannot form the basis for a suspension.

<sup>2</sup> A copy of 2 CFR 180.800 is attached to this Suspension and Notice of Debarment Determination for ease of reference.

X Pursuant to 2 CFR 180.630, the Party should be suspended based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

The Party is an affiliate and an instrumentality of Party Gustavo Giral. The Party was created and controlled by Party Giral for the purpose of effecting the frauds described in the Suspension and Debarment Notice for Party Giral. All conduct of the Party should be imputed from party Giral to Party Global Export Machinery, Inc.-

X The Party is an affiliate of Gustavo Giral, another Party that is in the process of, or has been, suspended and proposed for debarment, or debarred.

☐

\_\_\_\_\_ The SDO finds that immediate suspension of the Party is not necessary or appropriate at this time. [add explanation]

#### Notice of Proposed Debarment<sup>3</sup>

X The SDO finds that a Notice of Proposed Debarment should be sent to the Party. The basis for this determination is: [check appropriate boxes below. At least one box must be checked.]

\_\_\_\_\_ The Party has been convicted for an offence(s) included in the “causes for debarment” listed in 2 CFR 180.800 (a) including: Conspiracy to Commit Wire Fraud, Wire Fraud, and Conspiracy to Commit Money Laundering (18 U.S.C. §§ 1349, 1343, 1956(h))

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment set forth in 2 C.F.R. 180.800 (a) – (d) exists. [Reference should be made to the parallel finding under “Suspensions”, above, or copied from that section and pasted here.]

X The Party is an affiliate of Gustavo Giral, another Party that is in the process of, or has been, suspended and proposed for debarment, or debarred.

X Pursuant to 2 CFR 180.630, there is adequate cause for debarment of the Party based on imputing the conduct of Gustavo Giral, another Party that is in the process of, or has been, suspended and proposed for debarment, or debarred, to the Party.

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<sup>3</sup> For indictment-based suspensions, or a suspension based on an on-going investigation, a Notice of Proposed Debarment need not be sent with the Notice of Suspension. In those cases, this section may be deleted from this form pending completion of the investigation or criminal proceeding. In all other cases, this section should be included and a Notice of Proposed Debarment should be sent with the Notice of Suspension.

[See discussion above]

\_\_\_\_\_ The SDO finds that there does not appear to be adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [Add description of relevant considerations.]

**MICHAEL  
CUSHING**

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Michael Cushing, Suspension and Debarment Official

Attachment to Form of Suspension and Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;



(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701);  
or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>4</sup>.

---

<sup>4</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.





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February 2, 2017

Mr. Gustavo J. Giral RN: 08220-104  
FPC Pensacola  
FEDERAL PRISON CAMP  
P.O. BOX 3949  
PENSACOLA, FL 32516

Global Export Machinery, Inc.  
Registered Agent: Diane Helving  
13372 SW 128 Street, Suite 201  
Miami, Florida 33186

Re: Notice of Suspension and Debarment – Gustavo J. Giral and Global Export Machinery, Inc.

Dear Mr. Giral:

I am the Suspending and Debarring Official at the Export-Import Bank of the United States (the Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title two, part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I am suspending both you and your company, Global Export Machinery, Inc. immediately from participation in programs of the United States. See 2 C.F.R. §§ 180.700 et seq. I also propose to debar you and your company for three (3) years from participating in such programs. See 2 C.F.R. §§ 180.800 et seq.

#### REGULATORY FRAMEWORK

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal Suspension and Debarment official may immediately suspend a person when the official determines that there exists an indictment for, or other adequate evidence to suspect an offense under 2 C.F.R. § 180.800(a), or any other cause for debarment under § 180.800(b) through (d), and that immediate action is necessary to protect the public interest. See 2 C.F.R. § 180.700.



In determining whether to suspend, the official reviews the adequacy of the evidence to support the suspension, and considers how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn. See 2 C.F.R. § 180.705(a). An indictment, conviction, civil judgment, or other official findings by Federal, State, or local bodies that determine factual and/or legal matters, constitutes adequate evidence for purposes of suspension actions. See 2 C.F.R. § 180.705(b). The official may infer the necessity for immediate action to protect the public interest either from the nature of the circumstances giving rise to a cause for suspension or from potential business relationships or involvement with a program of the Federal Government. See 2 C.F.R. § 180.705(c).

If legal or debarment proceedings are initiated at the time of, or during your suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed twelve (12) months. See 2 C.F.R. § 180.760(a). The official may extend the twelve-month limit for an additional six (6) months if an office of a U.S. Assistant Attorney General, U.S. Attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed eighteen (18) months without initiating legal or debarment proceedings. See 2 C.F.R. § 180.760(b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the



debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).

## SUSPENSION

As stated above, you (both Gustavo J. Giral and Global Export Machinery, Inc.) have been suspended. The basis of the suspension is your conviction and sentencing in the Southern District of Florida on May 13, 2016 to three counts of violating 18 U.S.C. § 1349, Conspiracy to Commit Wire Fraud; 18 U.S.C. § 1343, Wire Fraud and 18 U.S.C. § 1956(h) Conspiracy to Commit Money Laundering. See 2 C.F.R. §§ 180.700, 705, & 800. The conduct underlying your conviction is imputed to your company, Global Export Machinery, Inc., as well. See 2 C.F.R. § 630(a) and (b), or in case of an affiliate, 2 C.F.R. § 180.905. A suspending official may extend a suspension to any affiliate if that affiliate is (1) specifically named in the Notice of Suspension and (2) given written notice of the suspension and an opportunity to respond. See 2 C.F.R. § 180.625(b).

I have determined that the evidence is adequate to suspend you because you have been convicted and there is sufficient information available that such information is credible, corroborated and that an examination of the information leads to the reasonable inference that you committed the conduct underlying your conviction.

The cause for your suspension is a criminal conviction of Gustavo J. Giral for committing fraud in connection with obtaining or performing a public or private agreement, making false statements, committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility, and willfully violating 18 U.S.C. § 1349; 18 U.S.C. § 1343 and 18 U.S.C. § 1956(h), thereby engaging in a transaction so serious as to affect the integrity of the Export-Import Bank's credit program. Immediate action is necessary to protect the public interest. The public has a genuine expectation that the Government will conduct business with only responsible persons.

Accordingly, you are immediately excluded from participating as either a participant or a principal, as defined at 2 C.F.R. §§ 180.980 and 180.995, in covered transactions, as defined and described at 2 C.F.R. § 180.200, § 180.210 and § 180.215, under United States programs through the Executive Branch of the United States Government. 2 C.F.R. § 180.1015; § 180.130. Pursuant to 2 C.F.R. § 180.140, the suspension will be recognized by, and be effective for, Executive Branch agencies as a suspension under the Federal Acquisition Regulation as well.



This suspension is for a temporary period, pending the completion of debarment proceedings. See 2 C.F.R. § 180.760.

## PROPOSED DEBARMENTS

Based on the facts stated above, I am proposing to debar Gustavo J. Giral and Global Export Machinery, Inc. from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.

Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.

The reasons for your debarment are based on your conviction for conspiracy to commit wire fraud under Title 18 U.S.C. § 1349, wire fraud under Title 18 U.S.C. § 1343 and conspiracy to commit money laundering under Title 18 U.S.C. § 1956(h). On or about February 2007 through in or around December 2012, you willfully, with the intent to defraud submitted false and fraudulent sales and shipping information and misappropriated loan proceeds for personal benefit and to further the fraud, and knowingly conducted financial transaction affecting interstate and foreign commerce involving proceeds of specified unlawful activity. The conspiracy and scheme caused a loss of \$1.95 million to the Export-Import Bank and to the United States government.

Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. §180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).





## ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and G, govern the suspension decision-making process. The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.720 and 180.815, you may contest the suspension and proposed debarment. Pursuant to 2 C.F.R. §§ 180.725 and 180.820, within thirty (30) calendar days after receipt of this notice, you may submit information and arguments in opposition to the suspension and proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Suspension and Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.725(b) and 180.820(b).

Pursuant to 2 C.F.R. §§ 180.730 and 180.825, if you choose to contest your suspension from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter, all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the suspension and proposed debarment is based will be determined in accordance with 2 C.F.R. §§ 180.735 and 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Suspension and Proposed Debarment. However, unlike in criminal matters, the Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment within the required 30-day period, the debarment will be automatically entered. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you must contest the proposed debarment within the required 30-day period. See 2 C.F.R. § 180.820 and § 180.860.



*Reducing Risk. Unleashing Opportunity.*

Any communications regarding this matter should be directed to Attorney John Connor in the Office of General Counsel at (202) 565-3815. Any written submission should be forwarded to my attention at the address listed below:

John G. Connor  
Office of General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.  
Washington, D.C. 20571

For your information, a copy of regulations relevant to your suspension and proposed debarment is enclosed.

Very truly yours,

Michael Cushing  
Suspension and Debarment Official of the Export-Import Bank of the United States

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180
- 2) Judgment in a Criminal Case, Case Number 1:15-cr-20545-JAL
- 3) Florida Department of State, Division of Corporations, Global Export Machinery, Inc.





*Reducing Risk. Unleashing Opportunity.*

February 2, 2017

Mr. Gustavo J. Giral RN: 08220-104

FPC Pensacola  
FEDERAL PRISON CAMP  
P.O. BOX 3949  
PENSACOLA, FL 32516

Global Export Machinery, Inc.  
Registered Agent: Diane Helving  
13372 SW 128 Street, Suite 201  
Miami, Florida 33186

Re: Notice of Suspension and Debarment – Gustavo J. Giral and Global Export Machinery, Inc.

Dear Mr. Giral:

I am the Suspending and Debarring Official at the Export-Import Bank of the United States (the Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title two, part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I am suspending both you and your company, Global Export Machinery, Inc. immediately from participation in programs of the United States. See 2 C.F.R. §§ 180.700 et seq. I also propose to debar you and your company for three (3) years from participating in such programs. See 2 C.F.R. §§ 180.800 et seq.

#### REGULATORY FRAMEWORK

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal Suspension and Debarment official may immediately suspend a person when the official determines that there exists an indictment for, or other adequate evidence to suspect an offense under 2 C.F.R. § 180.800(a), or any other cause for debarment under § 180.800(b) through (d), and that immediate action is necessary to protect the public interest. See 2 C.F.R. § 180.700.

In determining whether to suspend, the official reviews the adequacy of the evidence to support the suspension, and considers how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn. See 2 C.F.R. § 180.705(a). An indictment, conviction, civil judgment, or other official findings by Federal, State, or local bodies that determine factual and/or legal matters, constitutes adequate evidence for purposes of suspension actions. See 2 C.F.R. § 180.705(b). The official may infer the necessity for immediate action to protect the public interest either from the nature of the circumstances giving rise to a cause for suspension or from potential business relationships or involvement with a program of the Federal Government. See 2 C.F.R. § 180.705(c).

If legal or debarment proceedings are initiated at the time of, or during your suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed twelve (12) months. See 2 C.F.R. § 180.760(a). The official may extend the twelve-month limit for an additional six (6) months if an office of a U.S. Assistant Attorney General, U.S. Attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed eighteen (18) months without initiating legal or debarment proceedings. See 2 C.F.R. § 180.760(b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the



debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).

## SUSPENSION

As stated above, you (both Gustavo J. Giral and Global Export Machinery, Inc.) have been suspended. The basis of the suspension is your conviction and sentencing in the Southern District of Florida on May 13, 2016 to three counts of violating 18 U.S.C. § 1349, Conspiracy to Commit Wire Fraud; 18 U.S.C. § 1343, Wire Fraud and 18 U.S.C. § 1956(h) Conspiracy to Commit Money Laundering. See 2 C.F.R. §§ 180.700, 705, & 800. The conduct underlying your conviction is imputed to your company, Global Export Machinery, Inc., as well. See 2 C.F.R. § 630(a) and (b), or in case of an affiliate, 2 C.F.R. § 180.905. A suspending official may extend a suspension to any affiliate if that affiliate is (1) specifically named in the Notice of Suspension and (2) given written notice of the suspension and an opportunity to respond. See 2 C.F.R. § 180.625(b).

I have determined that the evidence is adequate to suspend you because you have been convicted and there is sufficient information available that such information is credible, corroborated and that an examination of the information leads to the reasonable inference that you committed the conduct underlying your conviction.

The cause for your suspension is a criminal conviction of Gustavo J. Giral for committing fraud in connection with obtaining or performing a public or private agreement, making false statements, committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility, and willfully violating 18 U.S.C. § 1349; 18 U.S.C. § 1343 and 18 U.S.C. § 1956(h), thereby engaging in a transaction so serious as to affect the integrity of the Export-Import Bank's credit program. Immediate action is necessary to protect the public interest. The public has a genuine expectation that the Government will conduct business with only responsible persons.

Accordingly, you are immediately excluded from participating as either a participant or a principal, as defined at 2 C.F.R. §§ 180.980 and 180.995, in covered transactions, as defined and described at 2 C.F.R. § 180.200, § 180.210 and § 180.215, under United States programs through the Executive Branch of the United States Government. 2 C.F.R. § 180.1015; § 180.130. Pursuant to 2 C.F.R. § 180.140, the suspension will be recognized by, and be effective for, Executive Branch agencies as a suspension under the Federal Acquisition Regulation as well.



This suspension is for a temporary period, pending the completion of debarment proceedings. See 2 C.F.R. § 180.760.

## PROPOSED DEBARMENTS

Based on the facts stated above, I am proposing to debar Gustavo J. Giral and Global Export Machinery, Inc. from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.

Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.

The reasons for your debarment are based on your conviction for conspiracy to commit wire fraud under Title 18 U.S.C. § 1349, wire fraud under Title 18 U.S.C. § 1343 and conspiracy to commit money laundering under Title 18 U.S.C. § 1956(h). On or about February 2007 through in or around December 2012, you willfully, with the intent to defraud submitted false and fraudulent sales and shipping information and misappropriated loan proceeds for personal benefit and to further the fraud, and knowingly conducted financial transaction affecting interstate and foreign commerce involving proceeds of specified unlawful activity. The conspiracy and scheme caused a loss of \$1.95 million to the Export-Import Bank and to the United States government.

Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. §180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).



## ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and G, govern the suspension decision-making process. The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.720 and 180.815, you may contest the suspension and proposed debarment. Pursuant to 2 C.F.R. §§ 180.725 and 180.820, within thirty (30) calendar days after receipt of this notice, you may submit information and arguments in opposition to the suspension and proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Suspension and Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.725(b) and 180.820(b).

Pursuant to 2 C.F.R. §§ 180.730 and 180.825, if you choose to contest your suspension from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter, all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the suspension and proposed debarment is based will be determined in accordance with 2 C.F.R. §§ 180.735 and 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Suspension and Proposed Debarment. However, unlike in criminal matters, the Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment within the required 30-day period, the debarment will be automatically entered. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you must contest the proposed debarment within the required 30-day period. See 2 C.F.R. § 180.820 and § 180.860.



*Reducing Risk. Unleashing Opportunity.*

Any communications regarding this matter should be directed to Attorney John Connor in the Office of General Counsel at (202) 565-3815. Any written submission should be forwarded to my attention at the address listed below:

John G. Connor  
Office of General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.  
Washington, D.C. 20571

For your information, a copy of regulations relevant to your suspension and proposed debarment is enclosed.

Very truly yours,

Michael Cushing  
Suspension and Debarment Official of the Export-Import Bank of the United States

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180
- 2) Judgment in a Criminal Case, Case Number 1:15-cr-20545-JAL
- 3) Florida Department of State, Division of Corporations, Global Export Machinery, Inc.



## **MEMORANDUM**

**DATE: December 8, 2016**

**TO: Michael Cushing, Suspension  
and Debarment Official**

**FROM: OGC Litigation, Fraud and  
Compliance Group**

**SUBJECT: Notice of Suspension and  
Proposed Debarment of Isabel  
Sanchez and Retire In Real Estate  
2012-1, LLC**

(b) (5)





























Suspension and Debarment Official

Suspension and Notice of Debarment Determination

Date:

Party: Isabel Sanchez (the "Party")

OGC Summary Memo Date: December 8, 2016

Michael Cushing, Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Suspension

X The SDO finds that there is sufficient basis to conclude that immediate suspension of the Party is necessary in order to protect the interests of the Federal Government, and that a Notice of Immediate Suspension should be delivered to the Party. These bases include: [check appropriate boxes below.]

X The Party has been indicted<sup>1</sup> for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including<sup>2</sup>: [See below for convicted offenses]

-

18 U.S.C. §§ 1349, 1343, 1956(h) [Conspiracy to Commit Wire Fraud, Wire Fraud, and Conspiracy to Commit Money Laundering]

X There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists; and immediate action is necessary to protect the public interest. [add description of relevant evidence and basis for concluding that immediate action is necessary]:

The Party had a leading role as orchestrator and manager of a large-scale, ongoing

---

<sup>1</sup> Indictment counts that have been dismissed as of the time the SDO makes the suspension determination cannot form the basis for a suspension.

<sup>2</sup> A copy of 2 CFR 180.800 is attached to this Suspension and Notice of Debarment Determination for ease of reference.

complex fraud, resulting in a total losses of \$9.5 million, and a loss to EXIM of \$1.95 million. She pled guilty to three counts of conspiracy. The record indicates that the Party's fraudulent scheme was carried out over a considerable period, involved multiple fraudulent acts, and resulted insubstantial losses for both the defrauded factors an EXIM. She was a principal in the management of the scheme.

In mitigation, I have considered her admissions when questioned and the value of her cooperation in helping unravel the fraud. I have also considered her current incarceration as it may affect the need to suspend and propose to debar. In view of the complexity and results of the fraud, on balance, I believe the evidence is adequate to support both the suspension and the debarment.

X The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: Conspiracy to Commit Wire Fraud, Wire Fraud, and Conspiracy to Commit Money Laundering (18 U.S.C. §§ 1349, 1343, 1956(h))

\_\_\_\_\_ The SDO finds that immediate suspension of the Party is not necessary or appropriate at this time. [add explanation]

#### Debarment

X The SDO finds that there is adequate cause for debarment of the Party and that a Notice of Proposed Debarment should be sent to the Party<sup>3</sup>. The basis for this determination is: [check appropriate boxes below.]

X The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: Conspiracy to Commit Wire Fraud, Wire Fraud, and Conspiracy to Commit Money Laundering (18 U.S.C. §§ 1349, 1343, 1956(h))

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists. [See discussion above under suspension]:

---

<sup>3</sup> If the SDO concludes that a Suspension is warranted, then the SDO must find that there is adequate cause for debarment of the Party as well.

\_\_\_\_\_ Pursuant to 2 CFR 180.630, there is adequate cause for debarment based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

\_\_\_\_\_ The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]

**MICHAEL  
CUSHING**

Digitally signed by MICHAEL

CUSHING

DN: c=US, o=U.S. Government,

ou=Export Import Bank,

cn=MICHAEL CUSHING,

0.9.2342.19200300.100.1.1=8300

1001723349

Date: 2017.01.10

[signature – hard or electronic]

Michael Cushing, Suspension and Debarment Official

Attachment to Form of Suspension and Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

- (2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;
- (3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;
- (4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or
- (5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701); or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>4</sup>.

---

<sup>4</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.







*Reducing Risk. Unleashing Opportunity.*

March 16, 2017

Isabel C. Sanchez Registry  
BOP Registry # 08319-104  
FCI Oklahoma City  
Federal Transfer Center  
P.O. Box 898801  
Oklahoma City, OK 73189

Retire in Real Estate 2012-1, LLC  
c/o Isabel C. Sanchez  
1825 Ponce de Leon Blvd.  
Suite 425  
Coral Gables, FL 33134

Re: Notice of Suspension and Debarment – Isabel C. Sanchez and Retire in Real Estate 2012-1, LLC

Dear Ms. Sanchez:

I am the Suspending and Debarment Official at the Export-Import Bank of the United States (the Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title two, part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I am suspending both you and your company, Retire in Real Estate 2012-1, LLC immediately from participation in programs of the United States. See 2 C.F.R. §§ 180.700 et seq. I also propose to debar you and your company for three (3) years from participating in such programs. See 2 C.F.R. §§ 180.800 et seq.

#### REGULATORY FRAMEWORK

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal Suspension and Debarment official may immediately suspend a person when the official determines that there exists an indictment for, or other adequate evidence to suspect an offense under 2 C.F.R. § 180.800(a), or any other cause for debarment under § 180.800(b) through (d), and that immediate action is necessary to protect the public interest. See 2 C.F.R. § 180.700.

In determining whether to suspend, the official reviews the adequacy of the evidence to support the suspension, and considers how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn. See 2 C.F.R. § 180.705(a). An indictment, conviction, civil judgment, or other official findings by Federal, State, or local bodies that determine factual and/or legal matters, constitutes adequate evidence for purposes of suspension actions. See 2 C.F.R. § 180.705(b). The official may infer the necessity for immediate action to protect the public interest either from the nature of the circumstances giving rise to a cause for suspension or from potential business relationships or involvement with a program of the Federal Government. See 2 C.F.R. § 180.705(c).

If legal or debarment proceedings are initiated at the time of, or during your suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed twelve (12) months. See 2 C.F.R. § 180.760(a). The official may extend the twelve-month limit for an additional six (6) months if an office of a U.S. Assistant Attorney General, U.S. Attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed eighteen (18) months without initiating legal or debarment proceedings. See 2 C.F.R. § 180.760(b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the





debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).

## SUSPENSION

As stated above, you (both Isabel Sanchez and Retire in Real Estate 2012-1, LLC) have been suspended. The basis of the suspension is your conviction and sentencing in the United States District Court for the Southern District of Florida on May 13, 2016 to: one count of violating 18 U.S.C. § 1349, Conspiracy to Commit Wire Fraud; one count of violating 18 U.S.C. § 1343, Wire Fraud; and one count of violating 18 U.S.C. § 1956(h), Conspiracy to Commit Money Laundering. See 2 C.F.R. § 180.700, 705, & 800. The conduct underlying your conviction is imputed to your company, Retire in Real Estate 2012-1, LLC, as well. See 2 C.F.R. § 630(a) and (b), or in case of an affiliate, 2 C.F.R. § 180.905. A suspending official may extend a suspension to any affiliate if that affiliate is (1) specifically named in the Notice of Suspension and (2) given written notice of the suspension and an opportunity to respond. See 2 C.F.R. § 180.625(b).

I have determined that the evidence is adequate to suspend you because you have been convicted and there is sufficient information available that such information is credible, corroborated and that an examination of the information leads to the reasonable inference that you committed the conduct underlying your conviction.

The cause for your suspension is a criminal conviction of Isabel Sanchez for committing fraud in connection with obtaining or performing a public or private agreement, making false statements, committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility, and willfully violating §§ 18 U.S.C. 1343, 1349 and 1956(h) thereby engaging in a transaction so serious as to affect the integrity of the Export-Import Bank's credit program. Immediate action is necessary to protect the public interest. The public has a genuine expectation that the Government will conduct business with only responsible persons.

Accordingly, you are immediately excluded from participating as either a participant or a principal, as defined at 2 C.F.R. §§ 180.980 and 180.995, in covered transactions, as defined and described at 2 C.F.R. § 180.200, § 180.210 and § 180.215, under United States programs through the Executive Branch of the United States Government. 2 C.F.R. § 180.1015; § 180.130. Pursuant to 2 C.F.R. § 180.140, the suspension will be recognized by, and be effective for, Executive Branch agencies as a suspension under the Federal Acquisition Regulation as well.



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This suspension is for a temporary period, pending the completion of debarment proceedings. See 2 C.F.R. § 180.760.

#### PROPOSED DEBARMENTS

Based on the facts stated above, I am proposing to debar Isabel Sanchez and Retire in Real Estate 2012-1, LLC from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.

Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.

The reasons for your debarment are based on your conviction for: Conspiracy to Commit Wire Fraud under Title 18 § 1349, Wire Fraud under Title 18 U.S.C. § 1343; and Conspiracy to Commit Money Laundering under Title 18 U.S.C. § 1956(h). On numerous occasions from February 2007 through December 2012, you knowingly, with the intent to defraud, transmitted or had transmitted \$11,503,068 by wire communication in interstate or foreign commerce from a private factors and lenders to various companies owned by you and your co-conspirators. The conspiracy and scheme caused a loss of \$1,951,643 to the Export-Import Bank and to the United States government.

Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. § 180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

#### ADMINISTRATIVE PROCESS





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The provisions of 2 C.F.R. part 180, subparts F and G, govern the suspension decision-making process. The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.720 and 180.815, you may contest the suspension and proposed debarment. Pursuant to 2 C.F.R. §§ 180.725 and 180.820, within thirty (30) calendar days after receipt of this notice, you may submit information and arguments in opposition to the suspension and proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Suspension and Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.725(b) and 180.820(b).

Pursuant to 2 C.F.R. §§ 180.730 and 180.825, if you choose to contest your suspension from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter, all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the suspension and proposed debarment is based will be determined in accordance with 2 C.F.R. §§ 180.735 and 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Suspension and Proposed Debarment. However, unlike in criminal matters, the Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment within the required 30-day period, the debarment will be automatically entered. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you must contest the proposed debarment within the required 30-day period. See 2 C.F.R. § 180.820 and § 180.860.



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Any communications regarding this matter should be directed to my office at (202) 565-3561. Any written submission should be forwarded to my attention at the address listed below:

Lisa V. Terry, Suspension and Debarment Official  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.  
Washington, D.C. 20571

For your information, a copy of regulations relevant to your suspension and proposed debarment is enclosed.

Sincerely,

**LISA TERRY**

Digitally signed by LISA TERRY  
DN: c=US, o=U.S. Government,  
ou=Export Import Bank, cn=LISA TERRY,  
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1971  
Date: 2017.03.16 14:37:43 -04'00'

Lisa V. Terry  
Suspension and Debarment Official of the Export-Import Bank of the United States

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180
- 2) Judgement in a Criminal Case, Case Number 1:15-cr-20545 – U.S.D.Ct., So. D. FL
- 3) FL 2016 Annual Report – Retire in Real Estate 2012-1, LLC



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April 20, 2017

Isabel C. Sanchez Registry  
BOP Registry # 08319-104  
FCI Oklahoma City  
Federal Transfer Center  
P.O. Box 898801  
Oklahoma City, OK 73189

Retire in Real Estate 2012-1, LLC  
c/o Isabel C. Sanchez  
BOP Registry # 08319-104  
FCI Oklahoma City  
Federal Transfer Center  
P.O. Box 898801  
Oklahoma City, OK 73189

Re: Notice of Debarment – Isabel C. Sanchez and Retire in Real Estate 2012-1, LLC

Dear Ms. Sanchez:

On March 15, 2017, Export-Import Bank of the United States (“EXIM Bank” or “the Bank”) sent you, Isabel C. Sanchez and your company, Retire in Real Estate 2012-1, LLC, a Notice of Suspension and Proposed Debarment (“Notice”). The Notice advised that you and your company had 30 (thirty) calendar days to submit information and arguments in opposition to the suspension and proposed debarment. To date, EXIM Bank has not received any response to the Notice or protest of the proposal or to the contents of the Notice.

In the absence of any evidence to the contrary, the Bank finds by a preponderance of the evidence that the information in the Notice is accurate and the conclusions drawn are warranted. Specifically, the Bank finds that you and your company are not presently responsible contractors/participants.

EXIM Bank is debarring you and your company based on your conviction for violating 18 U.S.C. § 1349, Conspiracy to Commit Wire Fraud; violating 18 U.S.C. § 1343, Wire Fraud; and violating 18 U.S.C. § 1956(h), Conspiracy to Commit Money Laundering. A copy of the judgment was attached to your Notice.

After careful consideration of the entire administrative record, the Bank has concluded that a three year debarment term is required to protect the Government. The effects of debarment are as stated in the Notice.



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Therefore, effective as of this date, EXIM Bank has debarred you, Isabel C. Sanchez and your company, Retire in Real Estate 2012-1, LLC, for three (3) years, from participation in programs of the United States. This action is undertaken pursuant to Title two, part 180.800 et seq. of the Code of Federal Regulations (2 C.F.R. §§ 180.800 et seq.).

Your name, as well as your company's name, will be published in the System for Award Management (SAM), where it will be noted that you are "Ineligible – Proceedings Completed" for the effective three year period. You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

Very truly yours,

Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States















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March 10, 2017

Mr. Guillermo A. Sanchez-Badia  
FDC Miami  
FEDERAL DETENTION CENTER  
P.O. BOX 019120  
MIAMI, FL 33101

Re: Notice of Debarment – Guillermo A. Sanchez-Badia

Dear Mr. Sanchez-Badia:

On January 13, 2017, Export-Import Bank of the United States ("EXIM Bank" or "the Bank") sent you, Guillermo A. Sanchez-Badia, a Notice of Suspension and Proposed Debarment ("Notice"). The Notice advised that you and your company had 30 (thirty) calendar days to submit information and arguments in opposition to the suspension and proposed debarment. To date, EXIM Bank has not received any response to the Notice or protest of the proposal or to the contents of the Notice.

In the absence of any evidence to the contrary, the Bank finds by a preponderance of the evidence that the information in the Notice is accurate and the conclusions drawn are warranted. Specifically, the Bank finds that you are not presently responsible contractors/participants.

EXIM Bank is debaring you based on your conviction for conspiracy to commit wire fraud under Title 18 U.S.C. § 1349, wire fraud under Title 18 U.S.C. § 1343 and conspiracy to commit money laundering under Title 18 §1956(h). A copy of the judgment was attached to your Notice.

After careful consideration of the entire administrative record, the Bank has concluded that a three year debarment term is required to protect the Government. The effects of debarment are as stated in the Notice.

Therefore, effective as of this date, EXIM Bank has debarred you, Guillermo A. Sanchez-Badia, for three (3) years, from participation in programs of the United States. This action is undertaken pursuant to Title two, part 180.800 et seq., of the Code of Federal Regulations (2 C.F.R. §§ 180.800 et seq.).



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Your name will be published in the System for Award Management (SAM), where it will be noted that you are "Ineligible – Proceedings Completed" for the effective three year period. You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

Sincerely,

**LISA TERRY**

Digitally signed by LISA TERRY  
DN: c=US, o=U.S. Government, ou=Export  
Import Bank, cn=LISA TERRY,  
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Date: 2017.03.10 12:47:43 -05'00'

Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States





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January 13, 2017

Mr. Guillermo A. Sanchez-Badia  
FDC Miami  
FEDERAL DETENTION CENTER  
P.O. BOX 019120  
MIAMI, FL 33101

Re: Notice of Suspension and Debarment – Guillermo A. Sanchez-Badia

Dear Mr. Sanchez:

I am the Suspending and Debarring Official at the Export-Import Bank of the United States (the Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title two, part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I am suspending you immediately from participation in programs of the United States. See 2 C.F.R. §§ 180.700 et seq. I also propose to debar you for three (3) years from participating in such programs. See 2 C.F.R. §§ 180.800 et seq.

#### REGULATORY FRAMEWORK

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal Suspension and Debarment official may immediately suspend a person when the official determines that there exists an indictment for, or other adequate evidence to suspect an offense under 2 C.F.R. § 180.800(a), or any other cause for debarment under § 180.800(b) through (d), and that immediate action is necessary to protect the public interest. See 2 C.F.R. § 180.700.

In determining whether to suspend, the official reviews the adequacy of the evidence to support the suspension, and considers how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn. See 2 C.F.R. § 180.705(a). An indictment, conviction, civil judgment, or other official findings by Federal, State, or local bodies that determine factual and/or legal matters, constitutes adequate evidence for purposes of suspension actions. See 2 C.F.R. § 180.705(b). The official may infer the necessity for immediate action to protect the public interest either from the nature of the circumstances giving rise to a cause for suspension or from potential business



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relationships or involvement with a program of the Federal Government. See 2 C.F.R. § 180.705(c).

If legal or debarment proceedings are initiated at the time of, or during your suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed twelve (12) months. See 2 C.F.R. § 180.760(a). The official may extend the twelve-month limit for an additional six (6) months if an office of a U.S. Assistant Attorney General, U.S. Attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed eighteen (18) months without initiating legal or debarment proceedings. See 2 C.F.R. § 180.760(b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).



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## SUSPENSION

As stated above, you have been suspended. The basis of the suspension is your conviction and sentencing in the United States District Court for the Southern District of Florida on June 9, 2016 to: one count of violating 18 U.S.C. § 1349, Conspiracy to Commit Wire Fraud; one count of violating 18 U.S.C. § 1343, Wire Fraud; and one count of violating 18 U.S.C. § 1956(h), Conspiracy to Commit Money Laundering. See 2 C.F.R. § 180.700, 705, & 800.

I have determined that the evidence is adequate to suspend you because you have been convicted and there is sufficient information available that such information is credible, corroborated and that an examination of the information leads to the reasonable inference that you committed the conduct underlying your conviction.

The cause for your suspension is a criminal conviction of Guillermo Sanchez for committing fraud in connection with obtaining or performing a public or private agreement, making false statements, committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility, and willfully violating §§ 18 U.S.C. 1343, 1349 and 1956(h) thereby engaging in a transaction so serious as to affect the integrity of the Export-Import Bank's credit program. Immediate action is necessary to protect the public interest. The public has a genuine expectation that the Government will conduct business with only responsible persons.

Accordingly, you are immediately excluded from participating as either a participant or a principal, as defined at 2 C.F.R. §§ 180.980 and 180.995, in covered transactions, as defined and described at 2 C.F.R. § 180.200, § 180.210 and § 180.215, under United States programs through the Executive Branch of the United States Government. 2 C.F.R. § 180.1015; § 180.130. Pursuant to 2 C.F.R. § 180.140, the suspension will be recognized by, and be effective for, Executive Branch agencies as a suspension under the Federal Acquisition Regulation as well.

This suspension is for a temporary period, pending the completion of debarment proceedings. See 2 C.F.R. § 180.760.

## PROPOSED DEBARMENTS

Based on the facts stated above, I am proposing to debar you from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.



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Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.

The reasons for your debarment are based on your conviction for: Conspiracy to Commit Wire Fraud under Title 18 § 1349, Wire Fraud under Title 18 U.S.C. § 1343; and Conspiracy to Commit Money Laundering under Title 18 U.S.C. § 1956(h). On numerous occasions from February 2007 through December 2012, you knowingly, with the intent to defraud, transmitted or had transmitted \$11,503,068 by wire communication in interstate or foreign commerce from a private factors and lenders to various companies owned by you and your co-conspirators. The conspiracy and scheme caused a loss of \$1,951,643 to the Export-Import Bank and to the United States government.

Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. § 180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

#### ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and G, govern the suspension decision-making process. The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.720 and 180.815, you may contest the suspension and proposed debarment. Pursuant to 2 C.F.R. §§ 180.725 and 180.820, within thirty (30) calendar days after receipt of this notice, you may submit information and arguments in opposition to the suspension and proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Suspension and Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5)



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days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.725(b) and 180.820(b).

Pursuant to 2 C.F.R. §§ 180.730 and 180.825, if you choose to contest your suspension from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter, all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the suspension and proposed debarment is based will be determined in accordance with 2 C.F.R. §§ 180.735 and 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Suspension and Proposed Debarment. However, unlike in criminal matters, the Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment within the required 30-day period, the debarment will be automatically entered. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you must contest the proposed debarment within the required 30-day period. See 2 C.F.R. § 180.820 and § 180.860.

Any communications regarding this matter should be directed to John G. Connor, of the Office of General Counsel, at (202) 565-3815. Any written submission should be forwarded to my attention at the address listed below:

John G. Connor  
Office of General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.  
Washington, D.C. 20571

For your information, a copy of regulations relevant to your suspension and proposed debarment is enclosed.



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Very truly yours,

Michael Cushing

Suspension and Debarment Official of the Export-Import Bank of the United States

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180
- 2) Judgement in a Criminal Case, Case Number 1:15-cr-20545, U.S.D.Ct., So. D. of FL.

Suspension and Debarment Official

Suspension and Notice of Debarment Determination

Date:

Party: (the "Party")

OGC Summary Memo Date:

Michael Cushing, Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Suspension

  X   The SDO finds that there is sufficient basis to conclude that immediate suspension of the Party is necessary in order to protect the interests of the Federal Government, and that a Notice of Immediate Suspension should be delivered to the Party. These bases include: [check appropriate boxes below.]

  X   The Party has been indicted<sup>1</sup> for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including<sup>2</sup>: [add specific relevant offenses included in indictment]

  X   There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists; and immediate action is necessary to protect the public interest. [add description of relevant evidence and basis for concluding that immediate action is necessary]:

  X   The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: [add specific relevant offenses included in the Judgment of Conviction]

---

<sup>1</sup> Indictment counts that have been dismissed as of the time the SDO makes the suspension determination cannot form the basis for a suspension.

<sup>2</sup> A copy of 2 CFR 180.800 is attached to this Suspension and Notice of Debarment Determination for ease of reference.

\_\_\_\_\_ The SDO finds that suspension of the Party is not necessary or appropriate at this time.  
[add explanation]

### Debarment

\_\_\_\_\_X\_\_\_\_\_ The SDO finds that there is adequate cause for debarment of the Party and that a Notice of Proposed Debarment should be sent to the Party<sup>3</sup>. The basis for this determination is:  
[check appropriate boxes below.]

\_\_\_\_\_X\_\_\_\_\_ The Party has been convicted for an offence(s) included in the “causes for debarment” listed in 2 CFR 180.800 (a) including: [add specific relevant offenses included in the Judgment of Conviction]

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists. [add description of relevant evidence]:

\_\_\_\_\_ The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]

In reaching this decision, I have carefully reviewed the OGC Summary memo, which was comprehensive, and the supporting documents, which contain all necessary facts to support both suspension and debarment under all bases indicated.

**MICHAEL**  
**CUSHING**

Digitally signed by MICHAEL CUSHING  
DN: c=US, o=U.S. Government,  
ou=Export Import Bank, cn=MICHAEL  
CUSHING,  
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723349  
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\_\_\_\_\_ [signature – hard or electronic]

Michael Cushing, Suspension and Debarment Official

<sup>3</sup> If the SDO concludes that a Suspension is warranted, then the SDO must find that there is adequate cause for debarment of the Party as well.



Attachment to Form of Suspension and Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701); or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>4</sup>.

---

<sup>4</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.

Suspension and Debarment Official

Suspension and Notice of Debarment Determination

Date:

Party: (the "Party")

OGC Summary Memo Date:

Michael Cushing, Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Suspension

  X   The SDO finds that there is sufficient basis to conclude that immediate suspension of the Party is necessary in order to protect the interests of the Federal Government, and that a Notice of Immediate Suspension should be delivered to the Party. These bases include: [check appropriate boxes below.]

  X   The Party has been indicted<sup>1</sup> for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including<sup>2</sup>: [add specific relevant offenses included in indictment]

  X   There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists; and immediate action is necessary to protect the public interest. [add description of relevant evidence and basis for concluding that immediate action is necessary]:

  X   The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: [add specific relevant offenses included in the Judgment of Conviction]

---

<sup>1</sup> Indictment counts that have been dismissed as of the time the SDO makes the suspension determination cannot form the basis for a suspension.

<sup>2</sup> A copy of 2 CFR 180.800 is attached to this Suspension and Notice of Debarment Determination for ease of reference.

\_\_\_\_\_ The SDO finds that suspension of the Party is not necessary or appropriate at this time.  
[add explanation]

### Debarment

\_\_\_\_\_X\_\_\_\_\_ The SDO finds that there is adequate cause for debarment of the Party and that a Notice of Proposed Debarment should be sent to the Party<sup>3</sup>. The basis for this determination is:  
[check appropriate boxes below.]

\_\_\_\_\_X\_\_\_\_\_ The Party has been convicted for an offence(s) included in the “causes for debarment” listed in 2 CFR 180.800 (a) including: [add specific relevant offenses included in the Judgment of Conviction]

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists. [add description of relevant evidence]:

\_\_\_\_\_ The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]

In reaching this decision, I have carefully reviewed the OGC Summary memo, which was comprehensive, and the supporting documents, which contain all necessary facts to support both suspension and debarment under all bases indicated.

**MICHAEL  
CUSHING**

Digitally signed by MICHAEL CUSHING  
DN: c=US, o=U.S. Government,  
ou=Export Import Bank, cn=MICHAEL  
CUSHING,  
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Date: 2016.12.14 14:45:45 -05'00'

\_\_\_\_\_ [signature – hard or electronic]

Michael Cushing, Suspension and Debarment Official

<sup>3</sup> If the SDO concludes that a Suspension is warranted, then the SDO must find that there is adequate cause for debarment of the Party as well.

Attachment to Form of Suspension and Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701);  
or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>4</sup>.

---

<sup>4</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.



*Office of Inspector General*

**MEMORANDUM**

To: Lisa Terry, Suspension and Debarment Official

From: (b) (6), (b) (7)(C)

Date: June 12, 2018

Subject: Recommendation for the Debarment of:

TERRY I ELLIS

(b) (6)

T.J. ELLIS ENTERPRISES, INC.

(b) (6)

(b) (5)











*Reducing Risk. Unleashing Opportunity.*

April 2, 2019

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Terry J. Ellis

(b) (6)

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

T.J. Ellis Enterprises, Inc.

(b) (6)

Re: Notice of Debarment – Terry J. Ellis and T.J. Ellis Enterprises, Inc.

Dear Mr. Ellis:

On February 26, 2019, Export-Import Bank of the United States (“EXIM Bank” or “the Bank”) sent you, Terry J. Ellis and T.J. Ellis Enterprises, Inc., a Notice of Proposed Debarment (“Notice”). The Notice advised that you and your company had thirty (30) calendar days to submit information and arguments in opposition to the proposed debarment. To date, EXIM Bank has not received any response to the Notice or protest of the proposal or to the contents of the Notice.

In the absence of any evidence to the contrary, the Bank finds by a preponderance of the evidence that the information in the Notice is accurate and the conclusions drawn are warranted. Specifically, the Bank finds that you and your company are not presently responsible contractors/participants.

EXIM Bank is debarring you and your company based on your conviction for making false statements to a bank under Title 18 U.S.C. § 1014. A copy of the judgment was attached to your Notice.

After careful consideration of the entire administrative record, the Bank has concluded that a three year debarment term is required to protect the Government. The effects of debarment are as stated in the Notice.

Therefore, effective as of this date, EXIM Bank has debarred you, Terry J. Ellis and T.J. Ellis Enterprises, Inc., for three (3) years, from participation in programs of the United



States. This action is undertaken pursuant to Title two, part 180.800 et seq. of the Code of Federal Regulations (2 C.F.R. §§ 180.800 et seq.).

Sincerely,

TERRY

Suspension and Debarment Official of the Export-Import Bank of the United States

Suspension and Debarment Official  
Notice of Debarment Determination  
(Conviction-based)

Date: February 19, 2019

Party: Terry J. Ellis (the "Party")

OGC Summary Memo Date: February 7, 2019

The Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Debarment

  X   The SDO finds that a Notice of Proposed Debarment should be sent to the Party. The basis for this determination is: [check appropriate boxes below.]

      X       The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: Making False Statements to a Bank (18 U.S.C. §§ 1014)

           There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists. [add description of relevant evidence]:

           Pursuant to 2 CFR 180.630, there is adequate cause for debarment based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

           The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]

LISA  
TERRY

Digitally signed by LISA TERRY  
DN: c=US, o=U.S. Government,  
ou=Export Import Bank,  
cn=LISA TERRY,  
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Date: 2019.02.19 14:47:51  
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[signature – hard or electronic]

Lisa Terry, Suspension and Debarment Official



Attachment to Form of Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701);  
or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>1</sup>.

---

<sup>1</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.





*Reducing Risk. Unleashing Opportunity.*

February 25, 2019

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Terry J. Ellis

(b) (6)

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

T.J. Ellis Enterprises, Inc.

(b) (6)

Re: Notice of Proposed Debarment – Terry J. Ellis and T.J. Ellis Enterprises, Inc.

Dear Mr. Ellis:

I am the Suspending and Debarment Official at the Export-Import Bank of the United States (the Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title 2 part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I propose to debar you and your company for three (3) years from participation in programs of the United States. See 2 C.F.R. §§ 180.800 et seq.

**REGULATORY FRAMEWORK**

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or

business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).

## PROPOSED DEBARMENTS

Based on the facts stated above, I am proposing to debar Mr. Terry J. Ellis and T.J. Ellis Enterprises, Inc. from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.

Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.

The reasons for your debarment are based on your conviction for making a false statement to a bank under Title 18 U.S.C. § 1014. From September 2010 through July 2011, you willfully, with the intent to defraud, made false statements regarding your company's accounts receivable, and to further the fraud, knowingly submitted false invoices in order to maintain a line of credit that was guaranteed by the Export-Import Bank of the United States ("EXIM Bank"). The District Court, in assessing restitution, determined that your use of these false statements and documentation caused approximately \$132,000 in losses to EXIM Bank. Furthermore, you were able to maintain and utilize the credit line of more than \$3 million significantly beyond the time that would have been possible without the use of those false statements and documents.



Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. §180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Upon debarment, your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

#### ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.815, you may contest the proposed debarment. Pursuant to 2 C.F.R. §§ 180.820, within thirty (30) calendar days after receipt of this notice, you may submit information and arguments in opposition to the proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.820(b).

Pursuant to 2 C.F.R. §§ 180.825, if you choose to contest your proposed debarment from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter; all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the proposed



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debarment is based will be determined in accordance with 2 C.F.R. §§ 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Proposed Debarment. However, unlike in criminal matters, the U.S. Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment within the required 30-day period, the debarment will be automatically entered. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you must contest the proposed debarment within the required 30-day period. See 2 C.F.R. § 180.820 and § 180.860.

Any communications or written submission should be directed to Attorney Ricardo Exantus in the Office of General Counsel at the address listed below:

Ricardo Exantus  
Office of General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.  
Washington, D.C. 20571  
(202) 565-3434

For your information, a copy of regulations relevant to your proposed debarment is enclosed.

Sincerely,

**LISA  
TERRY**

Digitally signed by LISA TERRY  
DN: cn=US, o=U.S. Government,  
ou=Export-Import Bank, cn=LISA  
TERRY,  
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Date: 20190225 181650 -0500

Lisa V. Terry  
Suspension and Debarment Official of the Export-Import Bank of the United States

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180
- 2) Plea Agreement – U.S. v. Terry J. Ellis, 3:17CR00338-JZ, November 20, 2017
- 3) Amended Judgment in a Criminal Case – U.S. v. Terry J. Ellis, 3:17CR00338-JZ, May 18, 2018



*Reducing Risk. Unleashing Opportunity.*

cc: (by first-class mail)

T.J. Ellis Enterprises, Inc.  
1515 Neubrecht Rd  
Lima, OH 45801

T.J. Ellis Enterprises, Inc.  
1519 Neubrecht Rd  
Lima, OH 45801

T.J. Ellis Enterprises, Inc.  
1505 Neubrecht Rd  
Lima, OH 45801





*Office of Inspector General*

**MEMORANDUM**

To: Lisa Terry, Suspension and Debarment Official

From: (b) (6), (b) (7)(C)

Date: October 17, 2018

Subject: Recommendation for the Debarment of:

DERRICK JOHN FINCHER

(b) (6)

PIN OAK, LLC  
14020 E. Sprague Ave  
Spokane, WA 99206

(b) (5)









*Office of Inspector General*

**MEMORANDUM**

To: Lisa Terry, Suspension and Debarment Official

(b) (6), (b) (7)(C)

From:

Date: October 17, 2018

Subject: Recommendation for the Debarment of:

JOHN PATRICK NIXON

(b) (6)

GLOBAL GUARANTEES, INC.  
9190 W. Olympic Blvd Suite 114  
Beverly Hills, CA 90212

(b) (5)





November 22, 2016

John Patrick Nixon

(b) (6)

Global Guarantees, Inc.  
9190 W. Olympic Blvd Suite 114  
Beverly Hills, CA 90212

Re: Notice of Suspension and Proposed Debarment

Dear Mr. Nixon:

I am the Suspending and Debarring Official at the Export-Import Bank of the United States (the Bank) with the responsibility to protect the integrity of the Federal Programs. In accordance with Title two, part 180 of the Code of Federal Regulations and based upon the determinations set forth herein, I am suspending you and your company immediately from participation in programs of the United States. I propose to debar you and your company for three (3) years from participating in such programs. See 2 C.F.R. §§ 180.930 and 180.1010.

#### REGULATORY FRAMEWORK

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal official may immediately suspend a person when the official determines that there exists an indictment for, or other adequate evidence to suspect an offense under 2 C.F.R. § 180.800(a), and that immediate action is necessary to protect the public interest. See 2 C.F.R. § 180.700.

In determining whether to suspend, the official reviews the adequacy of the evidence to support the suspension, and considers how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result. See 2 C.F.R. § 180.705(a). An indictment, conviction, civil judgment, or other official findings by Federal, State, or local bodies that determine factual and/or legal matters, constitutes adequate evidence for purposes of suspension actions. See 2 C.F.R. § 180.705(b). The official may infer the necessity for immediate action to protect the public interest either from the nature of the circumstances giving rise to a cause for suspension or

from potential business relationships or involvement with a program of the Federal Government. See 2 C.F.R. § 180.705(c).

If legal or debarment proceedings are initiated at the time of, or during your suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed twelve (12) months. See 2 C.F.R. § 180.760(a). The official may extend the twelve-month limit for an additional six (6) months if an office of a U.S. Assistant Attorney General, U.S. Attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed eighteen (18) months without initiating proceedings. See 2 C.F.R. § 180.760(b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects present responsibility. See 2 C.F.R. § 180.800(d).

## SUSPENSION

As stated above, you have been suspended. The basis of the suspension is your indictment in the Eastern District of Washington for allegedly violating 18 U.S.C. § 1349, Conspiracy to Commit Wire Fraud; 18 U.S.C. § 1343, Wire Fraud; 18 U.S.C. § 1028A(a)(1), Aggravated Identity Theft.

2 C.F.R. § 630(a) and (b) or in case of an affiliate see, 2 C.F.R. § 180.905. A suspending official may extend a suspension to any affiliate if that affiliate is (1) specifically named in the Notice of Suspension and (2) given written notice of the suspension and an opportunity to respond. 2 C.F.R. § 180.625.

I have determined that the evidence is adequate to suspend you because you have been indicted and there is sufficient information available that such information is credible, corroborated and that an examination of the information leads to the reasonable inference that you committed the conduct stated above. In addition, the company you have a controlling interest in as a Director, Global Guarantees, Inc., will also be suspended due to its affiliation with you.

The cause for your suspension is a criminal indictment for committing fraud in connection with obtaining or performing a public or private agreement, making false statements, committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility, and allegedly violating § 18 U.S.C. 1343, 18 U.S.C. § 1349 and 18 U.S.C. § 1028A(a)(1), thereby engaging in a transaction so serious as to affect the integrity of the Export-Import Bank's credit program. Immediate action is necessary to protect the public interest. The public has a genuine expectation that the Government will conduct business with only responsible persons.

Accordingly, you are immediately excluded from participating as either a participant or a principal, as defined at 2 C.F.R. §§ 180.980 and 180.995, in covered transactions under United States nonprocurement programs through the Executive Branch of the United States Government.

This suspension is for a temporary period, pending the completion of debarment proceedings not to exceed one (1) year unless an extension has been sought in accordance with 2 C.F.R. § 180.760(b). Furthermore, pursuant to 2 C.F.R. § 180.140, the suspension shall be recognized by, and be effective for, Executive Branch agencies as a suspension under the Federal Acquisition Regulation.

### PROPOSED DEBARMENTS

Based on the facts stated above, I am proposing to debar you from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States nonprocurement programs through the Executive Branch of the United States Government under 2 C.F.R. § 180.800 for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment.

The reasons for your debarment are based on your indictment for 18 U.S.C. § 1349, Conspiracy to Commit Wire Fraud; 18 U.S.C. § 1343, Wire Fraud; 18 U.S.C. § 1028A(a)(1), Aggravated Identity Theft as well as requirements #1, #2 and #3 listed in the subsequent paragraph. Specifically, you are accused of participating in an advance fee scheme whereby you were involved with offering false and fictitious loans to various parties. You would then collect

advance fees from these parties under the guise that the fees were being used to acquire the loans. In fact no such loans existed and you used the advance fees for your own personal use.

Based on the foregoing, there exists a sufficient basis to believe that you have met the requirements for debarment under 2 C.F.R. §180.800, including, 1) committing fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction 2) making false statements 3) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility; and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

### ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and G, govern the suspension decision-making process. The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.720 and 180.815, you may contest the suspension and proposed debarment. Pursuant to 2 C.F.R. §§ 180.725 and 180.820, within **thirty (30) calendar days** after receipt of this notice, you may submit information and arguments in opposition to the suspension and proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Suspension and Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.725(b) and 180.820(b).

Pursuant to 2 C.F.R. §§ 180.730 and 180.825, should you choose to contest your suspension from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained herein; all existing, proposed, or prior exclusion under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which the suspension and proposed debarment is based will be determined in accordance with 2



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C.F.R. §§ 180.735 and 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

Any communications regarding this matter should be directed to my office at (202) 565-3561. Any written submission should be forwarded to my attention at the address listed below:

811 Vermont Ave., N.W.  
Washington, D.C. 20571

For your information, a copy of regulations relevant to your suspension is enclosed, 48 C.F.R. subpart 9.4.

Sincerely,

Michael Cushing  
Suspension and Debarment Official  
Export-Import Bank of the United States

Enclosures:

- 1) Relevant Portions of 2 C.F.R. § 180
- 2) Eastern District of Washington Indictment 2:16-CR-145-TOR
- 3) Affiliation documentation





*Office of Inspector General*

**MEMORANDUM**

To: Lisa Terry, Suspension and Debarment Official

From: (b) (6), (b) (7)(C)

Date: October 17, 2018

Subject: Recommendation for the Debarment of:

VASSILY ANTHONY THOMPSON

(b) (6)

INFRASTRUCTURE RISK MANAGEMENT  
4766 Admiralty Way  
Marina Del Rey, CA 90292

CHENGDU INDUSTRIAL MANAGEMENT LTD.  
3355 Motor Avenue  
Los Angeles, CA 90034

(b) (5)



































Suspension and Debarment Official  
Suspension and Notice of Debarment Determination  
(Conviction-based)

Date: May 8, 2019

Party: Bernd Zalke Rind (the "Party")

OGC Summary Memo Date: May 1, 2019

The Suspension and Debarment Official (SDO), has reviewed the OGC Summary Memo referenced above, along with the record delivered to the SDO in connection with the OGC Summary Memo.

Based on the SDO's review of the record, including the OGC Summary Memo, the SDO makes the following findings [Check all applicable boxes and add findings as appropriate]:

Suspension

  X   The SDO finds that there is sufficient basis to conclude that immediate suspension of the Party is necessary in order to protect the interests of the Federal Government, and that a Notice of Immediate Suspension should be delivered to the Party. These bases include: [check appropriate boxes below – at least one box must be checked.]

       The Party has been indicted<sup>1</sup> for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including<sup>2</sup>: [See below for convicted offenses]

       There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists; and immediate action is necessary to protect the public interest. [add description of relevant evidence and basis for concluding that immediate action is necessary]:

  X   The Party has been convicted for an offence(s) included in the "causes for debarment" listed in 2 CFR 180.800 (a) including: Wire Fraud and Aggravated Identity Theft (18 U.S.C. §§ 1343, 1028A(a)(1))

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<sup>1</sup> Indictment counts that have been dismissed as of the time the SDO makes the suspension determination cannot form the basis for a suspension.

<sup>2</sup> A copy of 2 CFR 180.800 is attached to this Suspension and Notice of Debarment Determination for ease of reference.

\_\_\_\_\_ The SDO finds that immediate suspension of the Party is not necessary or appropriate at this time. [add explanation]

Debarment

  X   The SDO finds that a Notice of Proposed Debarment should be sent to the Party. The basis for this determination is: [check appropriate boxes below.]

  X   The Party has been convicted for an offence(s) included in the “causes for debarment” listed in 2 CFR 180.800 (a) including: Wire Fraud and Aggravated Identity Theft (18 U.S.C. §§ 1343, 1028A(a)(1))

\_\_\_\_\_ There is adequate evidence to suspect that a cause for debarment listed under 2 CFR 180.800 (b)-(d) exists. [add description of relevant evidence]:

\_\_\_\_\_ Pursuant to 2 CFR 180.630, there is adequate cause for debarment based on imputing the conduct of an individual to an organization, from an organization to an individual, or from one organization to another organization.

\_\_\_\_\_ The SDO finds that there is not adequate cause for debarment of the Party at this time or that debarment of the Party is not appropriate or not necessary in the circumstances. [add description of relevant considerations.]

LISA  
TERRY

Digitally signed  
by LISA TERRY  
Date: 2019.05.08  
11:08:29 -04'00'

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Lisa V. Terry, Suspension and Debarment Official

Attachment to Form of Suspension and Notice of Debarment Determination

2 C.F.R. § 180.800 What are the causes for debarment?

A Federal agency may debar a person for—

(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as—

- (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
- (2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
- (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

- (1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701);  
or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility<sup>3</sup>.

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<sup>3</sup> Note that: "your" in this sentence refers to the Party being suspended or debarred; and the term "present responsibility" is not defined in the Debarment Regulations.



*Office of Inspector General*

**MEMORANDUM**

To: Lisa Terry, Suspension and Debarment Official

From: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Date: March 26, 2019

Subject: Recommendation for the Suspension of:

BERND ZALKE RIND

(b) (6)

B&T TRUST LLC

(b) (6)

(b) (5)











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May 9, 2019

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Bernd Zalke Rind

(b) (6)

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

B&T Trust LLC

(b) (6)

Re: Notice of Proposed Debarment – Bernd Zalke Rind and B&T Trust LLC Company

Dear Mr. Rind:

I am the Suspending and Debarment Official at the Export-Import Bank of the United States (the Bank). See 2 C.F.R. §§ 180.930 and 180.1010. In accordance with Title two, part 3513 and part 180 of the Code of Federal Regulations (2 C.F.R. Part 3513 and Part 180) and based upon the determinations set forth in this letter, I am suspending both you and your company, B&T Trust LLC Company, immediately from participation in programs of the United States. See 2 C.F.R. §§ 180.700 et seq. I also propose to debar you and your company for three (3) years from participating in such programs. See 2 C.F.R. §§ 180.800 et seq.

**REGULATORY FRAMEWORK**

The purpose of the suspension and debarment system is to protect the public interest by ensuring the integrity of Federal programs. To achieve this, the Federal government only conducts business with responsible persons and uses the suspension and debarment system to exclude persons who are not presently responsible from participating in Federal programs. See 2 C.F.R. § 180.125(a) and (b).

A Federal Suspension and Debarment official may immediately suspend a person when the official determines that there exists an indictment for, or other adequate evidence to suspect an offense under 2 C.F.R. § 180.800(a), or any other cause for debarment under § 180.800(b) through (d), and that immediate action is necessary to protect the public interest. See 2 C.F.R. § 180.700.

In determining whether to suspend, the official reviews the adequacy of the evidence to support the suspension, and considers how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn. See 2 C.F.R. § 180.705(a). An indictment, conviction, civil judgment, or other official findings by Federal, State, or local bodies that determine factual and/or legal matters, constitutes adequate evidence for purposes of suspension actions. See 2 C.F.R. § 180.705(b). The official may infer the necessity for immediate action to protect the public interest either from the nature of the circumstances giving rise to a cause for suspension or from potential business relationships or involvement with a program of the Federal Government. See 2 C.F.R. § 180.705(c).

If legal or debarment proceedings are initiated at the time of, or during your suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed twelve (12) months. See 2 C.F.R. § 180.760(a). The official may extend the twelve-month limit for an additional six (6) months if an office of a U.S. Assistant Attorney General, U.S. Attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed eighteen (18) months without initiating legal or debarment proceedings. See 2 C.F.R. § 180.760(b).

A Federal agency may debar a person for a conviction of or civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price-fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. See 2 C.F.R. § 180.800(a). A Federal agency may also debar a person for a violation of the terms of a public agreement or transaction that is so serious as to affect the integrity of an agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. See 2 C.F.R. § 180.800(b).

Further, a Federal agency may debar a person for any of the following causes: knowingly doing business with an ineligible person, except as permitted under § 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a





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voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701). See 2 C.F.R. § 180.800(c). Lastly, a Federal agency may debar a person for any other cause of so serious or compelling a nature that it affects the person's present responsibility. See 2 C.F.R. § 180.800(d).

## SUSPENSION

As stated above, you, Bernd Zalke Rind and B&T Trust LLC Company, have both been suspended. The basis of the suspension is your conviction and sentencing in the Southern District of Florida on April 9, 2019 for violating 18 U.S.C. § 1343, Wire Fraud and 18 U.S.C. § 1028A(a)(1) Aggravated Identity Theft. See 2 C.F.R. §§ 180.700, 705, & 800. The conduct underlying your conviction is imputed to your company, B&T Trust LLC Company, as well. See 2 C.F.R. § 630(a) and (b), or in case of an affiliate, 2 C.F.R. § 180.905. A suspending official may extend a suspension to any affiliate if that affiliate is (1) specifically named in the Notice of Suspension and (2) given written notice of the suspension and an opportunity to respond. See 2 C.F.R. § 180.625(b).

I have determined that the evidence is adequate to suspend you because you have been convicted and there is sufficient information available that such information is credible, corroborated and that an examination of the information leads to the reasonable inference that you committed the conduct underlying your conviction.

The cause for your suspension is a criminal conviction of Bernd Zalke Rind for committing fraud in connection with obtaining or performing a public or private agreement, making false statements, committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility, and willfully violating 18 U.S.C. § 1343 and 18 U.S.C. § 1028A(a)(1), thereby engaging in malfeasance so serious as to affect the integrity of the Export-Import Bank's credit program. Immediate action is necessary to protect the public interest. The public has a genuine expectation that the Government will conduct business with only responsible persons.

Accordingly, you are immediately excluded from participating as either a participant or a principal, as defined at 2 C.F.R. §§ 180.980 and 180.995, in covered transactions, as defined and described at 2 C.F.R. § 180.200, § 180.210 and § 180.215, under United States programs through the Executive Branch of the United States Government. 2 C.F.R. § 180.1015; § 180.130. Pursuant to 2 C.F.R. § 180.140, the suspension will be recognized by, and be effective for, Executive Branch agencies as a suspension under the Federal Acquisition Regulation as well.

This suspension is for a temporary period, pending the completion of debarment proceedings. See 2 C.F.R. § 180.760.

## PROPOSED DEBARMENTS



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Based on the facts stated herein, I am proposing to debar Mr. Bernd Zalke Rind and B&T Trust LLC from participating as either a participant or a principal, as defined in 2 C.F.R. § 180.980 and 180.995, in covered transactions under United States programs through the Executive Branch of the United States Government for a period of three (3) years with the debarment to commence upon the issuance of a final notice of debarment. See 2 C.F.R. § 180.800 and § 180.925.

Pursuant to 2 C.F.R. § 180.140, the debarment will be recognized by, and effective for, Executive Branch agencies as a debarment under the Federal Acquisition Regulation.

The reasons for your debarment are based on your convictions for (i) wire fraud under Title 18 U.S.C. § 1343 and (ii) aggravated identity theft under Title 18 U.S.C. § 1028A(a)(1). Between October 2017 and May 2018, you willfully engaged in a fraudulent scheme to entice various parties, on numerous occasions, to pay you retainer fees on the basis of the misrepresentation of your ability to help such parties obtain loans the Export-Import Bank of the United States ("EXIM Bank"). Throughout this time period you falsely claimed that your victims were eligible to receive EXIM Bank financing and fraudulently misrepresented yourself as an intermediary between them and EXIM Bank.

Based on the foregoing, you have met the requirements for debarment under 2 C.F.R. § 180.800, in that you have been convicted for: 1) committing a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, and 2) committing an offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility. In addition, there exists sufficient basis to believe that you have met additional requirements for debarment under 2 C.F.R. § 180.800, including 3) making false statements and 4) violating of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.

Upon debarment, your name will be reported to the U. S. General Services Administration (GSA) pursuant to 2 C.F.R. § 180.520. GSA publishes a list of all persons who are determined ineligible in its System for Award Management (SAM), formerly known as the Excluded Parties List System (EPLS). You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

#### ADMINISTRATIVE PROCESS

The provisions of 2 C.F.R. part 180, subparts F and G, govern the suspension decision-making process. The provisions of 2 C.F.R. part 180, subparts F and H govern the debarment decision-making process.

Pursuant to 2 C.F.R. §§ 180.720 and 180.815, you may contest the suspension and proposed debarment. Pursuant to 2 C.F.R. §§ 180.725 and 180.820, within thirty (30)





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calendar days after receipt of this notice, you may submit information and arguments in opposition to the suspension and proposed debarment. This may be done orally or in writing, but any information provided orally that you consider important to the resolution of this matter must also be submitted in writing for the official record. The Notice of Suspension and Proposed Debarment will be determined to be received by you when delivered, if the agency mails the notice to the last known street address, or five (5) days after the agency sends it if the letter is undeliverable; when sent, if the agency sends the notice by facsimile or five (5) days after the agency sends it if the facsimile is undeliverable; or when delivered, if the agency sends the notice by e-mail or five (5) days after the agency sends it if the e-mail is undeliverable. See 2 C.F.R. §§ 180.725(b) and 180.820(b).

Pursuant to 2 C.F.R. §§ 180.730 and 180.825, if you choose to contest your suspension and proposed debarment from programs of the United States, in addition to any such information and argument, you are required to identify: specific facts that contradict the statements contained in this letter; all existing, proposed, or prior exclusions under Federal suspension or debarment regulations and all similar actions taken by Federal, State, or local agencies, including administrative agreements that affect only those agencies; and all criminal and civil proceedings not included in this notice that arise from the facts relevant to the cause stated in this notice. You are also required to identify all of the entities with which you are affiliated. Any additional opportunity to challenge the facts on which your suspension and proposed debarment is based will be determined in accordance with 2 C.F.R. §§ 180.735 and 180.830. You should also include any information about any of the factors listed in 2 C.F.R. § 180.860 which may influence the official's decision.

If you are able, I strongly suggest that you consult with an attorney regarding this Notice of Suspension and Proposed Debarment. However, unlike in criminal matters, the U.S. Government will not provide an attorney for you.

You should understand that if you do not contest the proposed debarment within the required 30-day period, the debarment will be automatically entered. If you believe that there are mitigating factors the debarment official should consider in determining whether to debar you and determining the length of the debarment period, then you must contest the proposed debarment within the required 30-day period. See 2 C.F.R. § 180.820 and § 180.860.

Any communications or written submission should be directed to Attorney Ricardo Exantus in the Office of General Counsel at the address listed below:

Ricardo Exantus  
Office of General Counsel  
Export-Import Bank of the United States  
811 Vermont Ave., N.W.



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Washington, D.C. 20571  
(202) 565-3434

For your information, a copy of regulations relevant to your suspension and proposed debarment is enclosed.

Very truly yours,

LISA  
TERRY

Digitally signed  
by LISA TERRY  
Date: 2019.05.10  
11:07:09 -04'00'

Lisa V. Terry

Suspension and Debarment Official of the Export-Import Bank of the United States

Enclosures:

- 1) 2 C.F.R. Part 3513 and 2 C.F.R. Part 180;
- 2) Plea Agreement – U.S. v. Bernd Zalke Rind, U.S. District Court, So. D. of FL, Case No. 18-CR-60323WJZ, April 9, 2019;
- 3) Factual Proffer – U.S. v. Bernd Zalke Rind, U.S. District Court, So. D. of FL, Case No. 18-CR-60323WJZ, April 9, 2019; and
- 4) Office of the Florida Secretary of State, Corporation File Detail Report, B&T Trust LLC





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June 21, 2019

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Bernd Zalke Rind

(b) (6)

**BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

B&T Trust LLC

(b) (6)

Re: Notice of Debarment – Bernd Zalke Rind and B&T Trust LLC Company

Dear Mr. Rind:

On May 10, 2019, Export-Import Bank of the United States ("EXIM Bank" or "the Bank") sent you, Bernd Zalke Rind and B&T Trust LLC Company, a Notice of Suspension and Proposed Debarment ("Notice"). The Notice advised that you and your company had thirty (30) calendar days to submit information and arguments in opposition to the suspension and proposed debarment. To date, EXIM Bank has not received any response to the Notice or protest of the proposal or to the contents of the Notice.

In the absence of any evidence to the contrary, the Bank finds by a preponderance of the evidence that the information in the Notice is accurate and the conclusions drawn are warranted. Specifically, the Bank finds that you and your company are not presently responsible contractors/participants.

EXIM Bank is debarring you and your company based on your convictions for (i) wire fraud under Title 18 U.S.C. § 1343 and (ii) aggravated identity theft under Title 18 U.S.C. § 1028A(a)(1). A copy of the judgment was attached to your Notice.

After careful consideration of the entire administrative record, the Bank has concluded that a three year debarment term is required to protect the Government. The effects of debarment are as stated in the Notice.

Therefore, effective as of this date, EXIM Bank has debarred you, Bernd Zalke Rind and B&T Trust LLC Company, for three (3) years, from participation in programs of the United States. This action is undertaken pursuant to Title two, part 180.800 et seq. of the Code of Federal Regulations (2 C.F.R. §§ 180.800 et seq.).



*Reducing Risk. Unleashing Opportunity.*

Your name, as well as your company's name, will be published in the System for Award Management (SAM), where it will be noted that you are "Ineligible – Proceedings Completed" for the effective three year period. You can access SAM through the Internet at [www.sam.gov](http://www.sam.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa V. Terry".

Lisa V. Terry

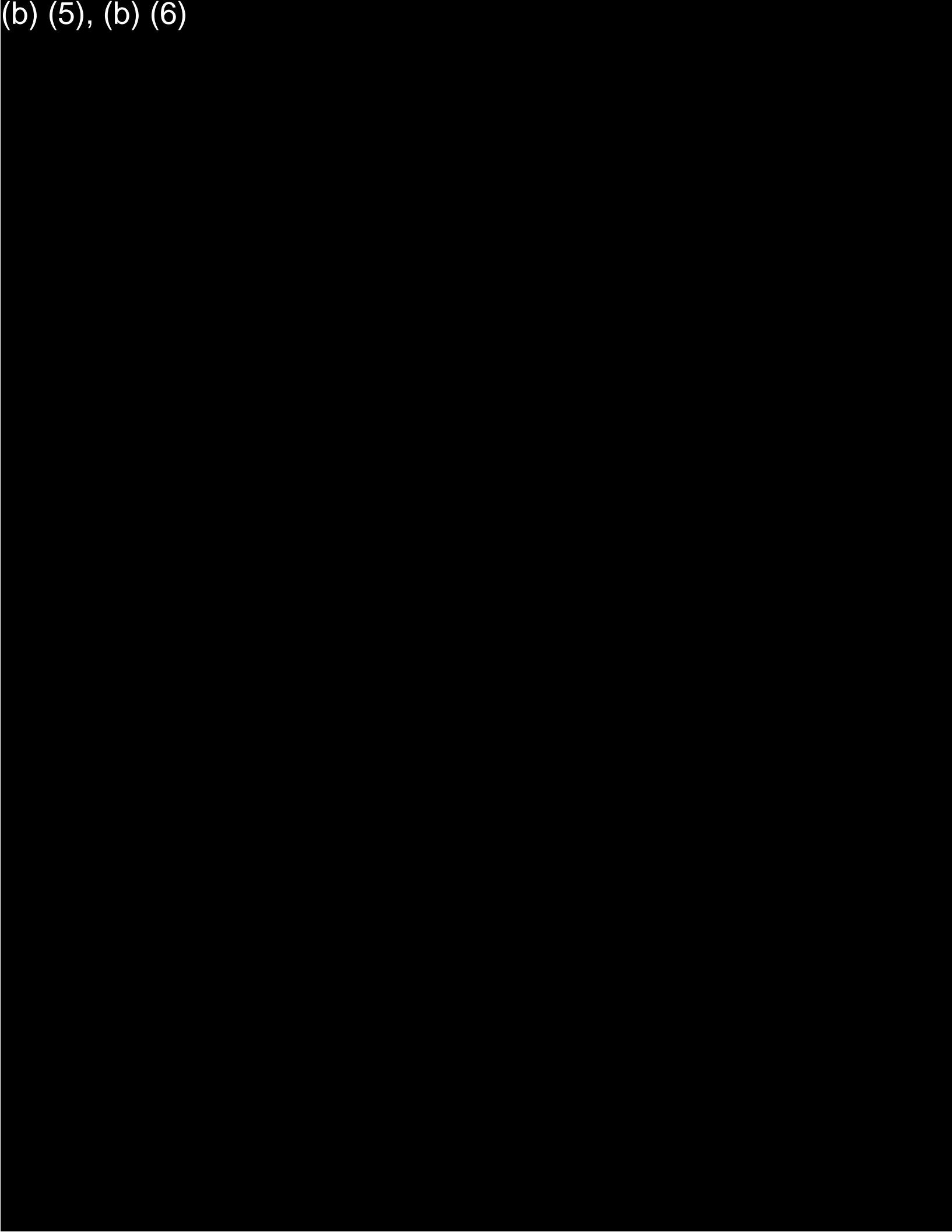
Suspension and Debarment Official of the Export-Import Bank of the United States



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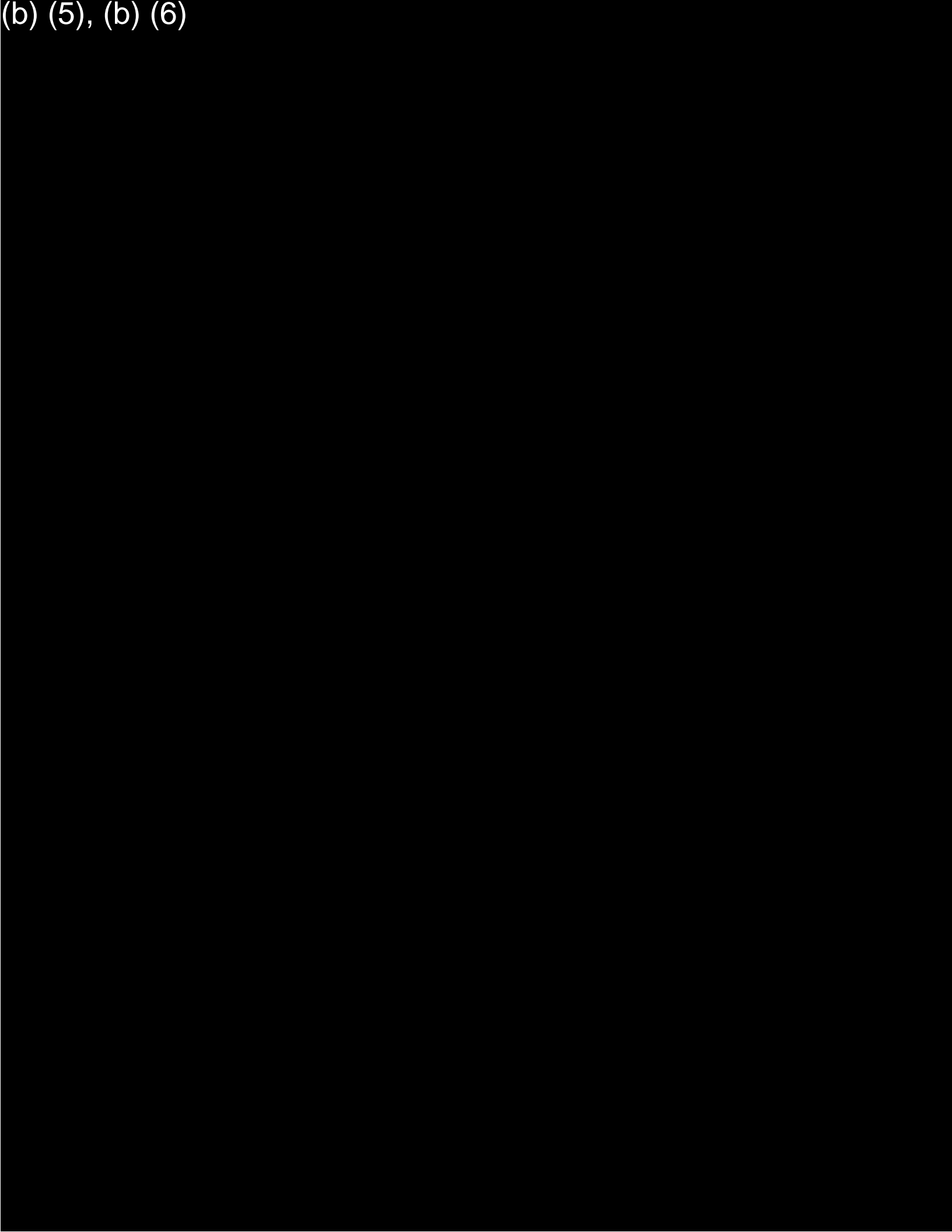
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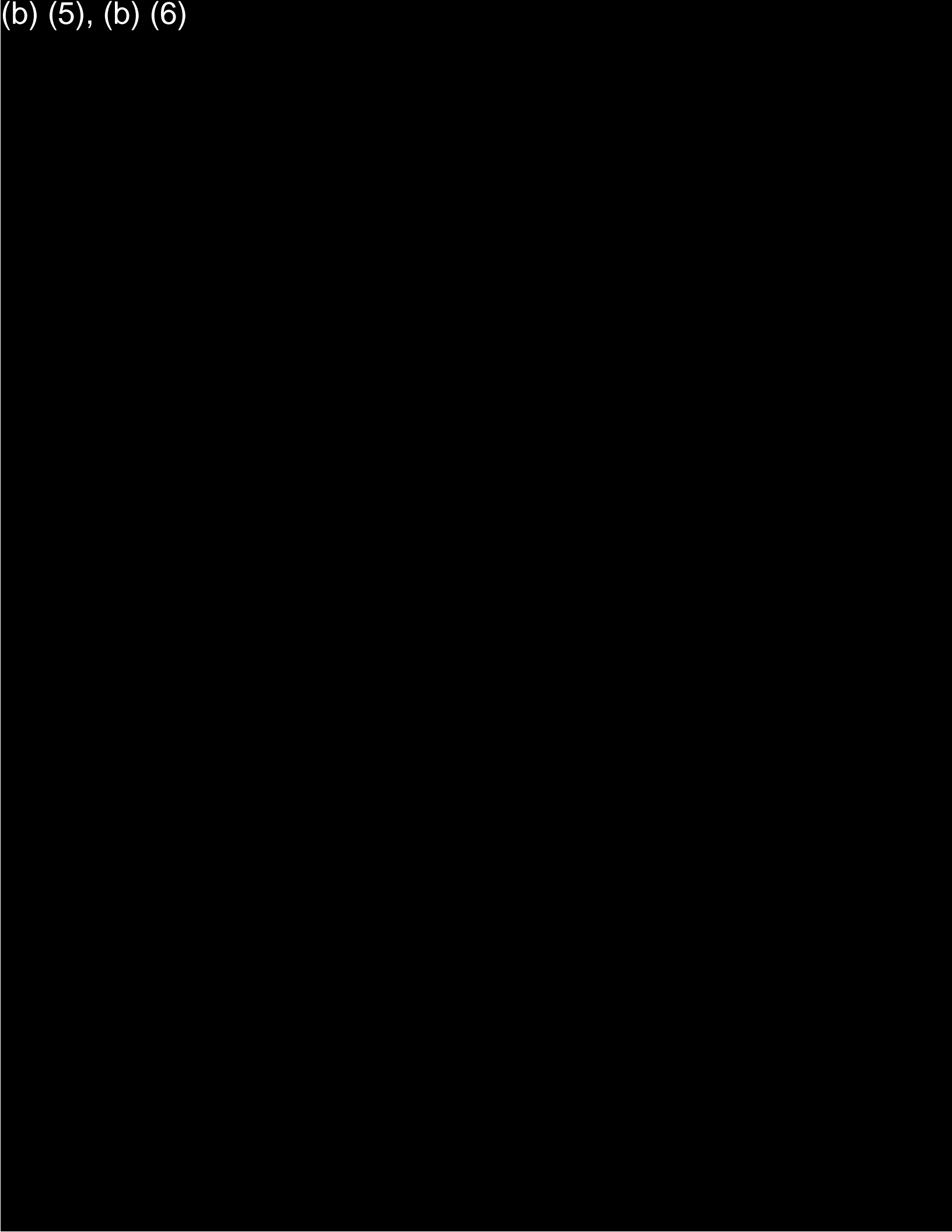
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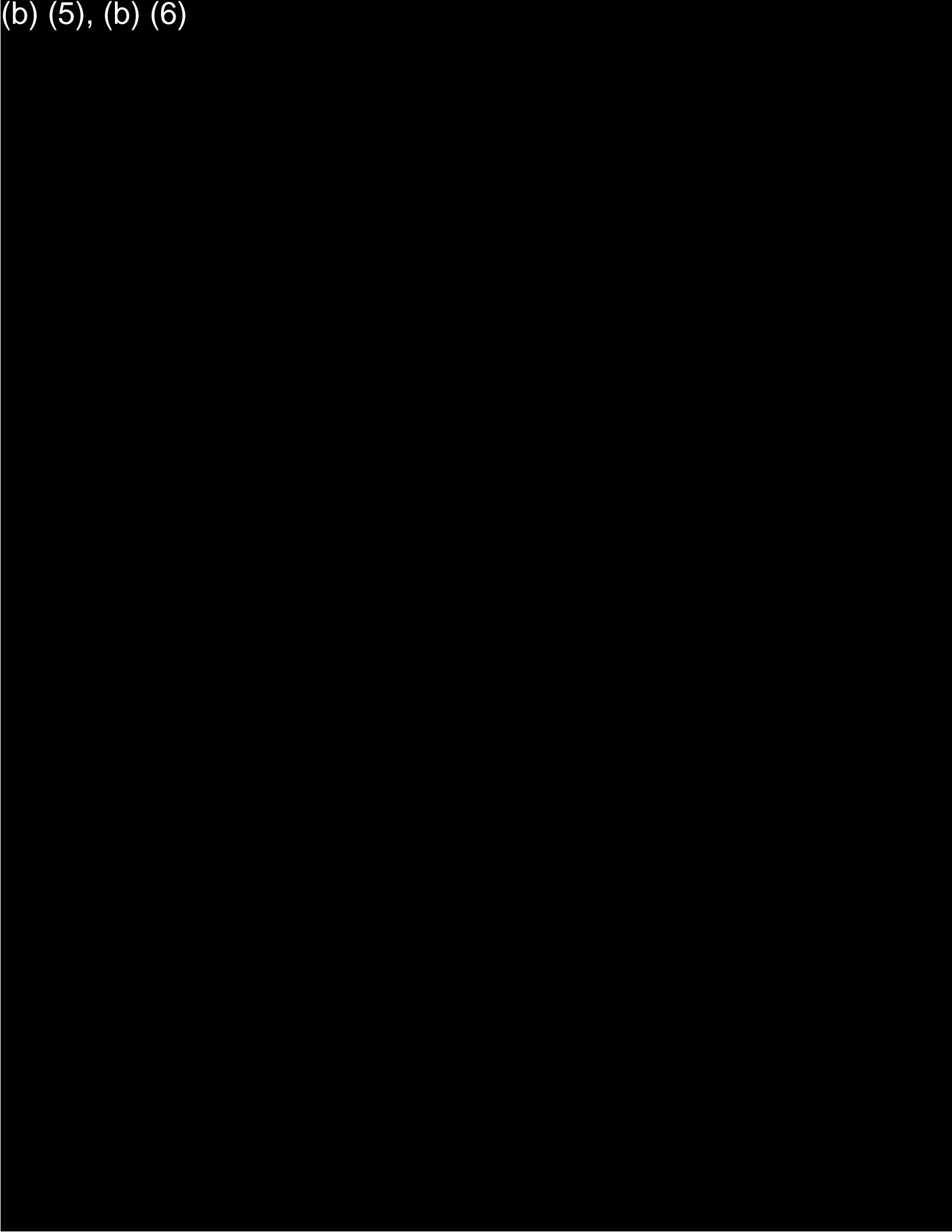
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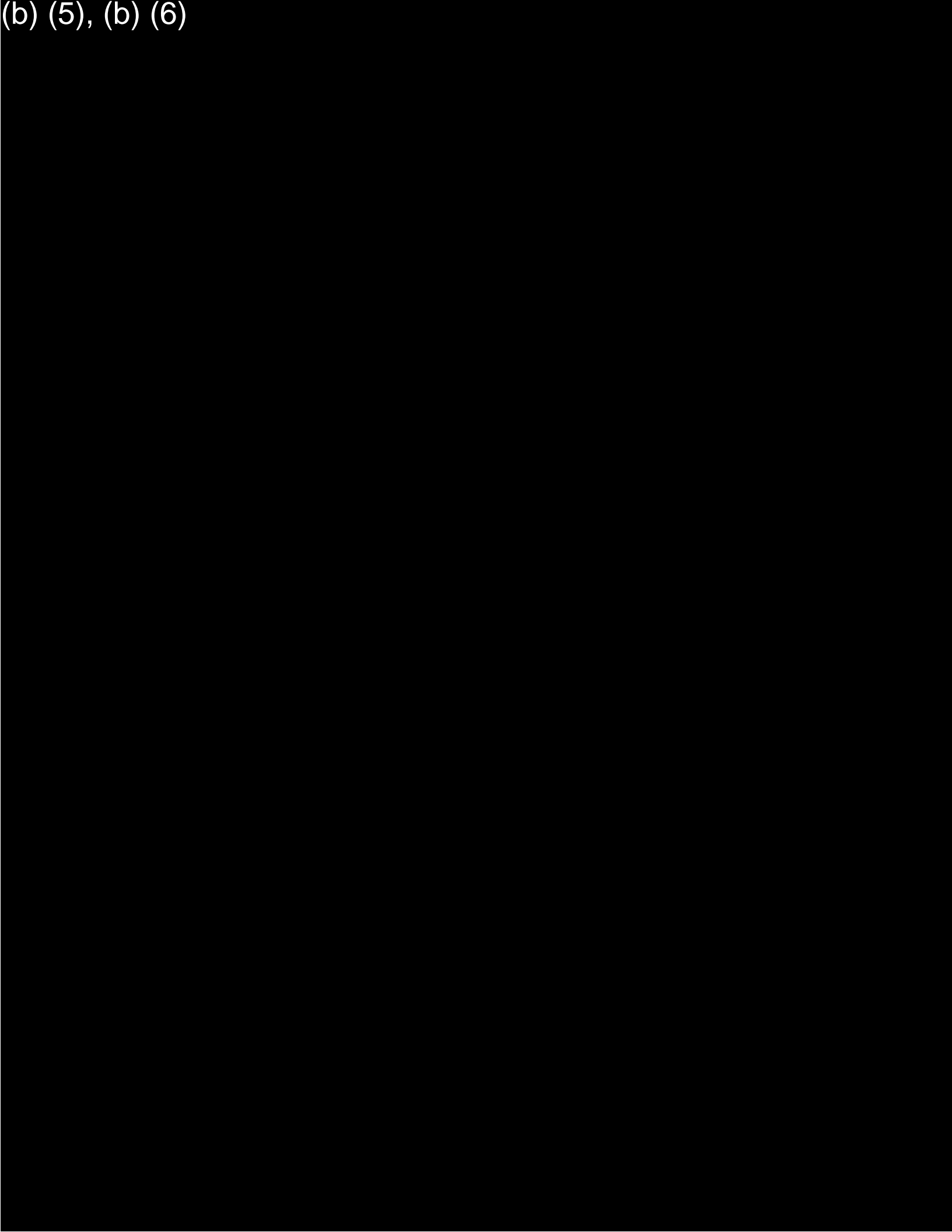
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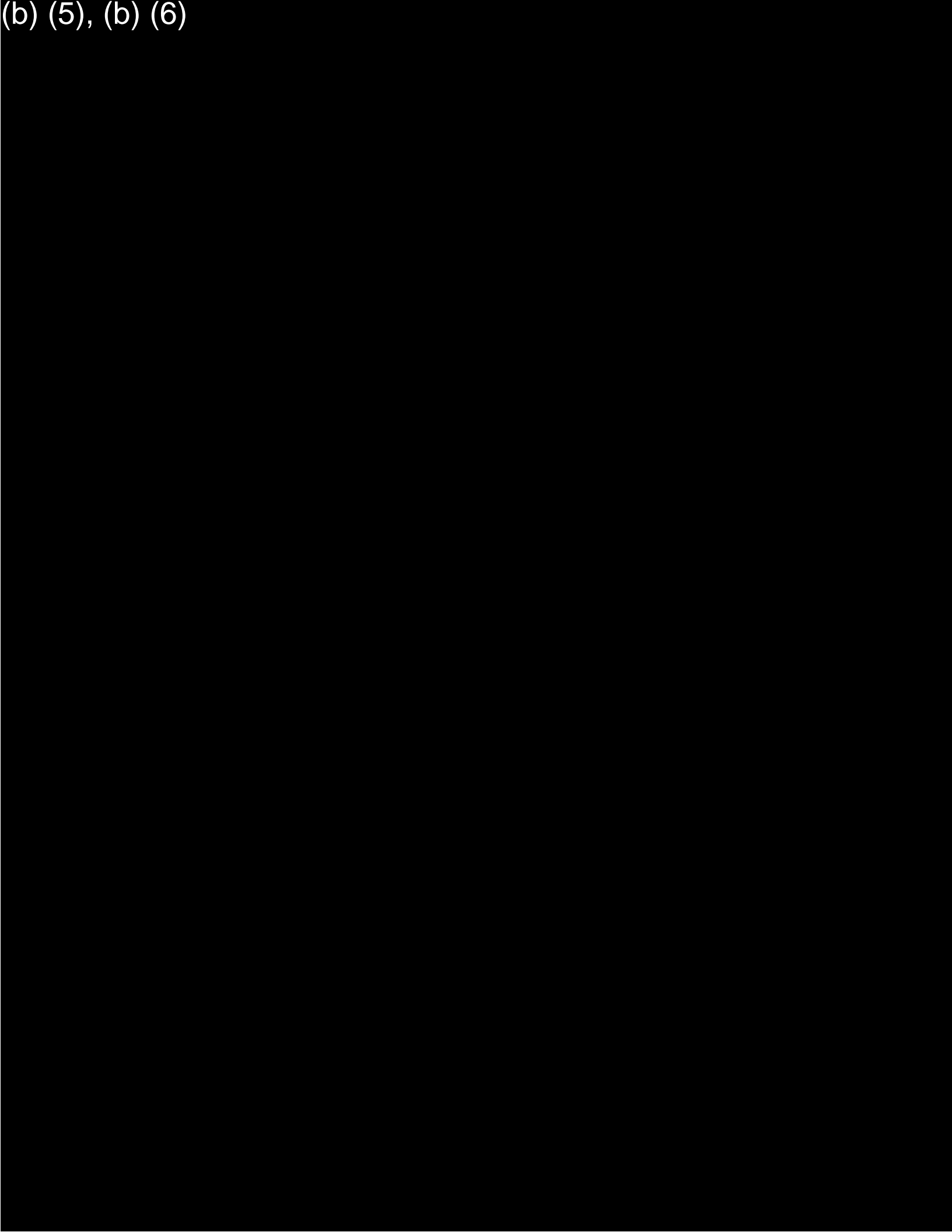
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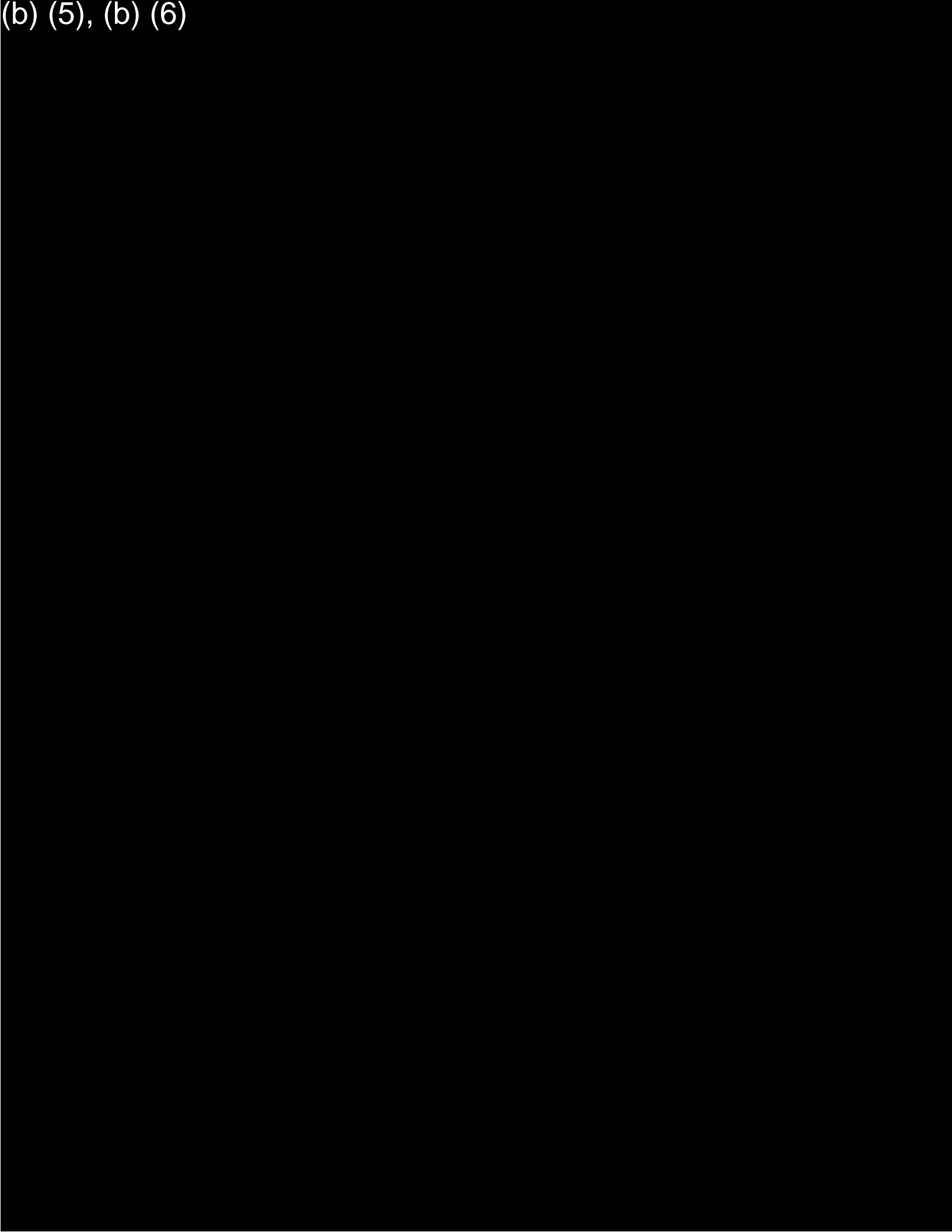


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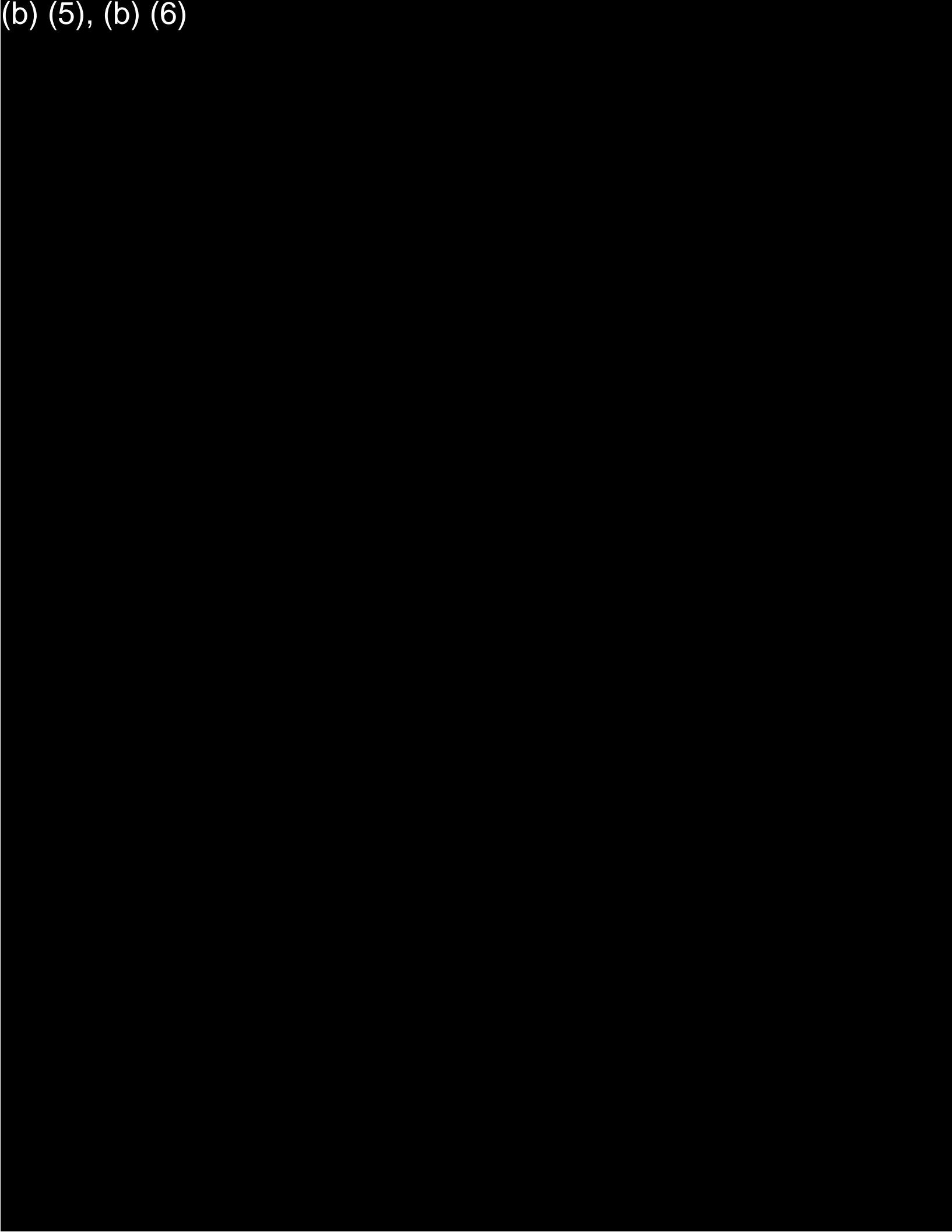




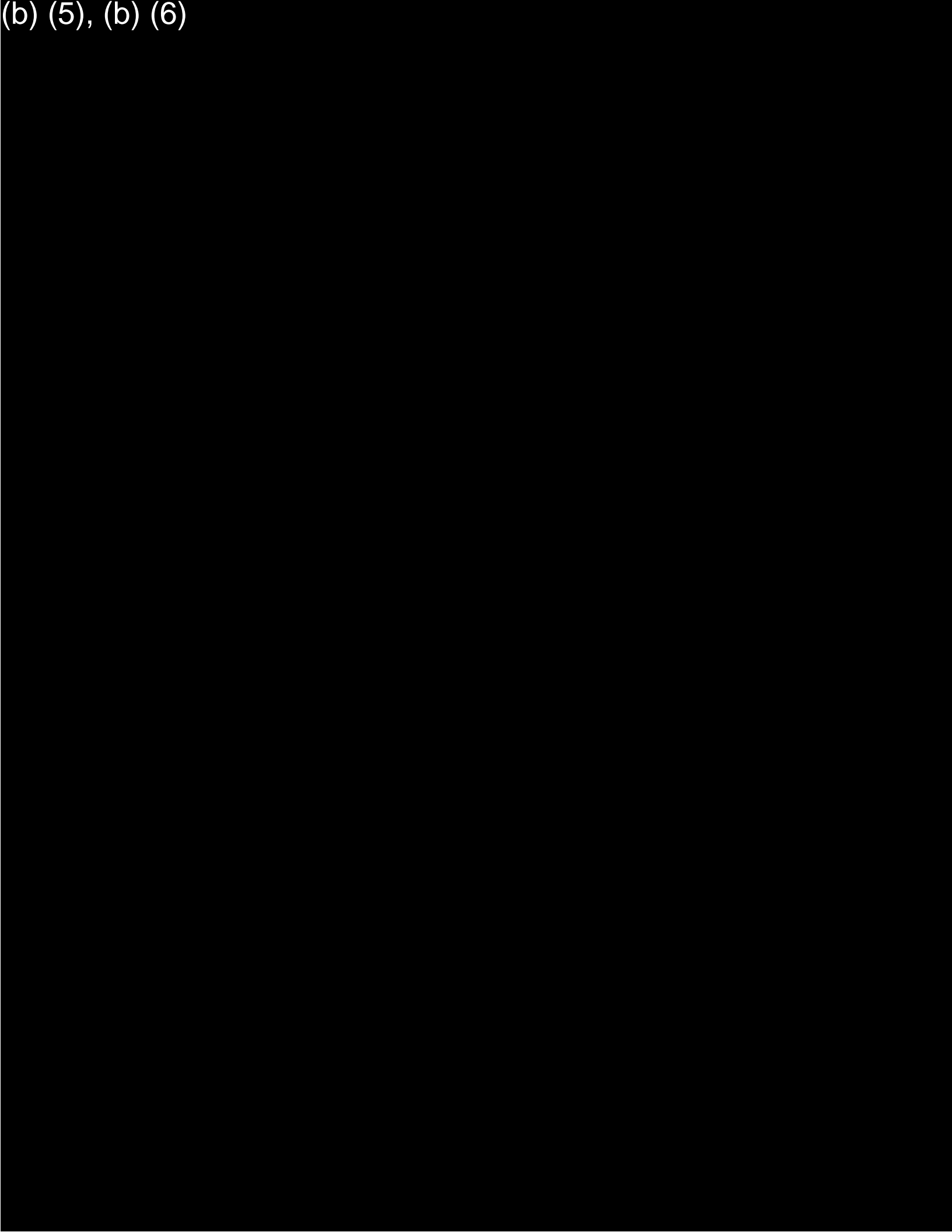
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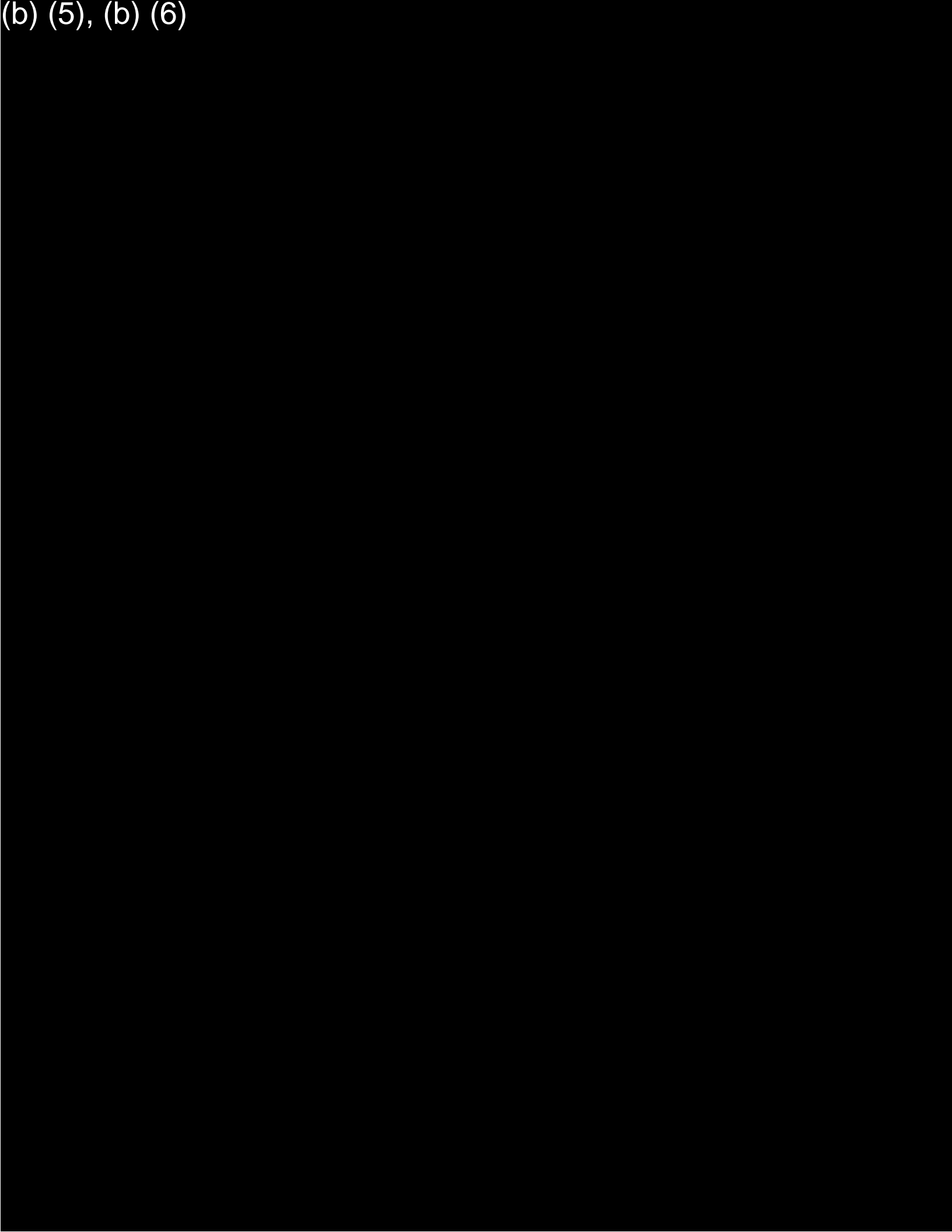
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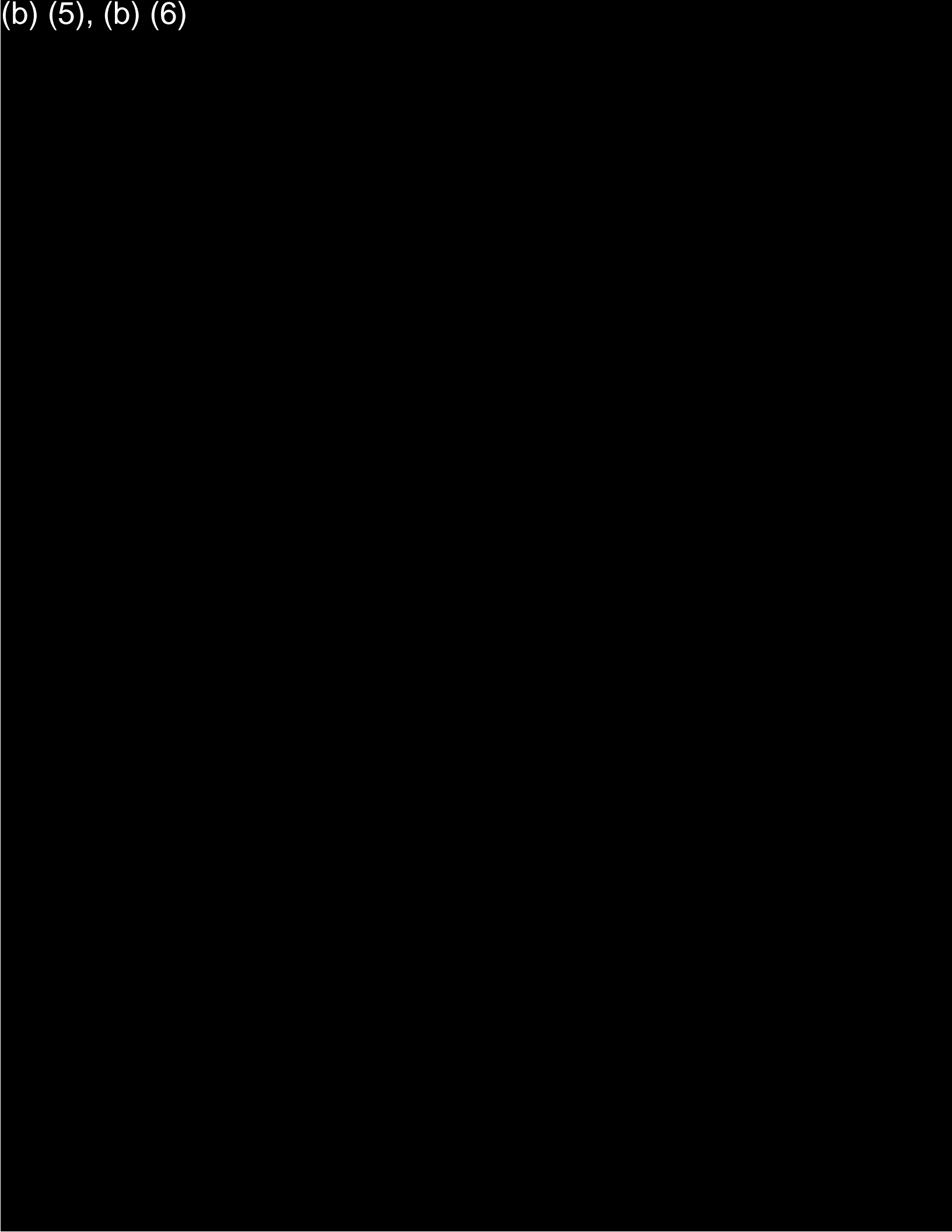
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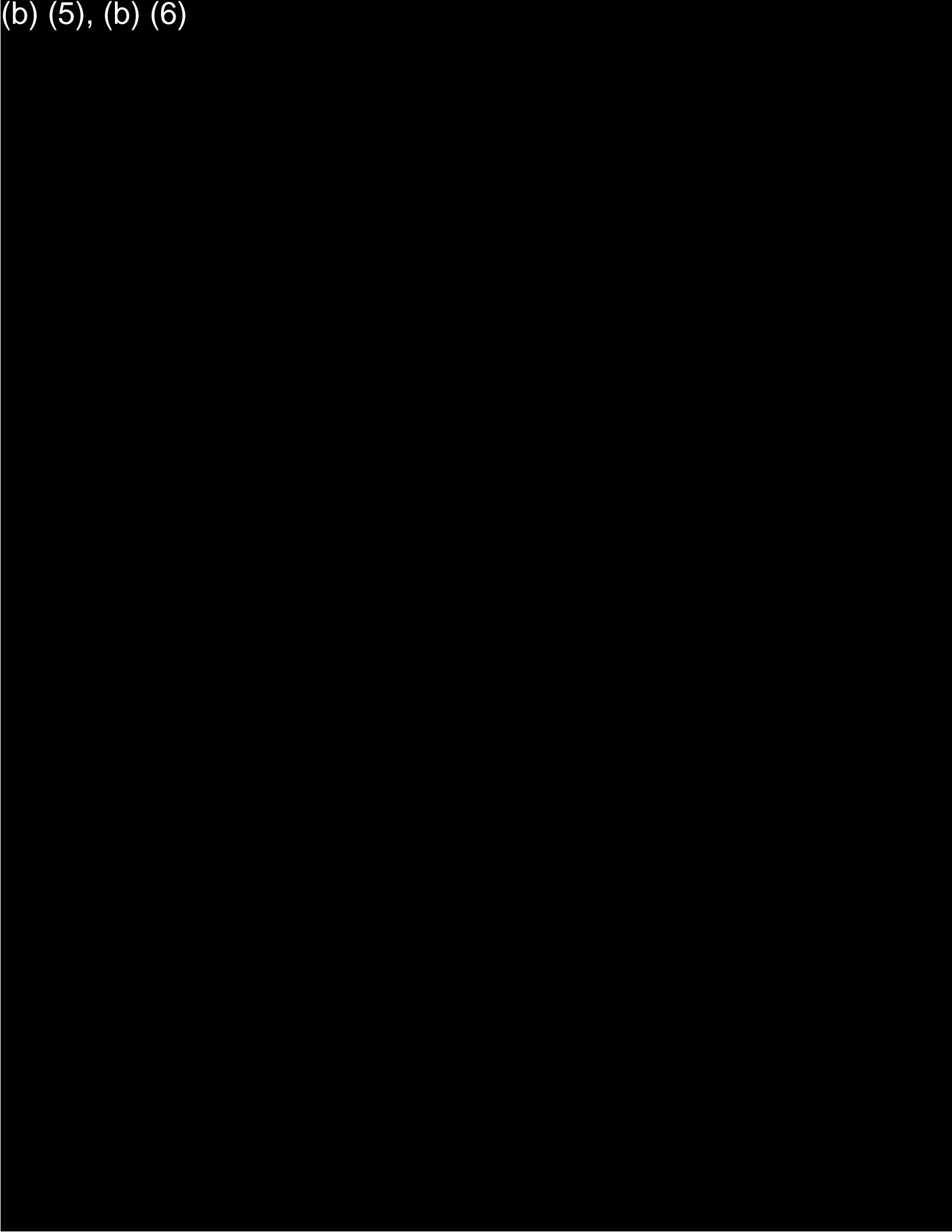
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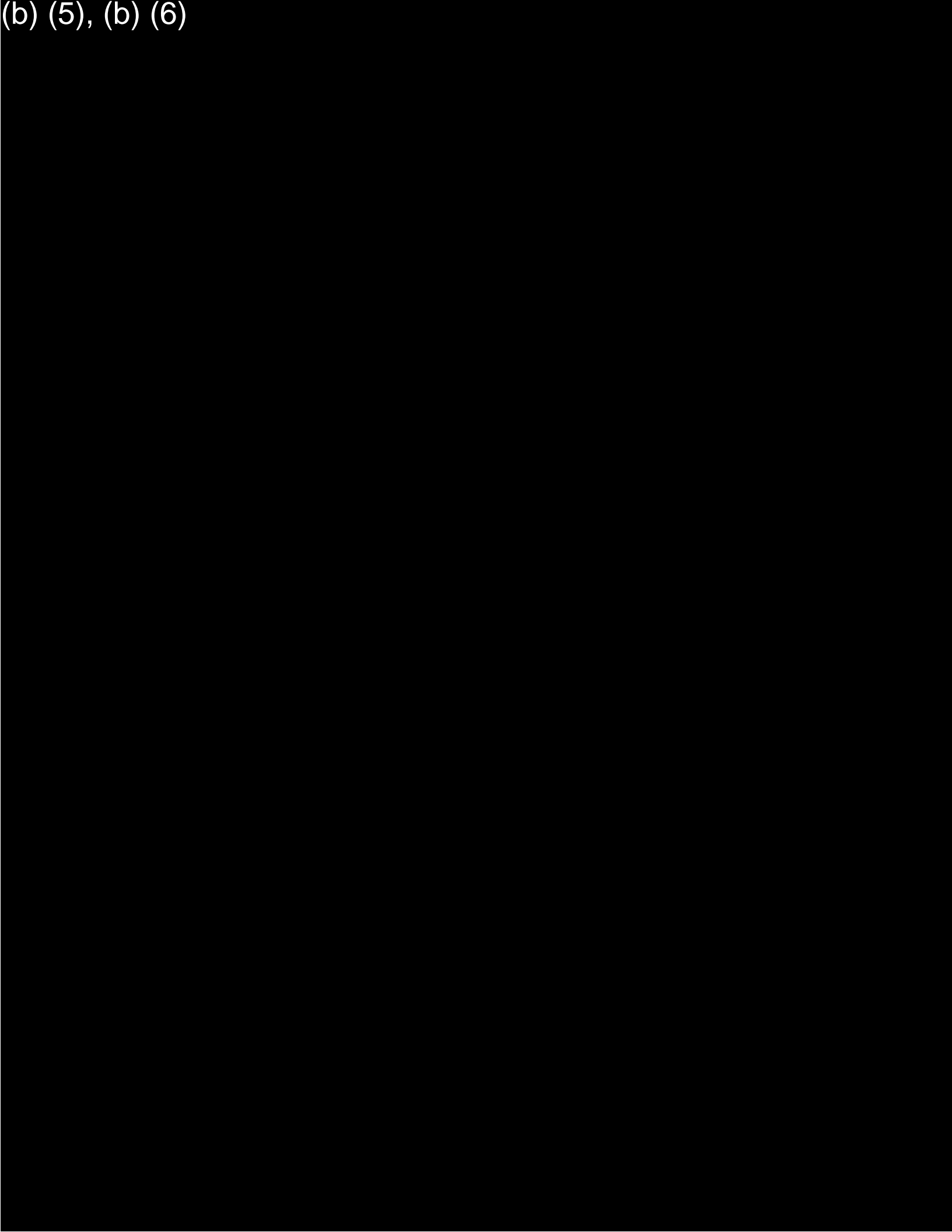
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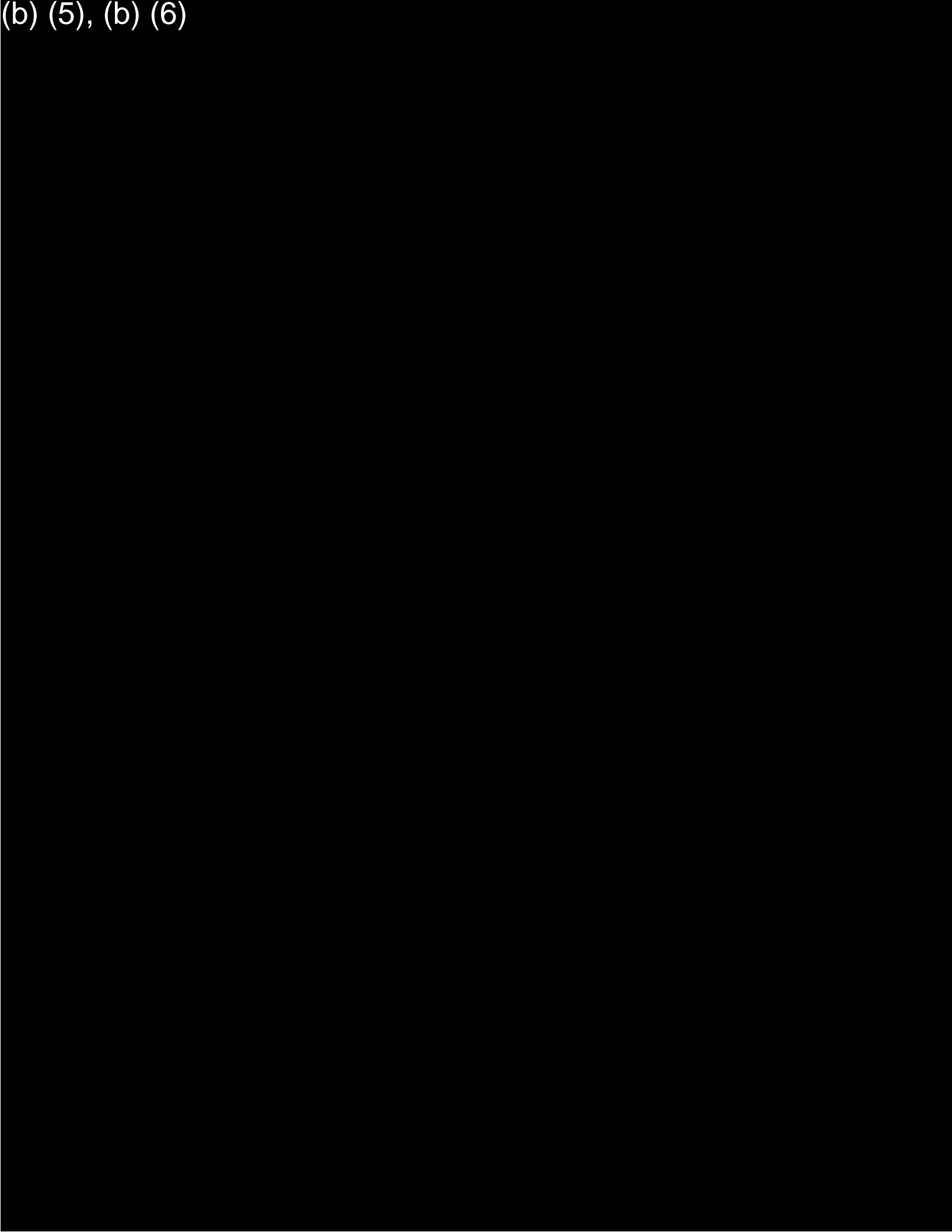


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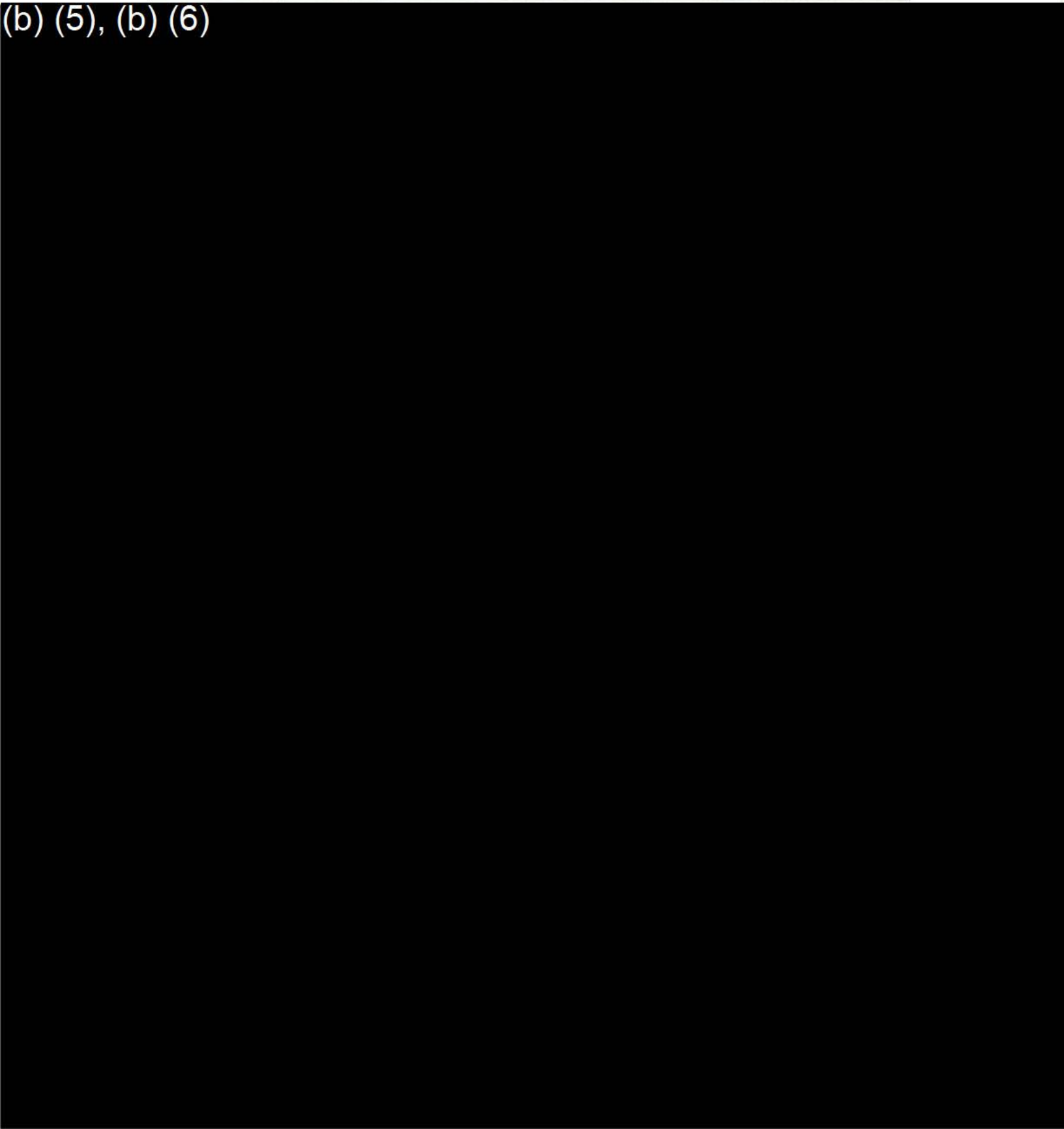
(b) (5), (b) (6), (b) (7)(C)



**From:** [Mary Calkins](#)  
**To:** [Jonathan Clark](#); [Matthew Gee](#)  
**Cc:** [John Connor](#); [OGC Litigation Fraud and Compliance Group](#)  
**Subject:** FW: (b) (5)  
**Date:** Wednesday, August 7, 2019 12:05:00 PM  
**Attachments:** [image004.png](#)

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(b) (5), (b) (6)



Regards,

Mary Calkins  
Senior Counsel for Litigation, Fraud & Compliance  
Export-Import Bank of the United States  
811 Vermont Ave. NW  
Washington, D.C. 20571  
[mary.calkins@exim.gov](mailto:mary.calkins@exim.gov)  
Direct: 202-565-3451  
Mobile: 202-578-8733



EXPORT-IMPORT BANK  
OF THE UNITED STATES

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*Reducing Risk. Unleashing Opportunity.*

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**From:** Jonathan Clark <[jonathan.clark@exim.gov](mailto:jonathan.clark@exim.gov)>

**Sent:** Friday, July 19, 2019 5:23 PM

**To:** John Connor <[john.connor@exim.gov](mailto:john.connor@exim.gov)>; Matthew Gee <[Matthew.Gee@exim.gov](mailto:Matthew.Gee@exim.gov)>; Mary Calkins <[Mary.Calkins@exim.gov](mailto:Mary.Calkins@exim.gov)>

**Subject:** RE: (b) (5)

(b) (5), (b) (6)

Jon

Jon Clark  
Director, Export Credit Insurance  
Export-Import Bank  
[jonathan.clark@exim.gov](mailto:jonathan.clark@exim.gov)  
Office: 202-565-3680  
Cell: 202-469-1543

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**From:** John Connor  
**Sent:** Friday, July 19, 2019 5:11 PM  
**To:** Jonathan Clark; Matthew Gee; Mary Calkins  
**Subject:** Re: (b) (5)

(b) (5)

On Jul 19, 2019, at 5:06 PM, Jonathan Clark <[jonathan.clark@exim.gov](mailto:jonathan.clark@exim.gov)> wrote:

John,

(b) (5)

Jon

Jon Clark  
Director, Export Credit Insurance  
Export-Import Bank  
[jonathan.clark@exim.gov](mailto:jonathan.clark@exim.gov)  
Office: 202-565-3680  
Cell: 202-469-1543

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**From:** John Connor  
**Sent:** Friday, July 19, 2019 5:06 PM  
**To:** Matthew Gee  
**Cc:** Jonathan Clark; Mary Calkins  
**Subject:** Re: (b) (5)

(b) (5)

Sent from my iPhone

On Jul 19, 2019, at 4:07 PM, Matthew Gee <[Matthew.Gee@exim.gov](mailto:Matthew.Gee@exim.gov)> wrote:

Good afternoon John,

(b) (5), (b) (6)

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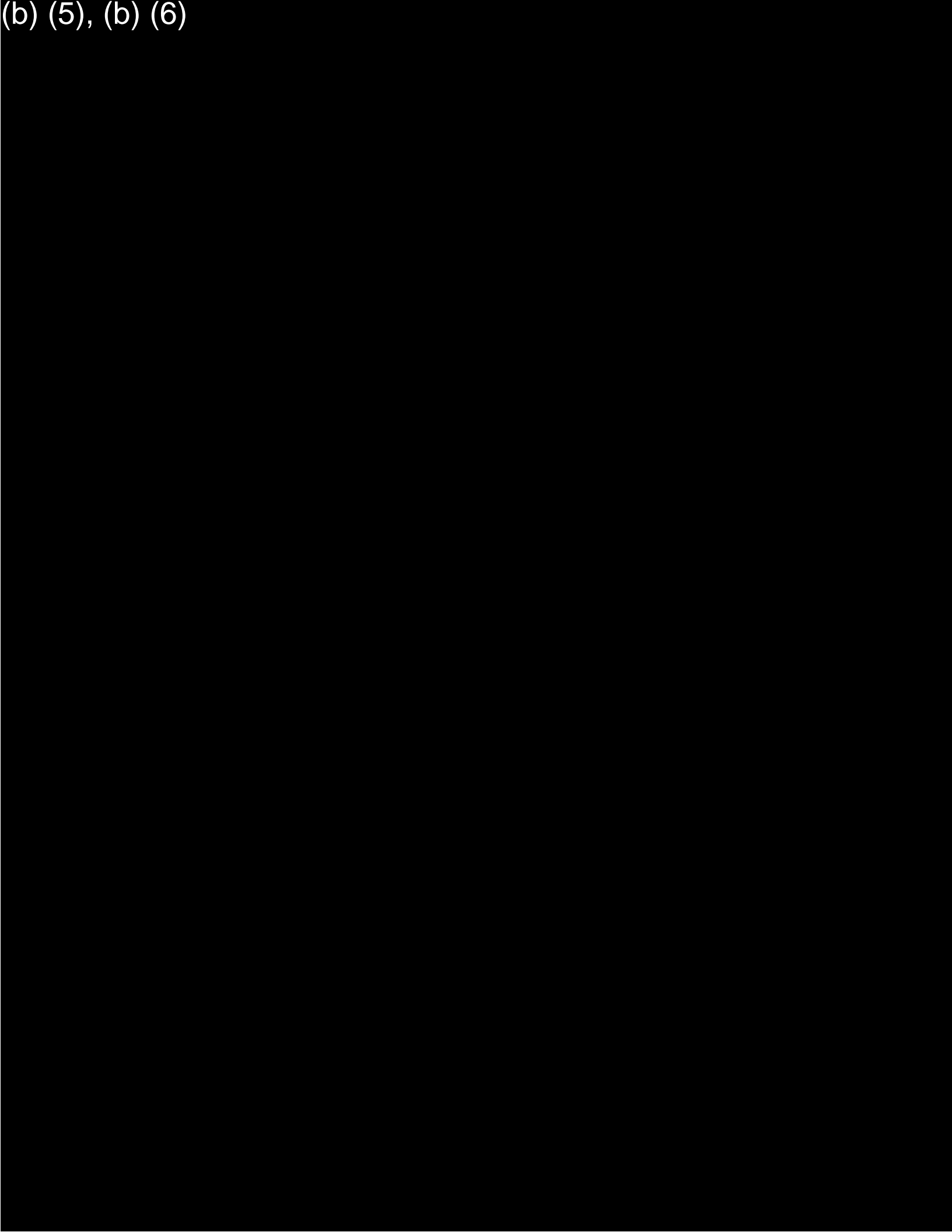
Respectfully,

**Matthew Gee** | Loan Officer, Export Credit Insurance  
Export-Import Bank of the United States  
811 Vermont Ave. NW, Office 920-3 | Washington, DC 20571  
Tel 202.565.3965 | Cell 202.713.0512 | [matthew.gee@exim.gov](mailto:matthew.gee@exim.gov)  
[Twitter](#) | [LinkedIn](#) | [YouTube](#)  
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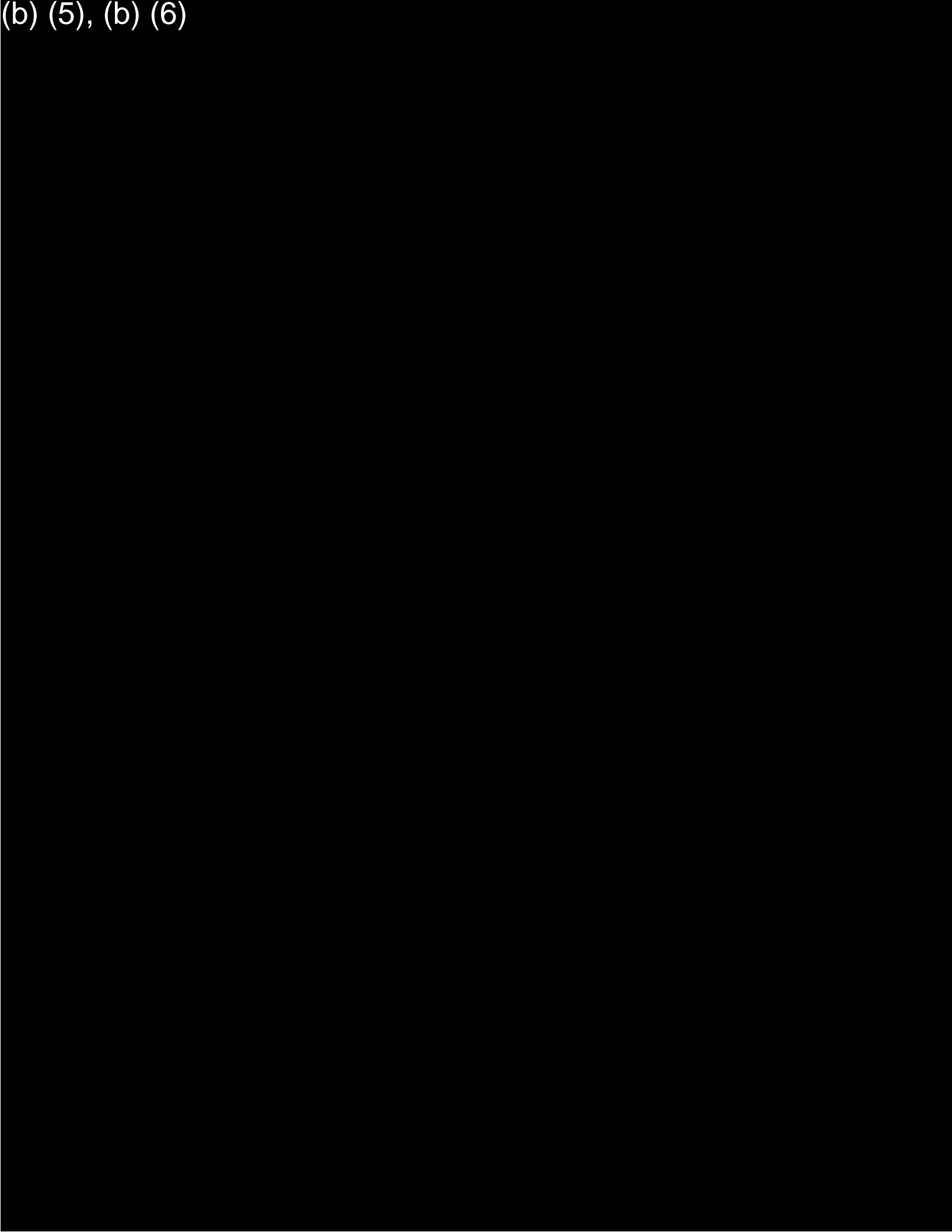


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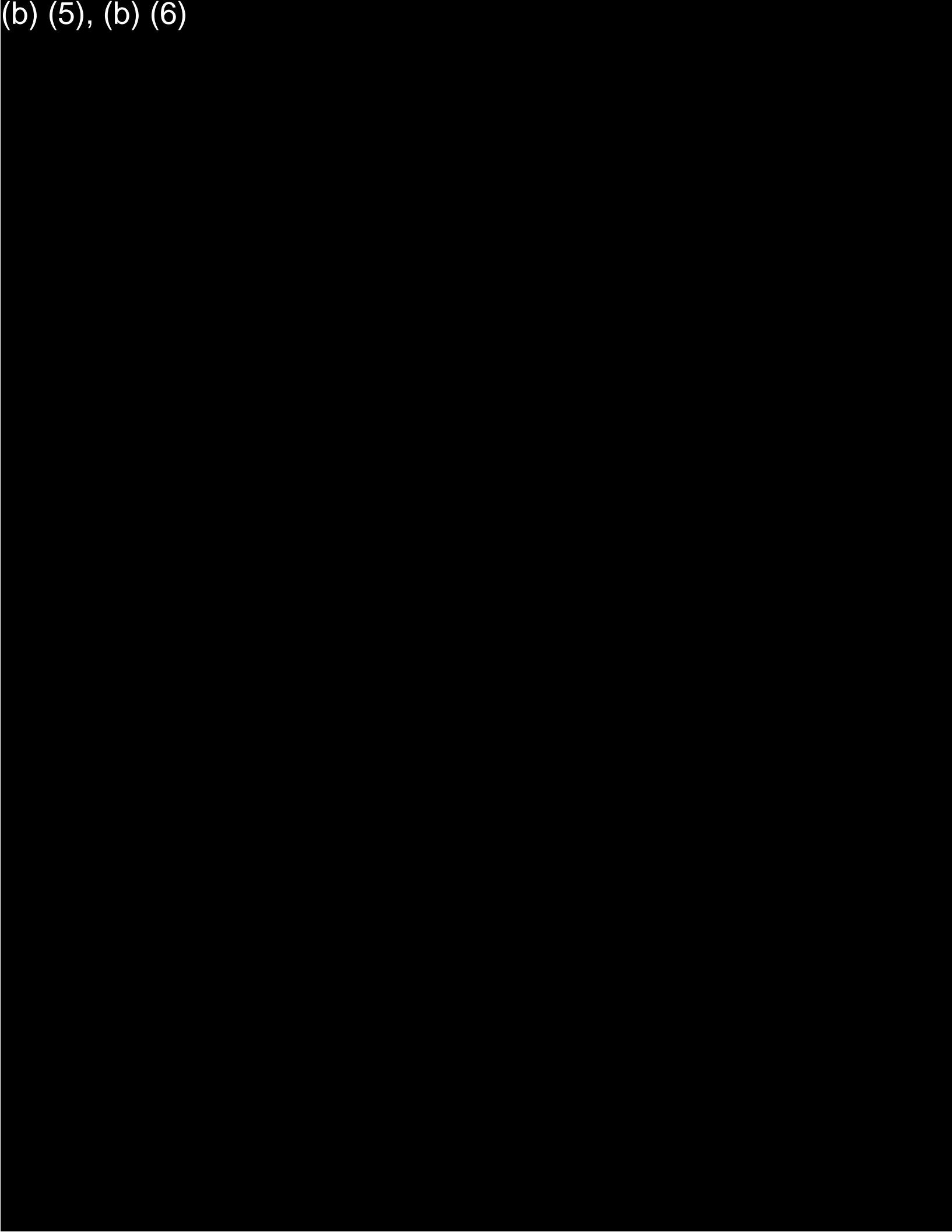




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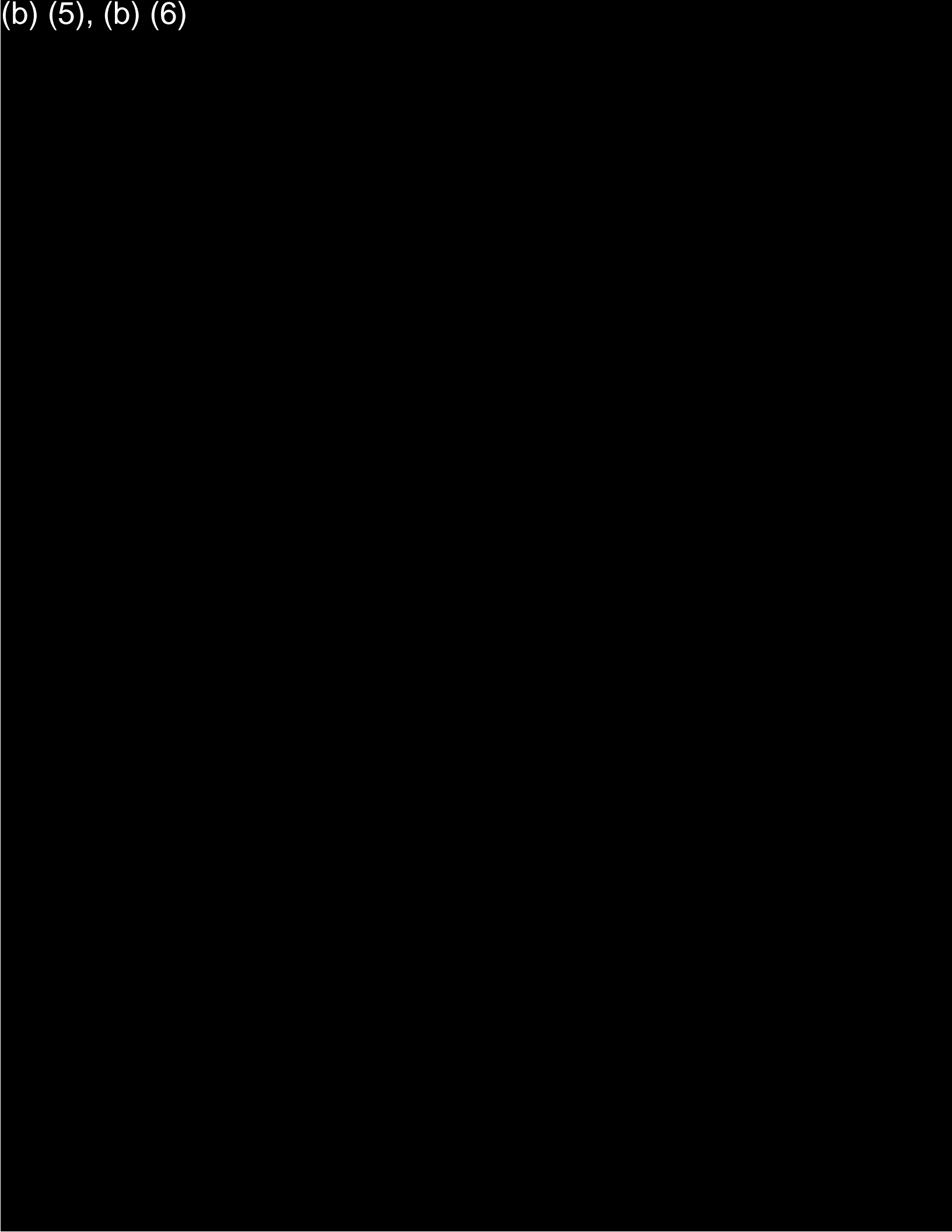
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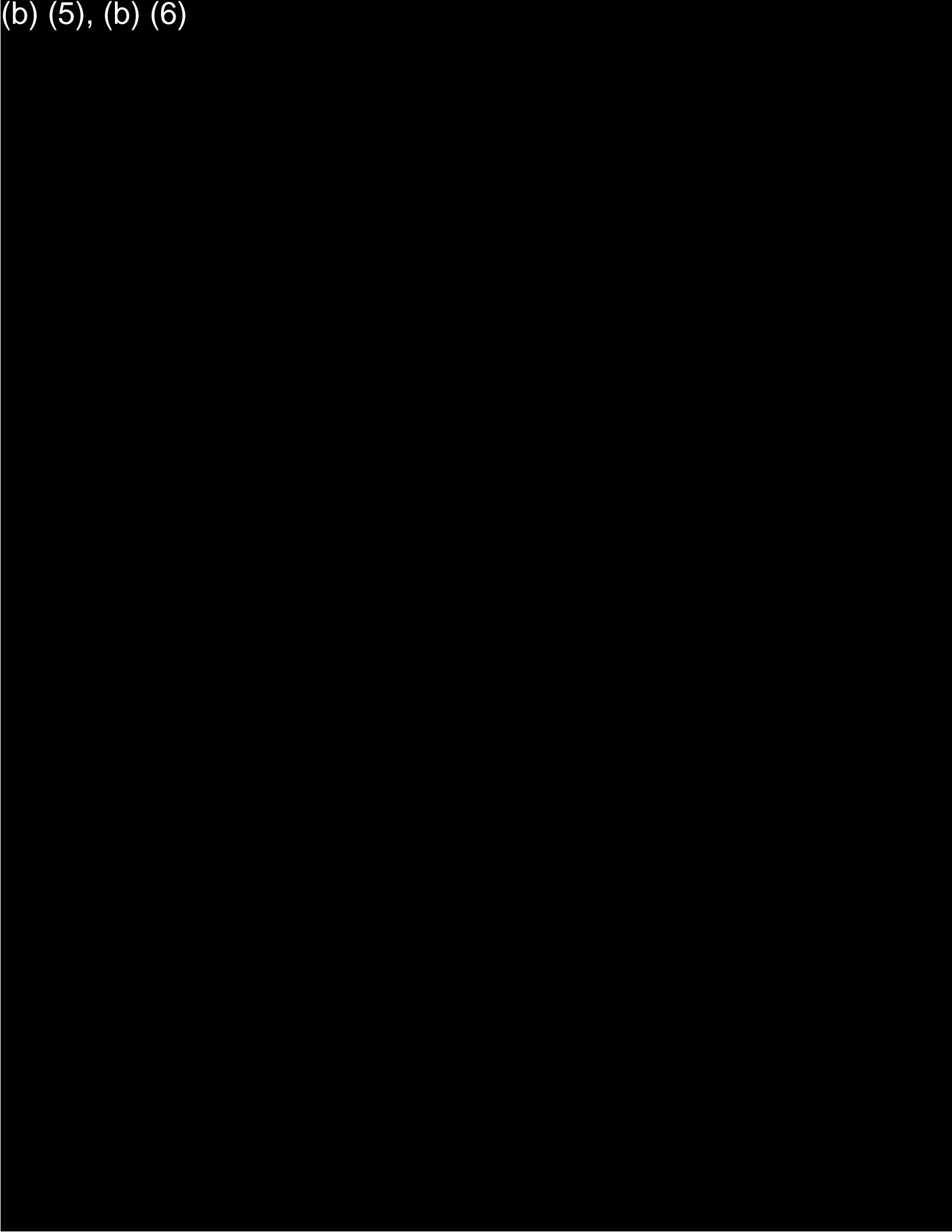
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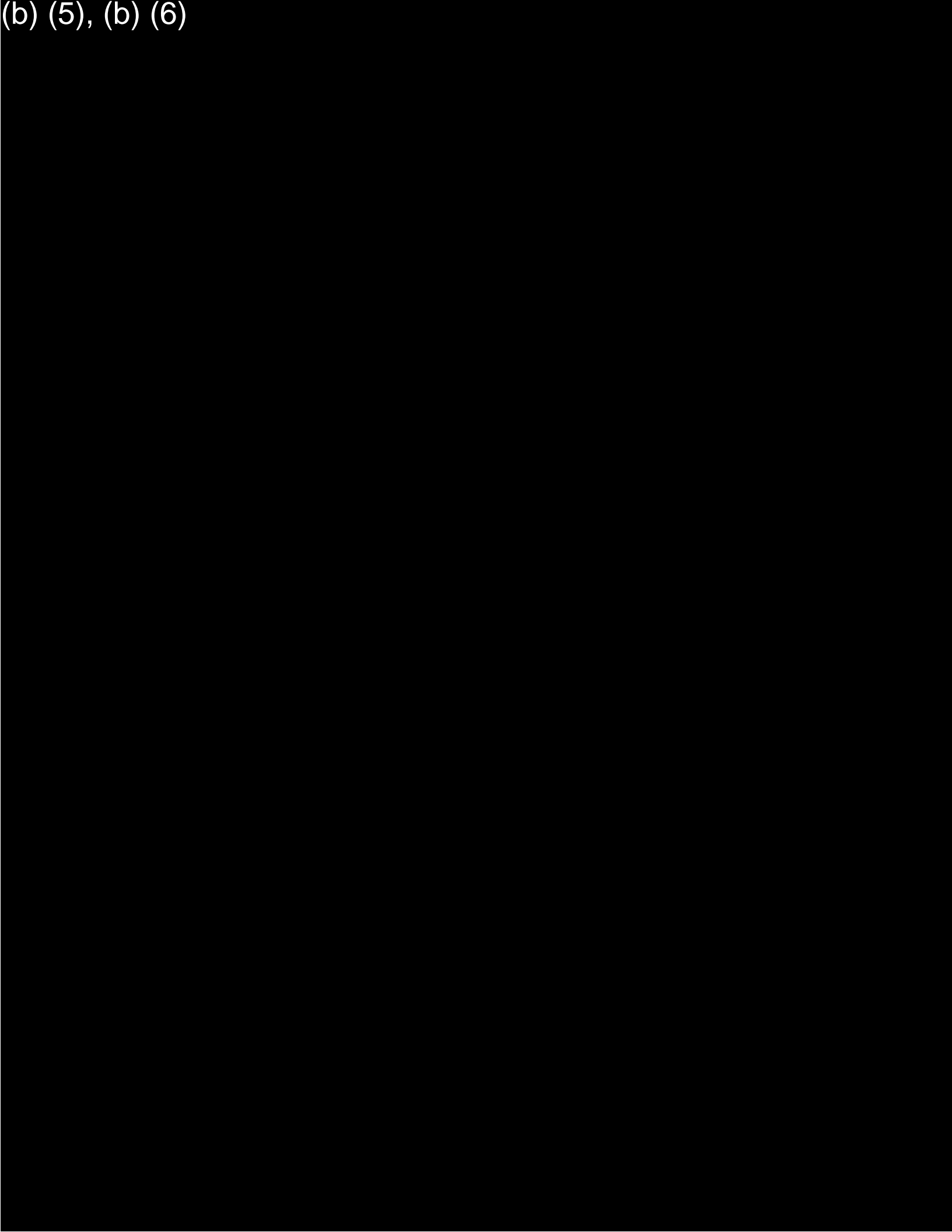
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