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Victim Advocacy Project
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Draft 3 of the final document for presentation to Congress

CASE STATEMENT # APP-2017-A WHICH IS NOW FILED WITH ALL REGULATORY AGENCIES, COMMUNITY ACTION GROUPS, THE WHITE HOUSE AND INDEPENDENT NEWS MEDIA AND RELATED CONGRESSIONAL COMMITTEES -

February 2, 2018

U.S. Department of Energy
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DEMAND FOR DAMAGES REIMBURSEMENT

Dear Inspector General:

This is personal.

We reported to your office, the FBI, the GAO and the SEC in 2007 and you have refused to do anything about our case, since then, in order to cover up criminal activities by Department of Energy officials, Obama Administration White House officials and their Silicon Valley oligarch financiers.

Since 2007 every assertion we made has been proven to have been true via Congressional, FBI and news investigations; leaks and Court evidence on record that is now widely published.

DOE offices, financiers and staff attacked us using CIA-Class technologies and techniques better suited for a third world crumbling nation. It is a severe felony to use actual CIA resources, via the U.S.

Department of Energy, against fellow citizens in order to gain a business edge because we had efficient competing technology or to execute personal vendettas as DOE did.

We properly reported the crimes in 2007 and have sought reparations and justice since 2007. Your offices have provided nothing but illegal and illicit attacks, stonewalling and lies. ***We gave you a decade of opportunity to fix what you did to us.***

In plain language, (a post-2016 White House phenomenon, and one which resonates with the voting population): ***“You fucked us in the ass for over a decade and now we are going to kick your ass from here to Timbuktu...”***

You have one last chance to resolve this or the entire Department of Energy and the profits and pensions of everyone in it will be dismantled using 100% legal tactics and extreme sociology methods via the voting population and our portions of the CIA, FBI, NSA, the Press and the White House that are not inclined to support further abuse of U.S. Government resources for corrupt insider trading schemes for dirty Senators. Even the most casual observer will have noticed that political transparency has had a magnitude shift since 2009. The world has decided that *“every dirty politician will be doxed”*. Multiply that by 300 million voters and imagine the effect on your career and the scams at DOE! You won't last the year and you will be taken out with 100% legal methods by hundreds of millions of regular citizens who are using nothing more than an iPhone as their forensic tool!

You don't have to let it get to that point. You can resolve this today!

All of those spy community “dirty tricks” and Richard Nixon-esque “rat-fucking” technologies and character assassination services have been disclosed in the press by third parties and we, and the world, can now see the malicious tricks that your offices were willing to stoop to for political fanaticism and stock market insider trading manipulations designed to give your crony Cartel massive illicit profit windfalls.

Is it, as the Treasury Department says, “unjust gain” for DOE executives to abuse voters in order to profiteer and swindle taxpayer funds? YES; and it is a felony for your people to have done that.

We are associated with NO political party, YET our filings for recovery have suffered malicious delays, stone-walling and other POLITICAL reprisal actions by State and Federal employees since 2007 when we were a federal witness for a law enforcement investigation involving corruption in the U.S.

Department of Energy. The various Victims economic disabling factors were caused by the actions of State and Federal employees and the elected officials to whom they reported. We have slept in your homes, had dinner with you, dated your staff and were once called “your friends” but when we said “no” to your crimes you turned on us like dogs at a pig farm!

This filing is ***not*** a part nor portion of the Solyndra, XP Vehicles, Limnia, Google, In-Q-Tel, Fisker, Tesla or other stone-walled lawsuits and FBI investigations that are underway. This is an individual claim by individual persons for reparations for massive damages inflicted against them and the blockading of their individual natural born-citizen legal rights by vastly resourced and corrupt parties.

The attacks you engaged in, and/or supported and/or financed include:

- - DOE solicited the victims with false promises and caused them to expend millions of dollars and years of their time for projects which DOE had covertly promised to their friends and were using the victims as a “smokescreen” to cover their illegal DOE slush-fund for the victims competitors and personal enemies.
- - Social Security, SSI, SDI, Disability and other earned benefits were stone-walled. Applications were “lost”. Files in the application process “disappeared”. Lois Lerner hard drive “incidents” took place in order to seek to hide information and run cover-ups.
- - DOE’s Jonathan Silver, Lachlan Seward and Steven Chu contacted members of the National Venture Capital association (NVCA) and created national “black-lists” to blockade Victims from ever receiving investor funding. This was also confirmed in a widely published disclosure by Tesla Motors Daryl Siry and in published testimony.
- FOIA requests were hidden, frozen, stone-walled, delayed, lied about and only partially responded to in order to seek to hide information and run cover-ups.
- - State and federal employees played an endless game of Catch-22 by arbitrarily determining that deadlines had passed that they, the government officials, had stonewalled and obfuscated applications for, in order to force these deadlines that they set, to appear to be missed.
- - Some Victims found themselves strangely poisoned, not unlike the Alexander Litvenko case. Heavy metals and toxic materials were found right after their work with the Department of Energy weapons and energy facilities. Many wonder if these “targets” were intentionally exposed to toxins in retribution for their testimony. The federal MSDS documents clearly show that a number of these people were exposed to deadly compounds and radiations, via DOE, without being provided with proper HazMat suits which DOE officials knew were required.
- - Victims employers were called, and faxed, and ordered to fire Victims from their places of employment, in the middle of the day, with no notice, as a retribution tactic.
- - Victims HR and employment records, on recruiting and hiring databases, were embedded with negative keywords in order to prevent them from gaining future employment.
- - Our associates: Gary D. Conley, Seth Rich, Rajeev Motwani and over 30 other whistle-blowers in this matter, turned up dead under strange circumstances. They are not alone in a series of bizarre deaths related to the DOE investigations.
- - Disability and VA complaint hearings and benefits were frozen, delayed, denied or subjected to lost records and "missing hard drives" as in the Lois Lerner case.
- - Paypal and other on-line payments for on-line sales were delayed, hidden, or re-directed in order to terminate income potential for Victims who competed with DOE interests and holdings.

- - DNS redirection, website spoofing which sent Victims websites to dead ends and other Internet activity manipulations were conducted. All commercial storefronts and on-line sales attempts by Victims, had their sites hidden, or search engine de-linked by an massively resourced facility in order to terminate revenue potentials for those victims.
- Over 50,000 trolls, shills, botnets and synth-blog deployments were deployed to place defamatory statements and disinformation about victims in front of 7.5 billion people around the world on the internet in order to seek to damage their federal testimony credibility by a massively resourced facility.
- - Campaign finance dirty tricks contractors IN-Q-Tel, Think Progress, Black Cube, Podesta Group, Stratfor, Fusion GPS, IN-Q-Tel, Media Matters, Gawker Media, Gizmodo Media, Syd Blumenthal, etc., were hired by DOE Executives and their campaign financiers to attack Victims who competed with DOE executives stocks and personal assets.
- - Covert DOE partner: Google, transferred large sums of cash to dirty tricks contractors and then manually locked the media portion of the attacks into the top lines of the top pages of all Google searches globally, for years, with hidden embedded codes in the links and web-pages which multiplied the attacks on Victims by many magnitudes.
- - Honeytraps and moles were employed by the attackers. In this tactic, people who covertly worked for the attackers were employed to approach the “target” in order to spy on and misdirect the subject.
- - Mortgage and rental applications had red flags added to them in databases to prevent the targets from getting homes or apartments.
- - McCarthy-Era "Black-lists" were created and employed against Victims who competed with DOE executives and their campaign financiers to prevent them from funding and future employment.
- - Targets were very carefully placed in a position of not being able to get jobs, unemployment benefits, disability benefits or acquire any possible sources of income. The retribution tactics were audacious, overt..and quite illegal.

Federal law enforcement, the United States Congress and the highest level investigators in the U.S., and abroad, have documented (per the “FISA Memo”, Congressional Reports and federal employee testimony) and proven the fact that the Obama Administration regularly engaged in the operation of retribution, vendetta and reprisal campaigns known as “hit-jobs” against domestic natural born U.S. citizen domestic taxpayers. The Federal Court, in at least one previous court case, has ruled that Victims, in this particular matter, was the victim and target of a number of these attacks designed to inflict permanent medical, emotional, character assassination, brand negation, economic and career damage.

You attacked and destroyed us simply because we said “yes”, as Americans, to your request to participate in your program and because we came up with better technologies that you weren’t clever enough to come up with on your own.

You engaged in state-sponsored illegal retribution via State and Federal agencies because the Victims were federal witnesses in a law enforcement and Congressional investigations of Obama Administration executives and financiers and because Victims were also an effective business competitor to those parties. Victims federally sponsored technology products obsoleted the technologies of the financiers of the Obama Administration in Silicon Valley which the Obama Administration owned the stock for on various stock market exchanges. These Administration financiers and their White House and Energy Department staff, who were shareholders in the competing technologies, were unable to compete so they chose to ***cheat and sabotage***.

The methods, tactics, techniques, methodologies and history-of-use of these political attack methods have been documented in the Snowden and Wikileaks to have been developed by the CIA and Russian FSB and then migrated to use against domestic citizens.

Stratfor, Black Cube, Fusion GPS, Gawker Media, Gizmodo Media, Google, Think Progress, Media Matters and In-Q-Tel are some of the contractors that accepted government funds to engage in these attacks against Victims, and their peers, as documented in FBI, Congressional, FISA Court oversight reports and investigative news reports. Victims have sued some of these parties, in the U.S. Courts, in the past and helped to expose their illicit reprisal deeds. Millions of pages of documents have been provided to Congress, proving these facts, and those documents are also available to those parties reviewing this statement in order to prove the veracity of the assertions in this statement.

The elected officials that attacked Victims made hundreds of millions of dollars via illicit insider trading using their Goldman Sachs, and other investment bank accounts, and their ownerships of Victims competitors. Those elected officials made laws and government policies in order to exclusively benefit themselves and their business holdings while those same laws were used to harm Victims. Recent federal investigations prove that each public official was only being paid \$170,000.00 maximum per year but they pocketed an average of \$84,000,000.00 in those same years off of stock market insider trades in Victims competitors. How can any fair analysis draw any other conclusion from this fact than the ruling that Victims had a “hit job” operated against them by State and Federal officials. If this, alone, were not enough evidence, there is much more, as follows.

Charting this out is Forensics 101 that any child could do:

1. Senator gets bribe from Company X.
2. Senator’s spouse or daughter buys covert stock in Company X and the suppliers of Company X via Goldman Sachs, et al.
2. Senator makes law or exclusive ruling to give Company X exclusive cash and taxpayer resources.

3. Company X makes “campaign contribution” to Senator as a follow-up bribe.
4. Company X has Goldman Sachs use free government cash to pump-and-dump Company X stocks which Senator, Governor, DOE and Obama staff covertly own. Senator, DOE execs and Obama execs make billions in windfall profits.
5. Senator and DOE staff black-list and sabotage Company X competitors from receiving the same benefits or competing with Company X.
6. As soon as the crooks get all of their skims they bankrupt Company X and make even more profits off of the dead Company X by filing “Tax Loss” filings and take another windfall.
7. DOE, IG, FBI and DOJ refuse to investigate the crime and run cover-ups because some of their bosses own stock in Company X and the suppliers of Company X.
8. Wash, Rinse Repeat and they go out and do it all over again.

The Victims suffered an illicit government sponsored attack which caused a number of permanent damages to Victims. This attack was designed to permanently damage Victims ability to work and to enjoy life. This attack was conducted as a retribution, vendetta and reprisal campaign by government officials.

As representatives of the government which Victims pay for, the current government officials owe Victims reparations, damages offsets and full benefits approval.

A recent third-party investigative report shows that State and Federal officials reviewing Victims case are compromised by political ideological mnemonics. How can those officials even remotely pretend to not be working against Victims, or pretend to not be biased against Victims when the Obama White House spent over \$30 Million dollars attacking Victims and Victims companies; as reported in major news, Congressional and IG reports.

The United States Department of Energy Inspector General, The FBI and the Pentagon’s Inspector General are now investigating over one thousand retaliation, reprisal and vendetta attacks against those who reported corruption during the Obama Administration as documented at the repository at <http://www.my-news.biz> and other sites. The U.S. Federal Court has ruled, in Victims other federal court cases, that the Victims “*were the victims of political corruption payback campaign operated by government employees...*” ; Per official published government reports including: “*ASSESSING THE DEPARTMENT OF ENERGY LOAN GUARANTEE PROGRAM*”, VERONIQUE DE RUGY - MERCATUS CENTER AT GEORGE MASON UNIVERSITY; The Multiple GAO investigation reports on the DOE from 2007 forward; and this Congressional indictment of the corruption and reprisals Victims experienced:

**U.S. House of Representatives
Committee on Oversight and Government Reform**



The Department of Energy's Disastrous Management of Loan Guarantee Programs

STAFF REPORT
U.S. HOUSE OF REPRESENTATIVES
112TH CONGRESS
March 20, 2012

THE U.S. CONGRESS REPORTED:

"After conducting a substantial review of the Department of Energy's (DOE) loan guarantee program, it is clear that the significant losses absorbed by taxpayers as a result of Solyndra's collapse is just the beginning. The investigation conducted by the House Committee on Oversight and Government Reform has uncovered numerous examples of dysfunction, negligence and mismanagement by DOE officials, raising troubling questions about the leadership at DOE and how it has administered its loan guarantee programs. ... DOE has overseen a process wrought with misdirection, changing and expanding requirements, unexplained delays, gross mischaracterizations, and a never-ending cycle of excuses. Not only does it appear that DOE purposely directed taxpayer funds at a failing enterprise, DOE's action robbed taxpayers of genuine investment toward renewable energy."

As of this date, the most senior members of the FBI have been terminated and/or placed under investigation for covering-up this matter. The United States Congress has issued numerous final reports charging government employees with heinous crimes of corruption in this matter. Top government executives have been charged with “Contempt of Congress” in this matter and over 300 government employs have been fired or forced into ouster because of this matter. Over 100,000 published news reports have documented these crimes and corruption activities.

In one of the lawsuits, not directly part of this compliant but similar to it, the following facts were set forth in Federal Court regarding Victims companies:

1. ***Plaintiff XP TECHNOLOGY (“XP”), a California sole proprietorship, is the assignee of all rights, title and interest in claims by an energy system company called Limnia, Inc. (f/k/a “FuelSell Technologies, Inc.”) (“Limnia”), and by its sister company, an advanced technology vehicle manufacturing company called XP Vehicles, Inc. (“XPV”), against the Defendants in this action. Limnia and XPV are Silicon Valley-based innovative “green technology” companies.***

2. ***Defendants are THE UNITED STATES DEPARTMENT OF ENERGY (“DOE”), a federal agency; STEVEN CHU individually and in his capacity as Secretary of Energy (“Chu”); and LACHLAN SEWARD, individually and in his capacity as DOE Director of Advanced Technologies Manufacturing Loan Programs (“Seward”).***

Jurisdiction, Venue and Declaratory Relief

3. ***Jurisdiction and venue are pursuant to Article III of the United States Constitution, 28 U.S.C. § 1331 (federal question), the Administrative Procedure Act, 5 U.S.C. § 702, and 28 U.S.C. § 1391(e).***

4. ***This Court’s authority to grant declaratory relief and to award attorney fees and costs is pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq. and 28 U.S.C. § 2412.***

Facts

Background

5. Pursuant to 42 U.S.C. § 17013, DOE - through Chu, Seward, their staff, advisors and consultants - administered the “Advanced Technology Vehicle Manufacturing Loan Program” (the “ATVM Loan Program”).

6. Congress created the ATVM Loan Program to support the manufacture of advanced technology vehicles and components in the United States and to reduce U.S. dependency on foreign oil. In 2008, Congress authorized DOE to make \$25 billion in ATVM loans. DOE currently has approximately \$16 billion of unused lending authority.

7. At all times relevant, Defendants had actual or constructive knowledge that the ATVM Loan Program had evaporated private investment capital for advanced technology vehicle development because venture capital and institutional lenders could not compete with government interest and repayment terms (1%-3% and up to 35 years, respectively), and that delaying or denying a small company’s ATVM Loan Program application was a business death sentence, particularly in the economic climate at the time.

8. Pursuant to 42 U.S.C. §§ 16511 and 16513, DOE through Chu, Seward, their staff, advisors and consultants also administered the “§1703 Loan Guarantee Program” (the “LGP”)

9. Congress created the LGP to support innovative clean energy technologies that are typically unable to obtain conventional private financing due to high technology risks. Through LGP, DOE guaranteed up to eighty percent of a loan for projects that “avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases; and employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued.” DOE currently has approximately \$34 billion in loan authority, with an additional \$170 million in appropriated credit subsidy carried over from previous years.

10. *Since 2002, Limnia and XPV have worked directly and extensively with DOE scientists at Sandia National Laboratory (“Sandia”) and elsewhere to develop advanced technology vehicles.*

11. *Limnia and XPV have provided DOE with confidential business information, including intellectual property and prototypes, all relevant to advanced technology vehicle energy storage systems, chassis and body materials and construction, and electronics. DOE, in turn, has helped fund Limnia’s and XPV’s work through grants and provided technical support and validation.*

12. *At all times relevant, Defendants had actual and/or constructive knowledge of DOE’s extensive history of work with Limnia and XPV on advanced technology vehicle energy systems, auto chassis and body construction, and electronics.*

XPV’s ATVM Loan Program Application

13. *Responding to a DOE solicitation, XPV applied on November 10, 2008, for \$40 million in ATVM Loan Program funds to mass produce an advanced technology SUV-style vehicle (“XPV’s SUV”). It offered DOE collateral independently valued at over \$100 million to secure this loan.*

14. *At all times relevant, XPV had design and business operations and/or had secured manufacturing and other facilities in Detroit, through Rausch Roush Automotive, and leasing companies in the Mountain West and the San Francisco Bay area.*

15. *Its vehicle design team included highly experienced automotive designers and senior Detroit automotive management staff, including the senior creation staff for the Corvette and the Mustang, and aerospace industry professionals.*

16. *XPV’s SUV was designed to be affordable (less than \$20,000 in its base configuration); to have nearly an unlimited range, charge rapidly without the need for either*

gasoline, a garage, or extension cords to charge; to be produced quickly and cheaply by subcontracting existing and underutilized factories, workers and machines; and to be easily repaired.

17. *One key innovation, based on a decade of research, was the use of polymer plastics and skinned pressure membranes to replace metal doors, body panels, hoods and roofs on a lightweight alloy frame. Consequently, XPV's SUV had a curb weight of less than 1,400 pounds (approximately one-third the weight of a Toyota Prius). The polymer plastic construction also added to vehicle safety because the foam-skinned polymer membranes functioned as a wraparound, pre-deployed "airbag" to withstand impacts and damp out crash damage.*

18. *At all times relevant, all of XPV's SUV's key parts either had been tested or used in industry-proven "off the shelf" applications. For example, the SUV's pressure membrane body technology was widely used in military applications, airbags, Mars landing equipment and even buildings and arenas.*

19. *XPV's primary financial and technical partnerspending customers included the Ranson Green Community Development Foundation, ZAP, Detroit Electric, over 40 vehicle distributors and resellers, its sister company Limnia and Sandia and other national laboratories. At all times relevant, XPV was actively engaging in discussions fored private sources of capital including Wells Fargo Bank; developing a distribution network; and otherwise preparing to commence production and sales.*

20. *XPV's ATVM Loan Program application contained confidential business information as defined by 10 CFR §§ 1004.10(b)(4) and (11), and 5 U.S.C. § 552(b)(4) including advanced technology vehicle energy storage and pressure membrane technology, among other things.*

21. *Defendants promised to guard this information and prevent its unauthorized disclosure and use or infringement. They also promised to evaluate ATVM Loan Program*

applications on a “first in, first out” basis; to treat all Victims fairly and to judge applications based on objective published criteria; and to make ATVM Loan Program funds available in January, 2009, for those who qualified.

22. *On December 2, 2008, Seward wrote to XPV acknowledging receipt of its ATVM Loan Program application and requesting additional information. See Exhibit 1. XPV provided this and on December 31, 2008, Seward deemed XPV’s application to be “substantially complete.” He said additional information would be requested if required during the review process. See Exhibit 2.*

23. *Upon information and belief, XPV’s ATVM Loan Program application was among the very first to be deemed substantially complete.*

24. *At all times relevant, XPV qualified for ATVM Loan Program funds under DOE’s published criteria and was, in fact, deemed a “qualified Victims” by Defendants. DOE’s own Excel comparison matrices dated Dec. 29, 2008 and March 2, 2009 placed XP in the top 5% of all Victims.*

25. *Defendants’ representations and promises led XPV to believe that DOE would begin processing XPV’s ATVM Loan Program application right after January 1, 2009 before the end of December and no later than January 1, 2009, and that the review process would take a matter of weeks, consistent with normal financial practices and procedures.*

26. *However, XPV soon found that Defendants had reneged on their promises and that the review process was taking months, not weeks. Discomfited by the delay, which blocked private capital and prevented SUV production, XPV repeatedly offered Defendants engineering, financial and other information to proactively speed and inform its application review.*

27. *At all times relevant, XPV was unaware both that its ATVM Loan Program application had been “set aside” in favor of applications from politically-connected government cronies and that Defendants had “fixed” the ATVM Loan Program process to benefit political donors. XPV also was unaware that Defendants had no intention of approving XPV’s ATVM Loan*

Program application under any circumstances, notwithstanding all of their representations and assurances to the contrary, because XPV competed with government-favored companies. Instead, XPV assumed Defendants were acting in good faith, and in accordance with law, to carry out Congress's intent by lending up to \$25 billion for the development and production of advanced technology vehicles in the United States to reduce U.S. dependency on foreign oil.

28. *On April 23, 2009, Jason Gerbsman, the Chief of Staff and Senior Investment Officer, at the Loan Programs Office, Automotive Division, of DOE, notified XPV that:*

[XPV] has submitted a substantially complete application and has been assigned to both a technical eligibility and merit review team, as well as a financial viability analysis team. The technical team is very close to finishing their evaluations on both eligibility and project merit, and the financial team will be launching a more detailed and interactive due diligence phase of the [XPV] application review very soon. Following the technical and financial evaluation under the second stage of the process, we will move into the underwriting phase where our goal is to negotiate a conditional commitment, including a detailed term sheet. This will be followed by the fourth phase of the loan process where the final details will be negotiated and the loan will be closed.

29. *On May 26, 2009, Gerbsman offered XPV an in-person meeting to discuss "next steps."*

30. *On May 28, 2009, XPV flew a representative from California to meet with Gerbsman. Gerbsman said that DOE had determined "everything was in order" with XPV's ATVM Loan Program application; that "everything looked good;" and that XPV "appeared to be fully compliant and passed technical review."*

31. *Shortly thereafter, XPV discovered that Tesla Motors, Inc. ("Tesla") and Fisker Motors, Inc. ("Fisker") were receiving special assistance from DOE staff with the ATVM Loan Program application process. Fisker even was given special and exceptional access to DOE staff, offices and conference rooms in DOE's headquarters at no charge. Both Tesla and Fisker were XPV competitors.*

32. *XPV requested similar assistance from DOE staff but was denied it because, as DOE staff put it, XPV's application was so good that special assistance was unnecessary.*

33. *Notwithstanding DOE's delays and the bankruptcy of other industry players due to the U.S. economic collapse and the failure of those other players to produce a product which the market found attractive and which met market needs as XPV's design did, XPV continued to grow throughout 2009. On June 15, 2009, XPV informed DOE that it was a semi-finalist in the Forbes "America's Most Promising Companies List" for 2009.*

34. *On or about June 22, 2009, DOE advised XPV that a Northern California solar energy company called Redwood Renewables ("Redwood") had requested a copy of XPV's ATVM Loan Program application from DOE through the Freedom of Information Act ("FOIA").*

35. *XPV contacted Redwood to see why it was interested in XPV's ATVM Loan Program application, and spoke with Redwood's principal, Tom Faust.*

36. *Faust said that he had been "screwed over" by Defendants and had wanted to know if others had similar experiences.*

37. *Faust said that his company had suffered "bad dealings" with Matt Rogers, a "stimulus advisor" to Chu from McKinsey & Company, and Steven Spinner, a key player in DOE's loan program office.*

38. *Spinner was an accomplished campaign bundler who had raised millions for the White House. He had been appointed to his government position in exchange for his fund raising, also had worked at McKinsey & Company and, according to a biography posted by the Center for American Progress, had served as an active advisor and investor to Tesla.*

39. *Faust claimed that Rogers and Spinner were "rigging the game" with respect to all DOE loans. He gave XPV Spinner's personal cell phone number and told XPV to call Spinner and ask him why XPV's ATVM Loan Program application was not moving forward.*

40. *XPV texted Spinner and then called him. Spinner answered the phone and said words to the effect of “Do not ever call me again. The awards have already been decided.”*

41. *On June 24, 2009, DOE announced that it was making \$8 billion in ATVM Loan Program funds available to Ford Motor Company (“Ford”), Nissan North America, Inc. (“Nissan”) and Tesla. DOE gave Tesla \$465 million of taxpayer funds at an interest rate of 1.6% to manufacture an expensive electric car that was far outside of American consumer budgets and demands.*

42. *On June 29, 2009, XPV wrote to Gerbsman again asking for action on its ATVM Loan Program application. XPV told Gerbsman that other lenders were hanging back until after DOE issued its term sheets.*

43. *Over the next seven weeks Gerbsman and other authorized DOE representatives repeatedly assured XPV that “everything was fine;” “everything is on-track;” and “you [XPV] appear to meet every criteria” with respect to its ATVM Loan Program application. XPV was even told that “we [DOE] should be able to announce [a loan] any day now...”*

44. *However, on August 21, 2009, Seward denied XPV’s ATVM Loan Program application. See Exhibit 3.*

45. *Seward said XPV’s application was “determined to be eligible” in accordance with the “evaluation criteria” in 10 C.F.R. §611.103 but that DOE was “not in a position to award every eligible application [ATVM Loan Program funds].” He also said necessity required DOE to “choose applications that are most likely to use [ATVM Loan Program] proceeds in a way that will best achieve the goals of the program” and that XPV’s application was rejected on this basis.*

46. *Seward did not disclose the criteria DOE used to weigh competing qualified applications or explain how or why XPV fell short in the “merit review.”*

47. *XPV then asked DOE to specify its reasons for denial.*

48. *In an email to DOE's Chris Foster, XPV requested DOE's merit review documents and asked how DOE could reasonably conduct a ten month comparative merit review of XPV's ATVM Loan Program application without working with a single company engineer or senior project staff member for even one percent of the time that DOE staff spent with Tesla, Nissan, Ford and/or Fisker during the same period of time.*

49. *Foster did not answer.*

50. *On or about August 26, 2009, XPV called Foster directly and Foster picked up the phone.*

51. *Foster told XPV that he would pull XPV's file and read to XPV the reasons given there for DOE's denial.*

52. *Foster said that the file indicated that DOE had denied XPV's application because its SUV did not use E85 gasoline; XPV was not planning on building "enough" vehicles; XPV was not planning on government sales; XPV's electric motors and batteries were too futuristic and not developed for commercial use; XPV's SUV was a "hydrogen car;" and XPV had underestimated the cost of metal body fabrication.*

53. *These "reasons" were baseless pretexts.*

54. *First, none of XPV's competitors that received ATVM Loan Program funds used E85 gasoline in their electric vehicles and most used no gasoline at all..*

55. *Second, XPV's family-friendly SUV was designed for fast and inexpensive mass production. This is why it was based on the use of commonly available parts from existing commercial sources with multiple points of supply and why it could be sold for only \$20,000.00 base in volume production.*

56. *Third, XPV's business plan and staff hires specifically provided for large government and fleet sales.*

57. *Fourth, XPV's SUV's "futuristic" electric motor and battery configuration had been in commercial and government use for decades.*

58. *Fifth, XPV's SUV was an electric and not a hydrogen vehicle.*

59. *Sixth, XPV's SUV contained minimal minimized amounts of metal, using safer, and easier to source and fabricate, polymers and plastics.*

60. *As XPV was explaining to Foster that the "reasons" given for denial were actually no reasons at all, Seward entered Foster's office and directed him to terminate the call. Seward told Foster to advise XPV that it would receive a letter from DOE with respect to its concerns.*

61. *Despite the passage of weeks, no letter was forthcoming.*

62. *Therefore, on September 21, 2009, XPV wrote to Chu requesting reconsideration of DOE's ATVM Loan Program denial. See Exhibit 4.*

63. *In this letter, XPV demonstrated that the "reasons" for DOE's denial read by Foster from XPV's file were false. It asked Chu to explain why DOE staff repeatedly assured XPV that approval would be forthcoming and that no additional information was necessary; to describe the merit review criteria; and to justify why government cronies that applied for ATVM Loan Program funds after XPV were reviewed earlier, given the benefit of extensive access to and interaction with DOE staff (a benefit denied to XPV), and then awarded funds.*

64. *On October 23, 2009, Seward wrote to XPV. See Exhibit 5. He did not answer XPV's questions. Instead, he attempted to backfill the record with new but equally baseless justifications for the denial of XPV's qualified application.*

65. *To begin with, Seward said that XPV's application was "deemed Substantially Complete on November 10, 2009." In fact, XPV's application had been deemed substantially complete on December 31, 2008.*

66. Seward said that the “proposed technology appeared...to be at a development stage and not yet ready for commercialization” and that the “assumption that the vehicle concept would be ready for production in three years” was a “significant weakness” due to the “high level of risk associated with the design.” In fact, XPV’s SUV technology had been in use commercially by the U.S. Department of Defense, NASA and the automobile industry; the politically-connected companies that were awarded ATVM Loan Program funds were no further ahead in production than XPV, less in some cases,; and elements of XPV’s “high risk design” were already in use by Toyota and Nissan in volume commercial retail sales to the mainstream market.

67. Seward said “the proposed project’s impact on fuel economy...was determined to be weak.” In fact, non-gasoline powered automobiles are uniformly recognized to offer the most significant impact on fuel economy performance in the world. And, XPV’s family-friendly SUV promised even better fuel economy than any of the ATVM Loan Program “winners” (Tesla, Nissan, Ford or Fisker) proposed, or actually offer, to this day.

68. Seward said “A review of the advanced fuels in your project and the feasibility of that energy source...was [sic] questionable.” In fact, the fuels, products and subparts of the “questionable” energy source were readily available to consumers at REI Sporting Goods, Amazon.com and Safeway supermarkets, among other places.

69. Seward said “A review of the calculations and assumptions supporting your claims for reductions in petroleum use were deemed to be unrealistic.” In fact, over 200 institutional research and white papers from respected government and university agencies from around the world supported XPV’s claimed reductions.

70. Seward said that XPV’s project “may be commercializable [sic] in the future, but is far too early in the development process to qualify” for ATVM Loan Program funds. In fact, XPV was further along in the “development process” than the politically-connected companies DOE had

funded and electric cars have been sold commercially by Detroit Electric since 1907, the technologies were what were called “off-the-shelf” delivered in a clever manner.

71. *Seward’s letter was the first time any of these issues had been raised by Defendants with XPV, notwithstanding ten months of review and “underwriting” involving large numbers of meetings, phone calls and emails. In fact, not only had Defendants never before raised these “issues” with XPV, they had affirmatively refused, over a period of months, to consult with any of XPV’s engineers and denied XPV the “interactive” review that they had promised to give in April, 2009, and that had been given to politically-connected ATVM Loan Program “winners,” including Tesla and Fisker.*

72. *Critically, Defendants did not say, in Seward’s October 21, 2009 letter or anywhere else, that XPV had offered inadequate security for the loan; Defendants did not say that XPV was a repayment risk; Defendants did not say that XPV had failed to demonstrate that there was a “reasonable prospect of repayment” of the proposed loan; Defendants did not say that XPV had failed to demonstrate it was capable of building, Defendants did not say distributing or selling the proposed SUV; Defendants did not say that XPV had failed to demonstrate “financial viability without the loan” as required by law.*

73. *To this day, neither Foster nor Chu nor Seward nor anyone else at DOE has ever provided XPV with DOE’s “merit review” evaluation records and criteria. DOE has refused to provide those results via FOIA requests by the media and the public.*

74. *At all times relevant, XPV qualified for the requested ATVM Loan Program funds pursuant to 10 C.F.R. Part 611.*

75. *At all times relevant, XPV had numerous and viable offers from and business opportunities with potential investors, manufacturing partners, distributors and customers.*

However, Defendants' wrongdoing, including their purposeful delay and baseless denial of XPV's ATVM Loan Program application, denied XPV the benefit of these business opportunities.

Limnia's ATVM Application

76. *On about February 1, 2009, Limnia applied for \$15 million in ATVM Loan Program funds to produce a "best of breed and state of the art" advanced technology vehicle energy storage system using Limnia's patented technology. Sandia was designated as a key subcontractor in this effort.*

77. *On April 10, 2009, Seward denied Limnia's application on the grounds that the components "do not appear to be designed for installation in an advanced technology vehicle..." See Exhibit 6. However, these grounds were false and a mere pretext to preserve ATVM Loan Program funds for government-favored companies and/or to protect those companies from competition.*

78. *On April 11, 2009, Limnia requested reconsideration, reminding Seward that the relevant patents provided the components were for use in advanced technology vehicles; that Sandia's vehicle technologies group was the prime subcontractor for the project; and that DOE had funded the technology specifically for use in advanced technology vehicles. See Exhibit 7.*

79. *On May 13, 2009, Seward again denied the application because the technology was "not installed in the advanced technology vehicle." This time, though, he asked for more information. See Exhibit 8. On June 3, 2009, Limnia responded with the requested information. It again requested reconsideration, pointing out that the components in question "must be installed prior to use in an advanced technology vehicle and are, accordingly, designed for such installation and therefore... 'qualifying components.'" See Exhibit 9.*

80. *Defendants never responded to this letter.*

81. *At all times relevant, Limnia qualified for the requested ATVM Loan Program funds pursuant to 10 C.F.R. Part 611.*

Limnia's LGP Application

82. *At all times relevant, DOE recognized that the LGP application fees and process were unduly onerous and burdensome.*

83. *On or about February 1, 2009, Limnia participated in a conference call with John Podesta, Chu and Interior Secretary Kenneth Salazar during which Chu promised to waive the application fee. In that call, Mr. Chu stated that the fees were onerous..*

84. *Relying on this promise, Limnia filed a LGP application on or about February 10, 2009, with a cover letter stating that it was Limnia's understanding Defendants had waived the application fee.*

85. *Limnia heard nothing from DOE until the deadline date of February 26, 2009. At that time, DOE's Myrtle Gross called and said that the initial application fee of \$18,000 had to be paid by midnight for the LGP application to be considered. This was Limnia's first notice Defendants reneged on their promise to waive the LGP application fee.*

86. *Limnia had the funds to make payment but could not complete the transaction by the midnight deadline. Therefore, it assumed the matter was closed.*

87. *On February 27, 2009, Daniel Tobin, DOE's Loan Programs Office Senior Investment Officer, called and said that there were "a few days of flexibility" to send in the application fee and promised to provide wire instructions. Tobin also promised to "pre-review" the application and to call back with feedback for Limnia's investors.*

88. *However, Defendants again reneged on their promise. Limnia never heard back from Tobin or anyone else at DOE, either with wire instructions or with the promised "pre-review."*

89. *Instead, on April 9, 2009, Limnia received a letter from Tobin dismissing it from the LGP without recourse. See Exhibit 10.*

90. *Defendants denied Limnia's requested reconsideration.*

Defendants' Cronyism And Program Abuses

91. *Because DOE's "merit review" criteria and process were so opaque, the taxpayer-funded ATVM Loan Program and LGP became cash cows for government cronies.*

92. *Politics and political pressure infected these programs, shaping, in whole or in part, the judgment of the ultimate decision makers including Defendants Chu and Seward, their staffs, advisors and consultants.*

93. *In February, 2011, GAO issued an investigative report on DOE's ATVM Loan Program. See Exhibit 11 "Advanced Technology Vehicle Loan Program Implementation Is Under Way, but Enhanced Technical Oversight and Performance Measures Are Needed," GAO-11-145 (Feb 28, 2011)(the "GAO ATVM Loan Report").*

94. *GAO found that DOE had made billions in loans without engaging "engineering expertise needed for technical oversight." As a result, GAO said "DOE cannot be adequately assured that the projects will be delivered as agreed."*

95. *Furthermore, GAO found that "DOE has not developed sufficient performance measures that would enable it to fully assess the extent to which it has achieved its...program goals" contrary to sound administrative agency practices.*

96. *The irrational absence of engineering expertise and the arbitrary and capricious failure to create objective performance measures facilitated the politicization of DOE's loan programs. In truth, Defendants used the ATVM Loan Program as nothing more than a veil to steer hundreds of millions of taxpayer dollars to government cronies, including Tesla and Fisker.*

97. *For example, Tesla’s loan of \$465 million, announced on June 24, 2009, was obtained in whole or material part through the efforts and influence of political patrons.*

98. *These patrons included Steven Westly, who was a major “bundler” of political contributions for the White House. His fundraising bought Westly special White House access and an appointment on a key advisory board counseling Chu and Seward. Upon information and belief, Westly sat on Tesla’s board from March 2007 to December 2009, when DOE gave Tesla \$465 million.*

99. *These patrons also included DOE’s Spinner, who had a key role in DOE’s loan programs because he too was a major “bundler” of contributions for the White House and a Tesla investor and advisor.*

100. *Tesla’s patrons’ contributions, and the political access secured thereby, were material factors in Defendants’ favorable treatment of and preferences for Tesla during the ATVM Loan Program application process and in Defendants’ decision to lend Tesla nearly half a billion taxpayer dollars at incredibly favorable rates and terms.*

101. *Predictably, Tesla’s business results have not justified Defendants’ special favors.*

102. *For example, Tesla, using taxpayer money to build a luxury vehicle aimed at rich actors, media personalities and businessmen, has repeatedly missed production targets, burned through cash and required DOE to repeatedly renegotiate loan terms to survive. . The renegotiation of the loan terms and the tax favors created for cronies created an unfair burden on the taxpayer.*

103. *On November 12, 2012, Tesla notified the Securities and Exchange Commission that:*

On January 20, 2010, we entered into a loan facility with the Federal Financing Bank (FFB), and the Department of Energy (DOE), pursuant to the Advanced Technology Vehicles Manufacturing (ATVM) Incentive Program. This loan facility was amended in June 2011 to expand our cash investment options, in February 2012 to modify the timing of certain future financial covenants and funding of the debt

service reserve account, and in June 2012 to allow us to effect certain initiatives in our business plan. We entered into another amendment with the DOE in September 2012 to remove our obligation to comply with the current ratio financial covenant as of September 30, 2012 and amend the timing of pre-funding the principal payment due in June 2013. Under the DOE Loan Facility, the FFB has made available to us two multi-draw term loan facilities in an aggregate principal amount of up to \$465.0 million. Up to an aggregate principal amount of \$101.2 million had been made available under the first term loan facility to finance up to 80% of the costs eligible for funding for the powertrain engineering and the build out of a facility to design and manufacture lithium-ion battery packs, electric motors and electric components (the Powertrain Facility). Up to an aggregate principal amount of \$363.9 million has been made available under the second term loan facility to finance up to 80% of the costs eligible for funding for the development of, and to build out the manufacturing facility for, our Model S sedan (the Model S Facility). Under the DOE Loan Facility, we are responsible for the remaining 20% of the costs eligible for funding under the ATVM Program for the projects as well as any cost overruns for each project. As of August 31, 2012, we have fully drawn down the aforementioned facilities.

104. In other words, all of the taxpayer funds are gone and Tesla needs new loan terms because it cannot keep its original commitments.

105. Tesla has also reported delivering a grand total of 256 vehicles for sale to customers. However, it promises “mass production” will begin in 2013. XPV had a far higher set of fleet sales leads, numbering in the tens of thousands, which had to be put on hold due to the DOE misdeeds.

106. Fisker’s ATVM Loan Program application for \$528.7 million, announced on September 22, 2009 (approximately a month after Defendants had rejected XPV’s qualified ATVM Loan Program application), also was obtained in whole or in material part through the efforts and influence of political patrons on DOE’s decisionmakers, Defendants Chu and Seward.

107. Fisker’s patrons were John Doerr and the investment firm of Kleiner, Perkins, Caufield & Byers (“KPCB”). At all times relevant, Doerr was a KPCB partner along with former Vice President Al Gore, among others, and KPCB was a Fisker investor.

108. Doerr and his partners donated millions to the 2008 Obama campaign and related Democrat political causes, buying preferential government treatment for their business interests.

Among other things, Doerr's political contributions earned him high-level White House access and a seat on the President's Council on Jobs and Competitiveness.

109. Contributions by Fisker's patrons, and the political influence secured thereby, were material factors in Defendants' favorable treatment of and preferences for Fisker during the ATVM Loan Program application process and in Defendants' decision to lend Fisker over half a billion taxpayer dollars at incredibly favorable rates and terms.

110. Predictably, Fisker's performance has not justified Defendants' favors. For example, DOE gave Fisker approximately \$169.3 million for "engineering integration" of a high-cost electric luxury car in Finland, and approximately \$359 million for manufacturing a low-cost plug-in hybrid sedan in the U.S. known as "Project Kx." See Exhibit 12 "Conditional Commitment Letter by and between United States Department of Energy and Fisker Automotive, Inc. – Execution Copy (September 18, 2009).

111. Defendants committed this money to Project Kx without a prototype or properly verifying Fisker's engineering, sales and supply chain claims and assumptions. Nevertheless, DOE asserted Fisker's loan would "create or save about 5,000 jobs" just for domestic parts suppliers" and parroted Fisker's claim that "up to 75,000-100,000 [Project Kx] vehicles will roll off assembly lines in the U.S. every year beginning in late 2012."

112. Fisker did not make Kx prototype available to the public or begin Kx production in 2010.

113. Fisker did not make a Kx prototype available to the public or begin Kx production in 2011, although it promised "mass production" would begin by the end of 2012.

114. On or about February 7, 2012, after Fisker had spent over \$170 million taxpayer funds, DOE froze its credit facility due to many missed deadlines. In June, 2012, Fisker made the

Kx prototype available to the public. The “low cost” sedan approved by Defendants in 2009 turned out to be a \$55,000 luxury car called the “Atlantic.”

115. *Defendants had claimed that 75,000 – 100,000 Fisker Kx cars would be rolling off domestic assembly lines by the end of 2012. On October 18, 2012, Fisker reported that mass production of the “Atlantic,” which had not yet begun, was delayed until 2014 or 2015.*

116. *Since 2008, Fisker has sold approximately 1,500 vehicles world-wide. Upon information and belief, Defendants’ “loan” to Fisker of the taxpayers’ \$170 million has “saved or created” one hundred or fewer jobs.*

117. *In March, 2012, and in response to complaints by Limnia and others, GAO reported on DOE’s LGP performance. See Exhibit 13 “DOE Loan Guarantees: Further Actions Needed to Improve Tracking and Review of Applications,” GAO-12-157 (March, 2012). GAO found that DOE treated LGP Victims inconsistently, favoring some and disadvantaging others; lacked systematic mechanisms for LGP Victims to administratively appeal adverse decisions; often ignored its own underwriting standards and skipped review steps; and re-reviewed rejected applications on an ad hoc basis. It also found that DOE’s practice of “[o]mitting or poorly documenting [LGP application] reviews reduces LGP’s assurance that it has treated Victims fairly and equitably.”*

118. *In October, 2012, emails released by Congress confirmed that at least several major LGP guarantee decisions were based on political factors and not on the merits of the various applications. See e.g. Exhibit 14 (Email from Jonathan Silver, former Executive Director, DOE Loan Programs Office, to James C. McCrea, DOE LPO credit adviser, dated June 25, 2010, stating “WH wants to move Abound [project] forward. Policy will have to wait...”); Exhibit 15 (Email from James C. McCrea to B. Oakley stating “Pressure is on real heavy...due to interest from VP”); Exhibit 16 (Email from Monique Fridell to Kimberly Heimert, et al. dated May 25, 2010 stating “DOE has made a political commitment to get Unistar through the approval process by 6/15”;*

Exhibit 17 (Email from James C. McCrea to Monique Fridell dated June 1, 2010 stating “Secretary [of Energy]...is adamant that this transaction is going to OMB by the end of the day Fri if not sooner. Not a way to do things but a direct order”)

119. Defendants bent the rules for political favorites such as Sen. Harry Reid and Rep. Steny Hoyer while government cronies received special personal access to high-ranking DOE loan program officials. See e.g. Exhibit 18 (Email from James C. McCrea to “barbiar” dated December 5, 2009 stating “[Harry] Reid may be desperate. WH may want to help. Short term considerations may be more important than long term considerations and what’s a billion anyhow?”); Exhibit 19 (Email from James C. McCrea to Julie Stewart dated May 25, 2010 stating “7th Floor has decided mid June CRB...there has been a commitment from S1 [Secretary Chu] to Steny Hoyer on this. Nothing like over committing and under delivering”; Exhibit 20 (Email from Brightsource Chairman John Woolard, an LGP Victims, to Jonathan Silver, DOE Loan Office Director dated November 10, 2010 stating “Thanks for offering to meet at your house tomorrow morning.” Silver replied “Came [sic] anytime. Guest bedroom is ready.”)

Defendants’ Abuse of XPV and Limnia

120. Defendants did not review XPV’s and Limnia’s ATVM Loan Program applications in good faith and in accordance with the criteria specified in DOE’s regulations, policies and promises. Instead, Chu and Seward, who were DOE’s ultimate decision makers, stonewalled XPV to benefit Tesla, Fisker and others favored because of their political contributions and connections. This damaged XPV and Limnia severely.

121. To begin with, when Defendants “fixed” the ATVM Loan Program and LGP to benefit government cronies, they knowingly and intentionally rendered the ATVM Loan Program and LGP applications by XPV, Limnia and other similarly situated companies futile and meaningless. They intentionally induced XPV and Limnia through multiple written and verbal

representations to spend hundreds of thousands of dollars and invest thousands of hours of engineering and professional time on a meaningless snipe hunt, to cover and protect government cronies.

122. Defendants' abuses of the ATVM Loan Program by delaying term sheets and wrongly denying loans, among other things, denied XPV and Limnia access to private capital.

123. At all times relevant, Defendants had actual or constructive knowledge that delaying or denying a small company's ATVM Loan Program application would be a business death sentence. Yet, Chu and Seward skewed, manipulated and fixed DOE's ATVM Loan Program review and "underwriting" to protect and advance the business and political interests of government cronies at XPV's and Limnia's expense.

124. For example:

- a. The ATVM Loan Program funds distribution date and the "first in, first out" review process were changed to benefit companies Defendants favored. Cronies that applied for an ATVM loan after XPV were reviewed earlier; walked through the "underwriting" process by DOE staff; given the benefit of unique agency interaction; and then awarded funds. XPV and Limnia, lacking White House connections and political patrons, were denied these things.*
- b. Defendants discriminated among Victims based on political contributions and connections. On the one hand, Tesla, Fisker and others received special favors and assistance from DOE, all to ensure that these companies' ATVM Loan Program and LGP reviews would be "successful." On the other hand, XPV, Limnia and others similarly situated were denied these favors and access. For these disfavored companies DOE paid outside, unqualified technical reviewers to conduct pretext diligence. For example, XPV spoke with Carol Battershel, who claimed to be the due*

diligence technical lead on XPV's application. She said she had gotten everything she needed "off [XPV's] website." However, neither she nor any other DOE technical reviewer talked to XPV's founder, inventor, engineers, project leads or primary contractors. In fact, Defendants actually declined to speak with XPV's engineers, even after XPV's engineers called and visited them to offer data and other information.

- c. DOE employees were ordered by Defendants to ignore non-favored Victims until deadlines had passed to shrink the Victims pool.*
- d. Defendants ignored standard commercial loan processes, including the use of competent engineers to carry out technical review and the consistent application of the same underwriting criteria to each application. Instead, the "loan review process" was intentionally manipulated, bypassed or stalled, to ensure that funds were given to government favored "winners" but not to XPV, Limina or other companies that lacked large political contributions and White House access.*
- e. Political officials made final ATVM Loan Program and LGP review and "underwriting" decisions without material regard for DOE's published criteria and regulations. For example, in or about October, 2009, XPV and Limnia were told by a DOE contractor who worked for Seward that Seward had been angered by XPV's and Limnia's public complaints about DOE's loan program administration and that Seward told his staff in late 2008 that it would be "a cold day in hell before I let them [XPV and Limnia] get any money."*
- f. Defendants have only granted ATVM Loan Program applications for companies with direct political connections to the White House. Notwithstanding billions in lending authority and multiple qualified Victims, Defendants have, in the years since*

September 22, 2009, failed to make even one ATVM loan. Upon information and belief, this failure is in material part to protect government favorites such as Fisker and Tesla from competition.

- g. Upon information and belief and at all times relevant, Chu and Seward “carved out” funds from DOE’s authorized lending authority and “held” same for government cronies who made political contributions; provided political support for and assistance to the Administration; and/or hired political fixers to obtain “top-tier status” and “special relationships” with Defendants and others.*
- h. Defendants repeatedly renegotiated the Tesla and Fisker loans to protect their competitive positions and to guard their political patrons, contrary to sound commercial lending practices.*
- i. Defendants denied XPV’s and Limnia’s ATVM Loan Program applications on baseless pretexts. These included false XPV application “defects” and the assertion that energy storage technology developed by Limina with DOE for use as a component in an advanced technology vehicle was, in fact, not a component in an advanced technology vehicle for ATVM Loan Program purposes.*
- j. Defendants promised to waive the LGP application fee for Limnia. Hours before the payment deadline, DOE reneged. The next day, DOE contacted Limnia promising to accept late payment. Again, DOE reneged.*
- k. DOE hid the “merit review” data, reviewer identities, reviewer work histories, and other information from XPV, Limnia, all other ATVM Loan Program Victims and the public. This information, if disclosed, would have allowed for an open and transparent loan process and allowed XPV, Limnia, the other ATVM Loan Program Victims and the public to evaluate the efficacy of DOE’s merit review.*

- l. *DOE willfully, intentionally and substantially overestimated government crony company production capabilities and sales performance to justify its approval of their ATVM Loan Program applications. For example, DOE promised that Fisker alone would have “75,000 – 100,000” ATVM Loan Program-funded cars rolling off of U.S. assembly lines. In 2012, Ford, Nissan, Fisker and Tesla (the ATVM Loan Program “winners”) combined sold fewer than 25,000 ATVM Loan Program-funded vehicles nationwide.*

125. *As a direct consequence of Defendants’ wrongdoing, broken promises and political cronyism, XPV and Limnia were improperly denied ATVM Loan Program funds and LGP guarantees; deprived of the opportunity to compete for government funds on a level playing field; and prevented from creating good American jobs through the production, marketing and sale of advanced technology vehicles and systems developed in conjunction with DOE’s own scientists.*

Claims for Relief

First Claim for Relief: Due Process Violations by Chu and Seward.

126. *XP repeats paragraphs 1-125.*

127. *At all times relevant, XPV and Limnia each had a procedural Fifth Amendment due process right to have their ATVM Loan Program applications considered fairly and equally on their merits, without regard for political contributions, political influence or the competitive interests of government crony companies such as Tesla and Fisker.*

128. *At all times relevant, XPV and Limnia satisfied all of DOE’s ATVM Loan Program eligibility criteria and DOE had sufficient funding and appropriate legal authority to make the loans XPV and Limnia had applied for in response to a government solicitation. XPV, in fact, was officially deemed a “qualified Victims” by DOE. Therefore, XPV and Limnia each had a*

substantive Fifth Amendment due process right and a constitutionally-protected property interest in those funds.

129. However, in abuse of their authority and contrary to law Chu and Seward conspired and agreed to violate XPV's and Limnia's constitutional rights by skewing and manipulating the ATVM Loan Program to steer funds to and protect government cronies.

130. Improperly elevating political contributions to and connections in the White House as factors in the consideration of applications and the award of ATVM Loan Program funds, Chu and Seward deprived XPV and Limnia of their right to a fair and level review of their applications, and denied them access to the government loan funds they were entitled to receive as qualified ATVM Loan Program Victims.

131. Chu and Seward did not have either the legal authority or the bureaucratic discretion to do these things.

132. XPV and Limnia were aware of Defendants' manifest mismanagement almost immediately, in December, 2008.

133. On or about June 22, 2009, XPV was told by Redwood that all DOE loans had been "rigged" by Spinner, among others.

134. In October, 2009, XPV was told by a DOE contractor in a phone call that Seward was retaliating against it for complaining about DOE's loan program administration by denying XPV and Limnia funds.

135. In or about February, 2011, GAO issued its ATVM Loan Program Report containing serious programmatic criticisms of Defendants' ATVM Loan Program administration. XPV and Limnia became aware of GAO's criticisms shortly after they were published.

136. However, it was not until September 29, 2011, with the publication of credible, sourced media stories tying ATVM Loan Program funding decisions to White House political

bundlers that XPV and Limnia discovered that political influence and campaign contributions had impermissibly infected Chu's and Seward's decision making and that these considerations had likely caused Defendants to deny XPV's and Limnia's ATVM Loan Program applications to protect the government's political cronies. See, e.g., Exhibit 21 Mosk and Greene, "Obama Fundraisers Tied to Green Firms That Got Federal Cash," ABC News (Sept. 19, 2011).

137. Chu's and Seward's due process violations, jointly and severally, have damaged XPV and Limnia in excess of \$225 million.

Second Claim for Relief: Administrative Procedure Act (XPV ATVM Loan).

138. XP repeats paragraphs 1-137.

139. DOE's final agency action denying XPV's ATVM Loan Program application was contrary to law, arbitrary and capricious, and in excess of its statutory authority.

140. Furthermore, the agency's action in this case was impermissibly infected with political pressure, which shaped, in whole or in part, the judgment of the ultimate agency decision makers with respect to that application.

141. As a result, XPV has been directly harmed and aggrieved.

142. XPV has exhausted all administrative remedies.

143. Alternatively, such exhaustion would be futile as DOE has fixed the ATVM Loan Program to benefit government cronies and there are no circumstances under which XPV's ATVM Loan Program application would ever be approved by the agency.

Third Claim for Relief: Administrative Procedure Act (Limnia ATVM Loan).

144. XP repeats paragraphs 1-143.

145. DOE's final agency action denying Limnia's ATVM Loan Program application was contrary to law, arbitrary and capricious, and in excess of its statutory authority.

146. *Furthermore, the agency's action in this case was impermissibly infected with political pressure, which shaped, in whole or in part, the judgment of the ultimate agency decision makers with respect to that application.*

147. *As a result, Limnia has been directly harmed and aggrieved.*

148. *Limnia has exhausted all administrative remedies.*

149. *Alternatively, such exhaustion would be futile as DOE has fixed the ATVM Loan Program to benefit government cronies and there are no circumstances under which Limnia's ATVM Loan Program application would ever be approved by the agency...."*

150. *In the lawsuits filed by Victims, working with Congressional parties, the goal was to recover damages for Victims, expose and document the corruption by State and Federal employees and change State and Federal laws so that public officials could never again engage in such crimes. For his effort, and in retribution, vendetta and reprisal by The Obama Administration, now notoriously documented in the news and Congressional investigations for having employed armies of hit-men, character assassins and reprisal services like Fusion GPS, Mossad's Black Cube, Media Matters, Stratfor, Gawker, etc.; Victims was poisoned, injured and otherwise attacked in manners which permanently disable him, on orders from State and Federal officials.*

An Example of over 100,000 public news articles discussing this case is this item:

Obama's Energy Department Raped U.S Manufacturing Companies And Destroyed An Auto Industry

By Kyle Winston- Detroit Inside News

Barack Obama was a vindictive narcissist who said "yes" to every under-handed scheme that David Plouffe, Rahm Emmanuel, Robert Gibbs, David Axelrod and John Podesta dragged into the Oval Office.

One such scheme was designed to provide crony campaign finance payola in the form of "Cleantech Cash" and stock market pump-and-dumps for Obama's Silicon Valley Oligarchs. This scheme, and

others like it, are the subjects of the feature films: **Too Big To Fail**, **Clinton Cash**, **Inside Job**, and other films about the corruption of public tax dollars. The 60 Minutes investigative segments called: **The Cleantech Crash**, **Congress Trading On Insider Information** and **The Lobbyists Playbook** go into great detail about how these complex and extreme crimes were operated by the highest level public officials in the land.

With such an overt set of crimes, you would think there would be a large number of arrests but, as the Snowden, Panama, Swiss and FISA leaks now confirm, dirty bosses at the FBI and DOJ were not only covering up these crimes, but profiteering off of them. The Attorney Generals in New York and California were being paid by the very criminals engaged in these crimes.

The victims hit hardest were the independent automobile manufacturers in America. They were solicited by Obama, and his cronies, to waste their lives, budgets, brands and futures on Obama's green car scheme. It turns out they were just defrauded into being used as theater props and facades to run cover for the kick-backs behind Obama's covertly hard-wired **Advanced Transportation Vehicle Manufacturing** and **Loan Guarantee Programs**. Only Obama's insiders were ever intended to get the cash.

History proves that hundreds of car companies with better technologies, better business metrics, lower costs, safer defect records, far better debt ratios, more public demand, and hundreds of other advantages, were blockaded and sabotaged by Obama. Obama did this to protect his insider crony car companies Tesla and Fisker because they paid for Obama's political campaigns. These facts are now indisputable. Hundreds of Congressional hearings and tens of thousands of media reports prove it beyond any doubt.

Bright Automotive, Zap Cars, XP Vehicles, Brammo, Eco-Motors, Aptera, VVC, Bannan Automotive, Local Motors, T3, Think, Biotrike, EV Innovations, Vectrix, Limnia, Revolution Motors, Kleenspeed, Electric Motors Corp, Alte, Phoenix Motors, Wrightspeed, Goodearth, Cooperative Energy, Elio, Transonic, VPG, Electrovaya, ElectroRides, MotorTrike, BG, Futuris, and a host of other domestic companies were lied to and defrauded by Obama's U.S. Government.

Federal representatives solicited and encouraged these companies to spend years of their time, staff commitments, mortgages, leases, payrolls and expenses on these bogus Department of Energy programs. During the entire operation of these programs energy bosses Steven Chu, Lachlan Seward, Matt Rogers, Steve Spinner, and the rest of Obama's lackeys, knew that the money would **only ever** go to Obama's campaign financiers at Solyndra, Tesla, Fisker and a handful of insiders. The San Francisco FBI kicked in the doors of Solyndra because so much money was missing but FBI bosses ended the investigation when Solyndra's profits were found to lead straight back to Obama's Oval Office. As we all now know, FBI Director James Comey and Secretary of Energy Steven Chu were terminated for this corruption.

The abuse of these domestic Victims did not end with just the stone-walling and government blockades. It got far darker. The Obama Administration hacked, poisoned, blocked benefits of, spied on, black-listed and character assassinated any person from those outsider companies who cooperated with the investigations of Obama's crimes.

In another published Congressional report we learn:

"...The U.S. Department of Energy and the Obama White House ordered, financed and operated attacks on domestic taxpaying voters who were solicited by the Department of Energy to engage in Department of Energy programs.

The staff and owners of Bright Automotive, Zap Cars, XP Vehicles, Brammo, Eco-Motors, Aptera, VVC, Bannon Automotive, Local Motors, T3, Think, Biotrike, EV Innovations, Vectrix, Limnia, Revolution Motors, Kleenspeed, Electric Motors Corp, Alte, Phoenix Motors, Wrightspeed, Goodearth, Cooperative Energy, Elio, Transonic, VPG, Electrovaya, ElectroRides, MotorTrike, BG, Futuris, and and host of other domestic companies were lied to and defrauded by Obama's U.S. Government.

The U.S. Department of Energy owes those parties cash payments for the damages maliciously caused by the DOE attacks against the individual Americans who reported the crimes engaged in by the U.S. DOE and the Obama White House.

The DOE and the Obama White House engaged in the ordering, operation of, financing and administration of attacks against these Americans which included: Financing black-lists, venture capitol black-lists, Google/Facebook/Twitter coordinated attacks and fake news, toxic poisoning, hacking, bugging, DNS black-holes, PayPal buyer hiding, character assassination, sending false information and defamation to employers, HR and recruiting agency database hacking and disinformation placement, the hiring of Fusion GPS/Media Matters/Gawker/Think Progress/In-Q-Tel, et al; for media assassinations, deploying spoof re-direction of websites, the placement of moles and outside agitators inside of those companies, stone-walling of their applications, defrauding Victims, use of the Victims to cover the DOE crony slush-fund, political bribery, anti-trust violations, competitive business spying and other criminal and illicit deeds against Americans.

The employees and contractors at the United States Department of Energy (DOE) are the servants, staff and hired help for the citizen taxpaying voters of the United States of America. They work on their behalf and are paid for their work by those citizen taxpaying voters of the United States of America...."

In one individual case, the individual person has sworn to the veracity of the following facts:

Victim has been employed since 1973. He worked for his community and his country as a law enforcement and intelligence researcher (law/IC) in which he closed cases that saved Americans billions of dollars. He held numerous state and federal certifications and credentials to this effect and was certified as an investigator under the State Government at the California Office Of Consumer Affairs. He also worked as a CEO, Inventor and Product Development Director for which the U.S. Government has awarded him dozens of seminal patent awards for products in use by Microsoft, Sony

and other major companies to provide products and services to billions of people. He has received commendation letters from U.S. Presidents, Agency heads and Mayors. He is pictured in videos, photographs, articles, meetings and on thank-you and commendation letterhead government and corporate correspondence with some of the most famous public and White House figures in America since the 1970's.

After he reported the corruption in a trillion dollar Department of Energy embezzlement scam involving crooked uranium, lithium, indium and other metals, he was attacked by State and Federal employees, many of whom have now been terminated because of their actions.

The industry metricized standard for person's with, at least, the skills and experience of Victim, in his demographic, is a minimum of \$10,000 per month in the local technology market for those with less hours, less patent awards, less past work reference letters and less experience than Victim. In fact, the past pay-stubs for Victims prove that he was valued at a minimum of \$10,000.00 per month by various corporations. For the government say that his documented economic disabilities which are caused by the U.S. Government and work history limit Victims to only \$800.00 per month is not tolerable. It was the U.S. Department of Energy attacks that reduced the Victim's income from \$10,000.00 per month to \$800.00 per month. The Victim was FORCED to take early SSA retirement at the lowest possible amount. This was not a choice Victim would have made under any other conditions. The U.S. Government should provide Victim the compensation and benefits figures at the highest possible amount due to the circumstances described herein and his life-long service to his country. It is primarily the fault of the U.S. Government actions that led to Victim's most damaging and disabling conditions.

The federal courts and law enforcement have ruled, and hold proof, that Victim was subject to reprisal, vendetta and revenge tactics by State and Federal employees exposed in one of the law enforcement cases Victims worked on and testified in.

Even though Victim has been an extraordinarily productive, working member of the community and the U.S. Government and Victims has organized companies and programs which have paid millions of dollars in taxes, Victims is currently only afforded the most minimal benefits possible. In other words, Victims has saved billions of dollars for the Government and the taxpayers and, additionally, has organized companies and programs which paid millions of dollars in taxes and free services to The Government yet Victims seems to be getting only reprisals as gratitude.

The current benefits amount is so low it is impossible to live on. Government officials have suggested Victim should "*move to Panama*" where it is cheaper. Even Panama, and other third world countries, won't let you live there unless you are receiving at least \$1000.00 to \$1500.00 in benefits. Is the Government in the business of sending natural born citizen taxpayers to third-world countries and depleting the nation of its native human resources?

State and Federal employee corruption and reprisal actions cost Victim his life savings and nearly a billion dollars of potential income by intentionally sabotaging and terminating his operating, Congressionally financed, Congressionally commended electric car company and his national energy company. He went from having the highest rated car company in America to watching the Department of Energy take his money and give it to his competitor while using Department of Energy funds and resources to attack him according to Senators, DOE staff and Tesla executives.

Corrupt State and Federal employees engaged in these benefit blockade reprisals because Victim's companies that competed with the stock market holdings of those corrupt State and Federal employees. These are the very same public officials who have interdiction capability at state and federal agencies. It is quite reasonable to assume that these State and Federal employees with a court record of using reprisal actions against others just like Victims, did not also call for Benefit blockades against Victims. These public officials defrauded Victims by asking them to invest in their program but it turns out they were using Victims business ventures to cover their crimes at the expense of Victims and the taxpayers.

To be clear, Government employees put hundreds of millions of dollars of stock market profits in their, and their associates pockets, part of which they took from Victims funding, and then attacked Victims, in a large number of reprisal actions, when Victims reported this and the FBI raided Solyndra, opened the Uranium One investigation and then had to have the FBI's Director fired for illicit political manipulations.

Part of Victim's work involved creating America's next national energy solutions. Victims worked with the U.S. Department of Energy, HUD, NAHB and related entities in work with the national weapons and energy labs since 2000. Victims worked with nuclear, heavy metals, sintered rare earth metals, extreme solvents and nano-particulated exotic chemistries and won a historical Congressional commendation, first-ever seminal U.S. Government patent awards, industry and press acclaim, customer acclaim and a multi-million dollar lab research grant in the Congressional Iraq War Bill.

Victims was one of the people tasked with building America's back-up energy technologies for the potential disruption of the Middle East.

In the course of Victims work Victims, and his Team, uncovered a nearly one trillion dollar Energy Department corruption matter which led to the termination of senior staff at the U.S. Department of Energy, the FBI raid on their facilities and an ongoing FBI investigation. This also led to a suspected reprisal exposure to toxic materials which will remain in Victims body, at a cellular level, for the rest of his life. This led to black-listing and HR database manipulation attacks by attack firms such as Fusion GPS, Stratfor, In-Q-Tel, Gawker, David Brock Group, PD Group, Black Cube and related contract reprisal services featured in contemporary news headlines. These character assassination and damage delivery services were hired to poison Victims and terminate his career in every sense of the word.

Because of Victims service to his country, Victims has been denied his legal, Constitutional, economic and income rights. The Victims U.S. Constitution and California Constitutional rights have been denied because he "*did the right thing*" and helped law enforcement.

Victims family, friends, supporters, reporters and the public will never let this matter lapse without a fair review. Every unbiased third-party review of this matter has concluded that Victims "got screwed" by the Federal and State officials who were supposed to represent him in a non-partisan manner and who own portions of his competitors business and stock market ventures. In the opinion of the public: "That us a felony conflict of interest!" by those who are supposed to be working in Victims interest.

The FBI case files, SFPD case files, GAO case files, associated cases federal court files (which have already had rulings confirming these assertions) and Congressional investigation case files prove Victims assertions of government staff corruption and a system of organized vendetta campaigns against Victims and hundreds of his associates.

This is not about politics as far as the many Victims are concerned. The Victims is not associated with any political party. This is about vendettas and revenge by State and Federal employees against these people. This is a law enforcement and corruption matter.

The U.S. Attorney General, The Head of the White House Press Office, The Director of the FBI, The Secretary of Energy and his staff have been fired, or forced to quit, because of this case. This is a very large matter but it is not about politics. It is about felony level crime and the physical, toxicological, emotional, reputational, brand and strategic attacks on Victims by government officials who own stock market holdings in Victims competitors and their financiers.

Senior Federal and State executive government officials, and their campaign financiers at Google and Tesla Motors, ordered, operated and paid for the disabling attacks described herein.

The victims are being stone-walled.

The Victims ave asked the FBI, The GAO, The NLRB, Journalists and Congressional Investigation committees to track this next stage of the appeals because of previous conflicts of interest by state and federal reviewers and consultants in this case.

In the earlier portions of this matter, up to this date, most of the reviewers, judges, administrators, and consultants, providing input or rulings have been shown, by investigators, to have had a political and economic affiliation with the DNC. All of the parties that his case has caused to be fired, arrested and otherwise terminated had a political and economic affiliation with the DNC as proven by their archived emails, social media data, photographic postings, event attendance, campaign contributions and forensic records.

Victims donation to The City of San Francisco of the Clean Tech Green community center building and his electric car company, along with his extensive spoke-person work for green energy and his help in producing the Federal Jobs Act Law would lead one to believe that he would receive support from DNC entities rather than hit-jobs. The organized crime profiteering by DNC bosses seems to have led things in another direction.

Even though Victims has no political involvements, Victims has been targeted and victimized by the State and Federal officials who are seeking to run reprisals because of their embedded emotional political triggers and their crony illicit profiteering schemes.

While officials have denied these conflicts, FBI/Congressional-class forensic evidence on every party who has handled this case, so far, proves otherwise. Over 500 lawsuits and federal investigations on other people's cases for VA, IRS, DOE, etc., has proven that state and federal agencies do indeed conduct illegal reprisal decisions against whistle-blowers, witnesses and others such as Victims.

In fact, if any other participant in Victims review is found to have such an unreported conflict of interest, Victims associates will pursue those continued violation of his rights as a felony, with the full force of the law, the media and public information resources.

Tens of thousands of pages of evidence and hours of videos proving these assertions have been posted on-line by multiple journalists, the public and investigation organizations, on multiple web site copies globally, for the convenience of the court and related investigators, such file repositories include: www.outloud.biz, www.my-news.biz, www.theintercept.com, and tens of thousands more, globally, hold confirming evidence

Since 2008, DOE has spent ten times more taxpayer money and time delaying Victims cases than if DOE had approved their original compensation requests.

It would seem to be a smarter bargain for the government and the taxpayers to approve the Victim's compensation now, and end this dispute, rather than waste more taxpayer funds fighting it in cases which the Victim's have always won. The Victim's, their families and peers have sworn to extend this dispute for the rest of the lives of the current DOE staff, or until the damages compensation is provided.

As this matter is underway, the most senior FBI and DOJ executives including James Comey, Andrew McCabe, Peter Strzok, David Oh and others are under federal investigation for running character assassinations and working with the economic assassins from Fusion GPS, Google Media, Gawker Media and other illicit attack organizations. Victims reported to some of these men.

Charges of FBI, DOJ, VA and SSA executive reprisal manipulations and attacks against citizens would have sounded ludicrous and a decade ago but, in the post-Snowden world, catching those who pervert State and Federal offices has become common-place. It is beyond reasonable to assume that Victims charges of reprisal-stonewalling are well founded and have full legal merit. The services who charge to perform the support work for such attacks would charge a minimum of \$30,000,000.00 for the same life-time placement of negative attack data on Google and on all of the Axiom, Taleo and other hiring HR and hiring databases, globally; and the locking, on the front top page of Google search results, forever, of the attack and defamation data, as was done because Victims testified to Congress.

In other words, DOE spent over thirty million dollars trying to end each Victim's lives using malicious CIA-like technologies and tactics as well as corrupt and bribe-based illicit actions. Thus: DOE is responsible for spending the money to compensate those Victims for their damages!

Today Rep. Paul Gosar (Ariz.) said the FBI's surveillance of a former Trump campaign adviser detailed in a controversial intelligence memo released Friday "constitutes treason." Gosar said in a statement that he will co-author a letter to Attorney General Jeff Sessions seeking "criminal prosecution against these traitors to our nation," referring to those who authorized the surveillance warrant. That attacks against us, and what they were reprisals for, were part of this "treason".

"This is third world politics where the official government agencies are used as campaign attack dogs," Gosar said. The Congressman called former director and deputy FBI directors and two former deputy attorney generals "traitors to our nation". Using DOE for the same purpose is no less of a violation.

What is treason and what are the punishments?

*"Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and **shall suffer death**, or shall be imprisoned not less than five years and fined under this title but not less than \$10,000; and shall be incapable of holding any office under the United States."*
(source)

The award winning Netflix television documentary entitled WORMWOOD, details the murder of U.S. employee Frank Olsen, in New York by a federal agency. The family of Frank Olsen received an in-person apology from President Ford, for the government caused death of Mr. Olsen. World renown investigative reporter: Seymour Hersh, featured in that documentary, has stated that he is aware of hundreds of such attacks on U.S. citizens. Lawyer Alan Stein, who has represented numerous survivors who were once victimized by the CIA at the Allan Memorial Institute in Montreal has provided vast amounts of evidence confirming the validity of these charges. This even further validates the fact that rogue State and Federal agency executives do actually, poison, murder, character assassinate and career sabotage those they feel may expose their illicit schemes, as they attempted to do with Victims.

The attacks on Victims were "State Sponsored Attacks" directed, financed and managed by government officials in a coordinated attack.

You at DOE have refused to provide FOIA documents that were properly requested because you are fully aware that they reveal information that will send a large number of criminal employees to prison.

Instead of the "Thanks of a grateful nation", Victims have received political reprisals, revenge and vendettas using taxpayer financed resources. Victims have contributed more in the service of their country and community than most non-veteran current disability approved recipients, yet Victims are treated to reprisal and vendetta actions by government peer agencies.

That does not seem quite fair. The message it sends to the public is that the government is a crime syndicate and not a fair body worthy of the trust of the people!

DOE should want to resolve this issue and not stimulate Victims, and hundreds of millions of domestic voters, to prosecute this matter forever.

We ask your office to correct the record and bring fairness and justice to the finalization of this case. Victims, his family, friends, associates and others will pursue this forever, through the media, law enforcement and alternative means ...until it is fairly resolved.

Simply deliver the FOIA documents, offer a fair cash settlement to pay for the Victim's damages and end the illicit cover-ups.

Thank you for your valued consideration in this matter.

Let's resolve this today!

BCC: All Law enforcement, regulatory, independent news and voter information distribution outlets

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