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**NATIONAL SECURITY AGENCY/CENTRAL SECURITY
SERVICE**



INSPECTOR GENERAL

REPORT OF INVESTIGATION

14 November 2016

IV-16-0022

Alleged Misuse of Government Resources

(U) This report might not be releasable under the Freedom of Information Act or other statutes and regulations. Consult the NSA/CSS Inspector General Chief of Staff before releasing or posting all or part of this report.

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Approved for Release by NSA on 07-28-2022 FOIA Case # 85643 (Litigation)

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(U) OFFICE OF THE INSPECTOR GENERAL

(U) Chartered by the NSA Director and by statute, the Office of the Inspector General conducts audits, investigations, inspections, and special studies. Its mission is to ensure the integrity, efficiency, and effectiveness of NSA operations, provide intelligence oversight, protect against fraud, waste, and mismanagement of resources by the Agency and its affiliates, and ensure that NSA activities comply with the law. The OIG also serves as an ombudsman, assisting NSA/CSS employees, civilian and military.

(U) AUDITS

(U) The audit function provides independent assessments of programs and organizations. Performance audits evaluate the effectiveness and efficiency of entities and programs and their internal controls. Financial audits determine the accuracy of the Agency's financial statements. All audits are conducted in accordance with standards established by the Comptroller General of the United States.

(U) INVESTIGATIONS

(U) The OIG administers a system for receiving complaints (including anonymous tips) about fraud, waste, and mismanagement. Investigations may be undertaken in response to those complaints, at the request of management, as the result of irregularities that surface during inspections and audits, or at the initiative of the Inspector General.

(U) INTELLIGENCE OVERSIGHT

(U) Intelligence oversight is designed to insure that Agency intelligence functions comply with federal law, executive orders, and DoD and NSA policies. The IO mission is grounded in Executive Order 12333, which establishes broad principles under which IC components must accomplish their missions.

(U) FIELD INSPECTIONS

(U) Inspections are organizational reviews that assess the effectiveness and efficiency of Agency components. The Field Inspections Division also partners with Inspectors General of the Service Cryptologic Elements and other IC entities to jointly inspect consolidated cryptologic facilities.

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I. (U) SUMMARY

(U//FOUO) On 09 November 2015, the NSA/CSS Office of Inspector General (OIG) received an allegation that NSA/CSS contractors, [redacted] misused NSA/CSS Information Systems (ISs). Specifically, it was alleged that while supporting a government contract, [redacted] used Agency ISs to recruit employees from other contractor companies to work for [redacted]. During the subsequent investigation, the OIG developed allegations of IS misuse on the part of two additional [redacted] employees. [redacted]

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(U//FOUO) The OIG found that [redacted] regularly used Agency ISs to discuss the recruitment, hiring, and compensation of several potential [redacted] employees. Between 03 February 2016 and 22 March 2016, [redacted] used [redacted] to engage in conversations with several NSA/CSS contractors for the purpose of recruiting them to work for [redacted]. In March 2016, [redacted] also used [redacted] to arrange to meet a [redacted] new hire in NSA spaces in order to have her sign her [redacted] offer letter. Between 01 February 2016 and 26 May 2016, [redacted] used [redacted] to instruct subordinate team leads to make specific job and salary offers to potential [redacted] hires. He also utilized Agency ISs to send emails regarding recruitment and employment at [redacted].

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(U//FOUO) During their interviews with the OIG, both [redacted] acknowledged violating Agency policy by using Agency ISs to engage in non-contract-related chats, specifically those regarding employment with [redacted]. Additionally, [redacted] acknowledged meeting potential hires for lunch or coffee in NSA/CSS spaces to discuss their potential employment with [redacted]. Further, he instructed his team leads to do the same. [redacted] also testified to meeting with potential new hires within Agency spaces. [redacted] denied charging the Agency contract for the time spent on these activities.

(b) (3) -P, L., 86-36

(U//FOUO) The OIG found that between 08 July 2016 and 11 July 2016, [redacted] used the [redacted] chat tool to discuss positions available at [redacted] and related referral bonuses with potential [redacted] hires. Although [redacted] denied that any of these conversations constituted recruiting and the individuals were not hired by [redacted], she acknowledged that she violated NSA/CSS Policy by using Agency ISs to engage in non-contract-related, personal business chats related to employment with [redacted]. Further, [redacted] estimated that on more than ten occasions she used the NSA/CSS Unclassified network to access her personal [redacted] email in order to respond to [redacted] job-seekers.

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(U//FOUO) The OIG found that between 14 March 2016 and 26 April 2016, [redacted] used the NSA/CSS Unclassified network and the NSA/CSS Classified network [redacted] chat tool to successfully recruit an NSA/CSS contractor for employment at [redacted]. During his

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(U//FOUO) [redacted] is an instant messaging (IM) and synchronized collaboration tool. It has since been upgraded to the [redacted]

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testimony to the OIG, [redacted] acknowledged having violated Agency policy by using NSA/CSS ISs to engage in non-contract-related chats related to potential employment with [redacted]. He also said that he used the Agency's unclassified network to access his [redacted] email account for non-contract related purposes; he read and responded to emails from other vendors, companies, and potential hires.

(U//~~FOUO~~) The preponderance of the evidence supports the conclusion that [redacted] on government premises and using NSA/CSS ISs, recruited other NSA/CSS contractors to work for [redacted] and conducted personal business activities outside the scope and purpose of their contracts in violation of NSA/CSS Policy 6-4, Paragraphs 1., 6.a., 9.e., and MPOAS 352.290-9009(e).

(U//~~FOUO~~) In using NSA/CSS ISs to find potential cleared recruits for [redacted], communicate with potential [redacted] hires, and discuss salaries and job offers, [redacted] and [redacted] violated NSA/CSS Policy 6-4's prohibitions against using Agency IS resources to recruit employees from other contractor workforces. These communications also constituted personal business activities that were outside the scope and purpose of the contracts to which they were assigned.

(b) (3) -P.L. 86-36

(U//~~FOUO~~) Further, in personally meeting with [redacted] potential hires in NSA spaces and/or communicating with them over Agency ISs located in NSA spaces, [redacted] [redacted] violated MPOAS 352.290-9009's prohibitions on recruiting contractor personnel on government premises.

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(U//~~FOUO~~) A summary of the investigative findings will be provided to Maryland Procurement Office, Contract Administration and Policy Office (B312), Security and Counterintelligence, [redacted] and the Contracting Officer for appropriate action.

II. (U) BACKGROUND

(U) Introduction

(U//FOUO) On 09 November 2015, the NSA/CSS Office of Inspector General (OIG) received an allegation that NSA/CSS contractors, [REDACTED] [REDACTED] misused NSA/CSS Information Systems (ISs). Specifically, it was alleged that [REDACTED] used Agency ISs to recruit employees from other contractor companies, to work for [REDACTED]. During the subsequent investigation, the OIG developed allegations of IS misuse on the part of two additional [REDACTED] employees; [REDACTED]

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(U//FOUO) [REDACTED] At the time of the allegation, [REDACTED] was also a full-time NSA contractor affiliate for [REDACTED] on the [REDACTED] contract. [REDACTED] worked for [REDACTED] on [REDACTED] from September 2015 to July 2016, when he left NSA to work on a contract for another Intelligence Community agency. Prior to [REDACTED] from 2010 to June 2015 and worked on [REDACTED] predecessor contract, [REDACTED].

(U//FOUO) [REDACTED] Since January 2016, he is also a full-time NSA contractor affiliate for [REDACTED] on the [REDACTED] contract assigned to the [REDACTED]. Prior to [REDACTED] until June 2015.

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(U//FOUO) [REDACTED] She is also a full-time NSA contractor affiliate for [REDACTED] on the [REDACTED] contract assigned to the [REDACTED]. She was an NSA contractor affiliate with [REDACTED] from June 2009 to April 2016. [REDACTED] began working for [REDACTED] in approximately March 2016. Her responsibilities include interviewing applicants for positions with [REDACTED] and providing back-up support to the time keeper. [REDACTED] husband used to work with [REDACTED] when [REDACTED] was at [REDACTED].

(b) (3) -P.L., 86-36
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(U//FOUO) [REDACTED] He is also a full-time NSA contractor affiliate for [REDACTED] contract assigned to the [REDACTED]. Prior to working as a contractor affiliate for [REDACTED], he was employed by [REDACTED] for approximately four years until October 2015. He began working for [REDACTED] in November 2015. His responsibilities at [REDACTED] include recruiting personnel, attending job fairs, and

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(b) (3) -P.L., 86-36

² (U//FOUO) In accordance with OIG standard operating procedures, a developed and substantiated allegation of minor IS misuse by another [REDACTED] employee was resolved under CO-16-0938.

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mentoring current and former military personnel. Additionally, he is responsible for overseeing proposals and contracts. He has known [REDACTED] for several years and worked for them while at [REDACTED]

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(U) Applicable Authorities

(U) Full citations can be found in Appendix A.

(U//~~FOUO~~) NSA/CSS Policy 6-4, "Contractor Use of NSA/CSS Information Systems (IS) and Resources," Issued 22 October 2013, Revised 21 April 2016³.

(U//~~FOUO~~) Maryland Procurement Office Acquisition Supplement (MPOAS) 352.290-9009, *Government Contractor Relations*.

³ (U//~~FOUO~~) NSA/CSS Policy 6-4, "Contractor Use of NSA/CSS Information Systems and Resources" was revised during the period of investigation. The revisions were made to include information regarding Contractor's ability to update their resumes via the NSA/CSS ISs, and updated a definition of SCIF; therefore did not pertain to any portion of this investigation.

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III. (U) FINDINGS

(U//~~FOUO~~) **ALLEGATION 1:** Did [redacted] on government premises and using NSA/CSS ISs, recruit other NSA/CSS contractors to work for [redacted] and conduct personal business outside the scope and purpose of the contract in violation of NSA/CSS Policy 6-4, Paragraphs 1, 6.a., and 9.e., and MPOAS 352.290-9009(e)?

(U//~~FOUO~~) **CONCLUSION:** Substantiated.

(U) Documentary Evidence

(U//~~FOUO~~) NSA Classified IS - NSA [redacted] Chat Tool Conversations

(U//~~FOUO~~) The OIG reviewed [redacted] NSA/CSS NSANet [redacted] chat tool conversations from 1 February 2016 through 26 May 2016. Examples of relevant conversations can be found in Appendix B.⁴ On the following dates, [redacted] sent the following [redacted] messages:

- (U//~~FOUO~~) 14 March 2016: Told [redacted] that he was looking forward to her being on the [redacted] team and asked what start date she wanted.
- (U//~~FOUO~~) 15 March 2016: Told [redacted] that there were two positions open (NFI) and asked whether [redacted] thought a particular employee of another Agency contractor would be interested in one of them.
- (U//~~FOUO~~) 15 March 2016: Discussed with a [redacted] employee her interview for placement on a different contract and told her that the client wanted to place her on a particular team.
- (U//~~FOUO~~) 22 March 2016: Told [redacted] that [redacted] could not "poach" from a contractor that was an [redacted] teammate in a particular NSA organization and asked whether she knew anyone who was cleared and could fill an open budgeting and financing position.
- (U//~~FOUO~~) 22 March 2016: Told a [redacted] employee other than [redacted] that [redacted] had an open budget and finance position working with [redacted] in a particular Agency organization and asked whether she knew anyone who could fill it.

⁴ (U//~~FOUO~~) [redacted] personal [redacted] business-related chats were so numerous that only a representative sample of those conversations is included in the appendix.

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- (U//FOUO) 24 March 2016: Discussed with [redacted] salary negotiations with an unknown candidate and advised [redacted] to recommend [redacted]. He also asked whether [redacted] knew of anyone else on the [redacted] that [redacted] would want to hire.
- (U//FOUO) 30 March 2016: Asked [redacted] whether a specific employee of another Agency contractor had accepted a [redacted] contingent job offer and told [redacted] that [redacted] [redacted] advised [redacted] to make the job offer over "Phone/IM/Text" and to follow up with a formal offer by email.
- (U//FOUO) 26 May 2016: Told a [redacted] employee to offer a [redacted] potential hire [redacted]

(b) (3) -P.L., 86-36

(U//FOUO) NSA Classified IS - NSA Outlook Email Files

(U//FOUO) The OIG reviewed [redacted] NSA/CSS classified IS Outlook files from 1 February 2016 through 26 May 2016. Examples of relevant emails can also be found in Appendix B.⁵

(U//FOUO) The review revealed that in an email dated 04 February 2016, [redacted] told a [redacted] new hire who had been an employee of another Agency contractor that he was happy that the new hire would be joining the [redacted] team. [redacted] said that he understood that the new hire would be taking a pay-cut for the position; however, [redacted] would be "making a full court press to get [the new hire] a healthy salary as soon as possible." [redacted] then went on to explain how [redacted] would go about doing so.

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(U) Testimonial Evidence

(U//FOUO) On 21 July 2016, [redacted] was interviewed and provided the following sworn testimony:

(U//FOUO) [redacted] was a Senior Systems Engineer supporting [redacted] working on the [redacted] contract for [redacted] is the prime contractor. The contract is a [redacted]. He had been on the [redacted] contract since its inception in September 2014. He also worked on its predecessor [redacted] from approximately 2009 to 2014.

(U//FOUO) People have talked to [redacted] in NSA spaces and using Agency telephone and ISS about going to work for him; approaching him by phone, chat, email, and in person. When this happened, he followed up by using NSA email and chat to discuss potential jobs at [redacted]. He also

(b) (3) -P.L., 86-36
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⁵ (U//FOUO) [redacted] recruiting and personal [redacted] business-related emails were so numerous that only a representative sample of those conversations is included in the appendix.

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met potential hires for lunch or coffee in NSA spaces. [redacted] denied charging time spent on such activities to the contract.

(U//~~FOUO~~) Approximately 15 individuals, 10 of whom were employees of other NSA contractors (including [redacted] have joined [redacted] since the company was formed.

(U//~~FOUO~~) [redacted] utilized [redacted] in order to have conversations with [redacted] regarding employment, potential hires, and recruitment. He acknowledged knowing that such conversations are not permissible on government ISs. With regard to discussing [redacted] employment with potential hires, [redacted] emphasized that it was others who approached him: "Have people [redacted] me, [to say] [redacted] I want to leave my company, can I come work for you?" [Have I responded,] 'Sure, let's meet.' Have I done that? One Hundred percent. And I clearly have violated. I'm not going to lie, that's happened." However, [redacted] deemed such conversations to be innocuous and said they did not constitute active recruiting because he did not initiate them.

(U//~~FOUO~~) [redacted] told all of his leads that if they set up a meeting inside of the NSA/CSS buildings in order to discuss positions available at [redacted], to do so in the cafeteria over lunch or coffee and not charge the contract. [redacted] knew that it was not permissible to have recruiting-type conversations on NSA campuses; however, he believed that meeting someone you already knew to discuss potential job opportunities was different and did not equate to recruiting.

(U) Analysis and Conclusions

(U//~~FOUO~~) NSA/CSS Policy 6-4, "Contractor Use of NSA/CSS Unclassified ISs and Resources," paragraph 1 specifically states that contractors shall only use NSA/CSS ISs to perform tasks authorized by contract, approved by the CO, and permitted by policy. Paragraph 6 specifically states that contractors shall not use NSA/CSS IS and ITI resources to solicit business; advertise products or services; recruit employees, whether from NSA/CSS or other contractor workforces; or otherwise seek to obtain an unfair competitive advantage. Specifically, contractors shall not use NSA/CSS IT resources to gather information on government or other contractors' employees for the purpose of workforce recruitment. In addition, Paragraph 9 specifically prohibits contractors from using NSA/CSS ISs or telephone services for personal use, except for brief, infrequent communications to deal with urgent matters, and such use cannot be associated with personal business activities outside the scope and purpose of the contract.

(U//~~FOUO~~) The MPOAS clause 352.290-9009, Government Contractor Relations paragraph (e) Non-Recruitment and Non-Interference, specifically states that Contractor personnel shall not recruit Government or other Contractors' personnel on Government premises... Access to and use of Government-furnished facilities, services, resources, and equipment (e.g. computers, telephones, portable computing devices, etc.) are for contract performance purposes only.

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(U//~~FOUO~~) Between 1 February 2016 and 26 May 2016, [redacted] utilized the Agency [redacted] chat tool to discuss the recruitment, hiring, and compensation of applicants on behalf of his company, [redacted]. On 22 March 2016, [redacted] sent separate [redacted] messages to [redacted] and another [redacted] employee asking both whether they knew of any cleared personnel who would be a good fit for a specific position at [redacted]. On 30 March 2016, [redacted] had a [redacted] conversation with [redacted] regarding a potential hire's contingent job offer and salary. During the conversation, [redacted] instructed [redacted] to make a contingent job offer to the recruit by "Phone/IM/[of]text" and to send the formal offer by email. Further, on 26 May 2016, [redacted] sent another [redacted] employee a [redacted] message telling her to offer a prospective hire a specific salary. On 04 February 2014, [redacted] also used his Agency email account to welcome aboard a new hire at [redacted] and discuss that individual's future salary with the company. The potential hires [redacted] discussed on [redacted] and the soon to be hired [redacted] employee he communicated with using his Agency email account were all employees of other contractors at NSA.

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(U//~~FOUO~~) [redacted] acknowledged that the [redacted] personal business-related activities above were not permissible on government ISs. He also acknowledged instructing his lead personnel to meet with potential hires inside Agency spaces and having employment discussions with [redacted] prospective hires in NSA/CSS spaces, as well as by [redacted] and Agency email. Because he knew the prospective hires with whom he communicated in Agency spaces and using Agency ISs, [redacted] did not consider these activities to constitute recruiting. However, the relevant standards do not make such a distinction.

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(U//~~FOUO~~) In using NSA/CSS ISs to find potential cleared recruits for [redacted], communicate with potential [redacted] hires, and discuss salaries and job offers with his [redacted] subordinates, [redacted] violated NSA/CSS Policy 6-4's prohibitions against using Agency IS resources to recruit employees for [redacted]. These communications also constituted personal business activities that were outside the scope and purpose of the [redacted] contract to which he was assigned.

(b) (3) -P.L., 86-36

(U//~~FOUO~~) Further, in personally meeting with [redacted] potential hires in NSA spaces and communicating with them over Agency ISs located in NSA spaces, [redacted] violated MPOAS 352.290-9009's prohibitions on recruiting contractor personnel on government premises.

(b) (3) -P.L., 86-36
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(U//~~FOUO~~) The preponderance of the evidence supports the conclusion that [redacted], on government premises and using NSA/CSS ISs, recruited other NSA/CSS contractors to work for [redacted] and conducted personal business activities outside the scope and purpose of the contract in violation of NSA/CSS Policy 6-4, Paragraphs 1., 6.a., 9.e., and MPOAS 352.290-9009(e).

(U) Response to Tentative Conclusions

(U//~~FOUO~~) On 2 November 2016, [redacted] responded to the OIG's tentative conclusion. He argued that his contact with potential candidates was limited and intermittent and he held these dialogues within controlled environments (presumably NSA spaces) due to classifications concerns. [redacted] reiterated that all of the potential candidates were friends and colleagues with whom he had previously worked and were in the process of

leaving the community altogether. In the OIG's opinion, none of the above negates the fact that recruitment communication over NSA IS and in NSA spaces is prohibited.

(U//~~FOUO~~) [redacted] argued further that recruiting and staffing was part of his role on the [redacted] contract. According to contract documentation, [redacted] labor category was [redacted] which does not include contract administration responsibilities. Furthermore, even if he had such responsibility, it would still be inappropriate to use NSA information systems to recruit personnel.

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(U//~~FOUO~~) [redacted] objected to the characterization that his actions demonstrated lack of concern for a potential disruption to the mission. The OIG removed the statement from the report.

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(U//~~FOUO~~) [redacted] full emailed response can be found in Appendix F.

(U) Conclusion- Allegation 1

(U//~~FOUO~~) A preponderance of the evidence supports the conclusion that [redacted], on government premises and using NSA/CSS ISs, recruited other NSA/CSS contractors to work for [redacted] and conducted personal business activities outside the scope and purpose of the contract in violation of NSA/CSS Policy 6-4, Paragraphs 1., 6a., 9. e., and MPOAS 352.290-9009(e).

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(U//FOUO) ALLEGATION 2: Did [redacted], on government premises and using NSA/CSS ISs, recruit other NSA/CSS contractors to work for [redacted] and conduct personal business activities outside the scope and purpose of his contract in violation of NSA/CSS Policy 6-4, Paragraphs 1., 6.a., 9.e., and MPOAS 352.290-9009(e)?

(U//FOUO) CONCLUSION: Substantiated.

(U) Documentary Evidence

(U//FOUO) NSA Classified IS - NSA [redacted] Chat Tool Conversations

(U//FOUO) [redacted]

(U//FOUO) The OIG reviewed [redacted] NSA/CSS NSANet [redacted] chat tool conversations from 01 January 2016 through 29 March 2016. Examples of the actual conversations can be found in Appendix C.

(U//FOUO) [redacted] sent the following [redacted] chat messages:

1. (U//FOUO) 04 February 2016:

a. To: [redacted] [redacted] and asked if she knew anyone. He told her she would "rock" in the position and said, "Come on, don't you wanna be [redacted]?" [redacted] discussed health insurance options and salary.

2. (U//FOUO) 24 February 2016:

a. To: [redacted]: asked if him he was ready for some opportunities because they had some great positions available with his background. He also asked if he knew anyone else who would be interested in the job opportunities.

3. (U//FOUO) 10 March 2016:

a. To: [redacted] told her that she was his next choice for a position if he could convince her to come to [redacted].

b. To: [redacted] told him he had a [redacted] and he wanted to discuss it with him.

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4. (U//~~FOUO~~) 16 March 2016:

a. To: [redacted] asked to meet him in the OPS1 cafeteria at 4pm because he was serious about helping him and would like for him to join [redacted].

5. (U//~~FOUO~~) 18 March 2016:

a. To: [redacted]: asked to meet her downstairs to sign her offer letter.

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(U) Testimonial Evidence

(U//~~FOUO~~) On 21 July 2016, [redacted] was interviewed and provided the following sworn testimony:

(U//~~FOUO~~) [redacted] He works on the [redacted] contract. [redacted] contract and [redacted] supports [redacted]. He has been on the contract since January 2016. His prior contract was a temporary backfill position on [redacted].

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(U//~~FOUO~~) [redacted] in February 2015. He was previously employed with [redacted]. He left [redacted] in June 2015 to manage [redacted].

(U//~~FOUO~~) [redacted] is headquartered at [redacted]. They have [redacted] and federal work primarily at NSA. [redacted] works with [redacted].

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(U//~~FOUO~~) [redacted] has several employees who both work in leaderships roles at [redacted] and who also work as full-time [redacted] contractors assigned to NSA contracts. [redacted] Leadership has large networks and obtains its employees by individuals who contact leadership inquiring about available positions. The leadership team at [redacted] includes NSA Contractors, [redacted] and [redacted].

(U//~~FOUO~~) [redacted] testified to contacting [redacted] at the time an [redacted] employee, on 04 February via [redacted] to inquire if she could recommend anyone who was qualified for a position that he had available at [redacted]. He did not consider this to be actively recruiting. His idea of active recruiting is "going desk to desk or walking through work spaces..." [redacted] did not have [redacted] in mind for the position when he requested her assistance in locating someone who would be interested. However, over the course of their [redacted] conversations, [redacted] said she was qualified for the job. At one point, [redacted] asked [redacted], "Don't you want to come to [redacted]?" After being shown the [redacted] conversation, [redacted] conceded that his conversation with [redacted] would constitute recruiting. In later [redacted] conversations he asked her to come down to Government spaces to sign her offer letter and acknowledged meeting with

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her in NSA spaces. He understood that utilizing [] for this activity was inappropriate and should not have occurred.

(U//FOUO) [] acknowledged using the [] chat function to discuss job opportunities and items specific to [] with other NSA contractors. He denied charging the government for any time spent discussing other than work-related items.

(U//FOUO) [] denied soliciting for business on NSA/CSS government systems. However, he stated, "Obviously I've had conversations with people I'm acquainted with about coming to work for []." [] added, "While I was very careful not to charge any time to the government while doing this, I definitely need to not do those kinds of things again. Having conversations with people and they start outside and then they continue inside and the stream of thought continues and people are excited. Sometimes they ping you and it's hard to say, call me at nine tonight."

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(U) Analysis and Conclusions

(U//FOUO) NSA/CSS Policy 6-4, "Contractor Use of NSA/CSS Unclassified ISs and Resources," paragraph 1 specifically states that contractors shall only use NSA/CSS ISs to perform tasks authorized by contract, approved by the CO, and permitted by policy. Paragraph 6 specifically states that contractors shall not use NSA/CSS IS and ITI resources to solicit business; advertise products or services; recruit employees, whether from NSA/CSS or other contractor workforces; or otherwise seek to obtain an unfair competitive advantage. Specifically, contractors shall not use NSA/CSS IT resources to gather information on government or other contractors' employees for the purpose of workforce recruitment. In addition, Paragraph 9 specifically prohibits contractors from using NSA/CSS ISs or telephone services for personal use, except for brief, infrequent communications to deal with urgent matters, and such use cannot be associated with personal business activities outside the scope and purpose of the contract.

(U//FOUO) The MPOAS clause 352.290-9009, Government Contractor Relations paragraph (e) Non-Recruitment and Non-Interference, specifically states that Contractor personnel shall not recruit Government or other Contractors' personnel on Government premises... Access to and use of Government-furnished facilities, services, resources, and equipment (e.g. computers, telephones, portable computing devices, etc.) are for contract performance purposes only.

(U//FOUO) From at least 01 January 2016 through 29 March 2016, [] utilized the NSA/CSS [] chat tool function to contact NSA contractors to discuss potential employment with []. He tried to entice people to come work for [] and discussed health benefits, insurance, and compensation with recruits. [] also testified to meeting with one applicant in NSA spaces to sign her [] offer letter. Although he did not consider his activities to be "actively recruiting" because he did not go "desk to desk," relevant standards do not require one's physical presence to constitute recruiting. [] used [] to discuss job opportunities and items specific to [] with other NSA contractors as a matter of convenience. "While I was very careful

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not to charge any time to the government while doing this, I definitely need to not do those kinds of things again. Having conversations with people and they start outside and then they continue inside and the stream of thought continues and people are excited. Sometimes they ping you and it's hard to say, call me at nine tonight."

(U//~~FOUO~~) In using NSA/CSS ISs to find potential cleared recruits for [redacted], communicate with potential [redacted] hires, and discuss salaries and job offers with his [redacted] subordinates, [redacted] violated NSA/CSS Policy 6-4's prohibitions against using Agency IS resources to recruit employees for [redacted]. These communications also constituted personal business activities that were outside the scope and purpose of the [redacted] contract to which he was assigned.

(U//~~FOUO~~) Further, in personally meeting with [redacted] potential hires in NSA spaces and communicating with them over Agency ISs located in NSA spaces, [redacted] violated MPOAS 352.290-9009's prohibitions on recruiting contractor personnel on government premises.

(U//~~FOUO~~) The preponderance of the evidence supports the conclusion that [redacted] on government premises and using NSA/CSS ISs, recruited other NSA/CSS contractors to work for [redacted] and conducted personal business activities outside the scope and purpose of the contract in violation of NSA/CSS Policy 6-4, Paragraphs 1., 6.a., 9.e., and MPOAS 352.290-9009(e).

(U) Response to Tentative Conclusions

(U//~~FOUO~~) On 3 November 2016, [redacted] responded to the OIG's tentative conclusion. He argued that his contact with potential candidates was limited and intermittent, that the potential candidates contacted him first, and that the people involved were close friends and colleagues with whom he had previously worked. In the OIG's opinion, none of the above negates the fact that recruitment communication over NSA IS and in NSA spaces is prohibited.

(U//~~FOUO~~) [redacted] argued further that recruiting and staffing was part of his role on the [redacted] contract. According to contract documentation, [redacted] labor category was [redacted] which does not include contract administration responsibilities. Furthermore, even if he had such responsibility, it would still be inappropriate to use NSA information systems to recruit personnel.

(U//~~FOUO~~) [redacted] objected to the characterization that his actions demonstrated lack of concern for a potential disruption to the mission. The OIG removed the statement from the report.

(b) (3) - P.L. 86-36

(b) (3) - P.L. 86-36
(b) (6)UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

(U//~~FOUO~~) [redacted] full emailed response can be found in Appendix G.

(b) (3) - P.L. 86-36
(b) (6)

(U) Conclusion – Allegation 2

(U//~~FOUO~~) A preponderance of the evidence supports the conclusion that [redacted], on government premises and using NSA/CSS ISS, recruited other NSA/CSS contractors to work for [redacted] and conducted personal business activities outside the scope and purpose of the contract in violation of NSA/CSS Policy 6-4, Paragraphs 1., 6a., 9.e., and MPOAS 352.290-9009(e).

(b) (3) - P.L. 86-36

(U//FOUO) ALLEGATION 3: Did [redacted], on government premises and using NSA/CSS ISs, recruit other NSA/CSS contractors to work for [redacted] and conduct personal business activities outside the scope and purpose of her contract in violation of NSA/CSS Policy 6-4, Paragraphs 1., 6.a., 9.e., and MPOAS 352.290-9009(e)?

(U//FOUO) CONCLUSION: Substantiated.

(U) Documentary Evidence

(U//FOUO) NSA Classified IS - NSA [redacted] Chat Tool Conversations

(U//FOUO) [redacted]

(U//FOUO) The OIG reviewed [redacted] NSA/CSS NSANet [redacted] chat tool conversations from 04 February 2016 through 11 July 2016. Examples of the actual conversations can be found in Appendix D.

(U//FOUO) [redacted] sent the following [redacted] chat messages:

1. (U//FOUO): 08 July 2016:

a. To: [redacted] asked her to send [redacted] updated resume template and informed her there would be [redacted]

b. To: [redacted] asked him where his resume was and to submit it as quickly as possible. She also told him she had tentative salary numbers [redacted]

c. From: [redacted] to [redacted]: [redacted] told [redacted] she had salary numbers [redacted]

2. (U//FOUO) 11 July 2016

a. To: [redacted] asked her if she was ready to make a decision to work at [redacted]

b. To: [redacted]: asked him to let her know if he wanted to submit for a job opening at [redacted] and told him he should submit his resume. She informed [redacted] that [redacted] wanted to meet with him and that he should be more specific on his resume.

(b) (3) -P.L., 86-36

(b) (4)

(b) (3) -P.L., 86-36
(b) (6)

(b) (3) -P.L., 86-36

~~(U//FOUO)~~ NSA Classified IS - NSA Outlook Email Files

(U//~~FOUO~~) The OIG reviewed [redacted] NSA/CSS classified IS Outlook files from 01 January 2016 through 11 July 2016. Examples of relevant email can also be found in Appendix D.

1. (U//~~FOUO~~) 6 July 2016

a. To: [redacted] she told him it was time he went to work for [redacted] now.

(b) (3) - P.L., 86-36
(b) (6)

(b) (3) - P.L., 86-36

(U) Testimonial Evidence

(U//~~FOUO~~) On 04 August 2016, [redacted] was interviewed and provided the following sworn testimony:

(U//~~FOUO~~) [redacted] has been a full-time government contractor at [redacted] since April 2016. Her contract, [redacted] organization. The prime contractor is [redacted]. [redacted] job responsibilities are to provide briefing support and cyber readiness to the government customer. She has been a contractor at the NSA since 2003. Prior to [redacted], [redacted] worked for another government contracting company, named [redacted] from June 2009 to April 2016. She previously supported the [redacted] and then the [redacted] contract.

(b) (3) - P.L., 86-36
(b) (6)

(U//~~FOUO~~) As an employee of [redacted], [redacted] responsibilities include conducting interviews and back-up timekeeping. She meets potential hires off of Government property at Café Joe's or Starbucks to conduct interviews. She does not bill the time spent interviewing candidates to the government, despite leaving NSA spaces to conduct interviews.

(U//~~FOUO~~) [redacted] has reached out to [redacted] about opportunities at [redacted] in the past. [redacted] testified that her 04 February 2016 [redacted] conversation with [redacted] (where he asked about whether or not she knew a qualified candidate for a specific position) she suggested it was a perfect position for her, so she discussed rates with [redacted]. She also testified to meeting [redacted] in a NSA cafeteria to sign her [redacted] offer letter. [redacted] was adamant that she pursued the position with [redacted] and that he did not recruit her.

(b) (3) - P.L., 86-36
(b) (6)

(b) (3) - P.L., 86-36

(U//~~FOUO~~) [redacted] estimated that on more than ten occasions she used the NSA/CSS unclassified network to access her personal [redacted] email in order to respond to [redacted] job-seekers.

(U//~~FOUO~~) [redacted] testified to discussing job opportunities and salary on behalf of [redacted] with various NSA contractors via [redacted] and [redacted] email via the NSA/CSS unclassified network; however, she denies that such discussions constituted recruiting. Despite the discussions of referral bonuses, [redacted] advised that none of the individuals with whom she discussed

salary and referral bonuses had received job offers or been hired by [redacted] due to the loss of a contract bid.

(U//~~FOUO~~) With regards to her [redacted] conversations and email, [redacted] remarked, "This is my first dipping my toe into any kind of management which I've been trying to do forever. I was overzealous... this is not something that I plan to repeat so I'm extremely sorry. I'm sorry for wasting your time... I wanted to make sure I say that I recognize that this is inappropriate regardless of how I'm charging my hours, this should not be happening at work."

(b) (3) -P.L. 86-36

(U//~~FOUO~~) [redacted] testified that she is aware that contractors are prohibited from recruiting on government resources based on "common knowledge." She also testified to knowing that government resources are for government use and that her conversations were "clearly not government use." She acknowledged that her actions were inappropriate and stated "it was absolutely a lapse in judgment. It is also a matter of becoming comfortable in your surroundings... truly... that's all I can really say. It's ironic funny, because before coming to work for [redacted], I have never been in a position like this... this would have never been an issue. I just came in through the gate kind of hard and was so excited about it and I got carried away. I completely accept responsibility for that... it will not happen again."

(b) (3) -P.L. 86-36
(b) (6)

(U) Analysis and Conclusions

(U//~~FOUO~~) NSA/CSS Policy 6-4, "Contractor Use of NSA/CSS Unclassified ISs and Resources," paragraph 1 specifically states that contractors shall only use NSA/CSS ISs to perform tasks authorized by contract, approved by the CO, and permitted by policy. Paragraph 6 specifically states that contractors shall not use NSA/CSS IS and ITI resources to solicit business; advertise products or services; recruit employees, whether from NSA/CSS or other contractor workforces; or otherwise seek to obtain an unfair competitive advantage. Specifically, contractors shall not use NSA/CSS IT resources to gather information on government or other contractors' employees for the purpose of recruitment. In addition, Paragraph 9 specifically prohibits contractors from using NSA/CSS ISs or telephone services for personal use, except for brief, infrequent communications to deal with urgent matters, and such use cannot be associated with personal business activities outside the scope and purpose of the contract.

(U//~~FOUO~~) The MPOAS clause 352.290-9009, Government Contractor Relations paragraph (e) Non-Recruitment and Non-Interference, specifically states that Contractor personnel shall not recruit Government or other Contractors' personnel on Government premises... Access to and use of Government-furnished facilities, services, resources, and equipment (e.g. computers, telephones, portable computing devices, etc.) are for contract performance purposes only.

(U//~~FOUO~~) In July 2016, [redacted] utilized the [redacted] chat tool function and NSA/CSS classified network Outlook email to discuss potential employment with [redacted]. She tried to entice people to come to work for [redacted] and discussed compensation and referral bonuses with recruits.

(b) (3) -P.L. 86-36

Although she denied her efforts constituted recruiting, [redacted] acknowledged that her conversations via [redacted] were against NSA/CSS policy and that she was aware that recruiting on Government resources was prohibited.

(U//~~FOUO~~) In using NSA/CSS ISs to find potential cleared recruits for [redacted], communicate with potential [redacted] hires, and discuss vacancies and job offers with other NSA contractors, [redacted] violated NSA/CSS Policy 6-4's prohibitions against using Agency IS resources to recruit employees for [redacted]. These communications also constituted personal business activities that were outside the scope and purpose of the [redacted] contract to which she was assigned.

(U//~~FOUO~~) Further, in communicating with [redacted] potential hires in NSA spaces and over Agency ISs located in NSA spaces, [redacted] violated MPOAS 352.290-9009's prohibitions on recruiting contractor personnel on government premises.

(U//~~FOUO~~) The preponderance of the evidence supports the conclusion that [redacted] recruited personnel for the benefit of [redacted] and conducted personal business activities outside the scope and purpose of the contract while on NSA/CSS ISs and on government premises in violation of NSA/CSS Policy 6-4, Paragraphs 1., 6.a., 9.e., and MPOAS 352.290-9009(e).

(b) (3) - P.L. 86-36

(U) Response to Tentative Conclusions

(U//~~FOUO~~) On 2 November 2016, [redacted] responded to the OIG's tentative conclusion. [redacted] pointed out that she began employment with [redacted] in April 2016 and therefore could not have attempted to recruit personnel on behalf of [redacted] prior to that time. The OIG did not intend to imply that she had. Rather, the OIG had noted that [redacted], in February 2016, had discussed via NSA IS her own potential employment with [redacted]. [redacted] and email evidence supports that her recruitment efforts on behalf of [redacted] took place in July 2016. The OIG revised the section in question for clarity.

(U//~~FOUO~~) [redacted] objected to the characterization that her actions demonstrated lack of concern for a potential disruption to the mission. The OIG removed the statement from the report.

(U//~~FOUO~~) [redacted] full emailed response can be found in Appendix H.

(U) Conclusion – Allegation 3

(U//~~FOUO~~) A preponderance of the evidence supports the conclusion that [redacted], on government premises and using NSA/CSS ISs, recruited other NSA/CSS contractors to work for [redacted] and conducted personal business activities outside the scope and purpose of the contract in violation of NSA/CSS Policy 6-4, Paragraphs 1., 6.a., 9.e., and MPOAS 352.290-9009(e).

(U//~~FOUO~~) **ALLEGATION 4:** Did [redacted], on government premises and using NSA/CSS ISs, recruit other NSA/CSS contractors to work for [redacted] and conduct personal business activities outside the scope and purpose of his contract, in violation of NSA/CSS Policy 6-4, Paragraphs 1., 6.a., 9.e., and MPOAS 352.290-9009(e)?

(U//~~FOUO~~). **CONCLUSION:** Substantiated.

(U) Documentary Evidence

(U//~~FOUO~~) NSA Classified IS ([redacted] Chat Tool)

(U//~~FOUO~~) [redacted]

(U//~~FOUO~~) The OIG reviewed [redacted]'s NSA/CSS NSANet [redacted] chat tool and email conversations from 01 January 2016 through 26 April 2016. Examples of the actual conversations can be found in Appendix E.

(U//~~FOUO~~) [redacted] sent the following [redacted] chat messages:

1. (U//~~FOUO~~) 22 March 2016:
 - a. To: [redacted]: asked him if he wanted to meet in OPS 1 or 2 to discuss an opening on [redacted]
2. (U//~~FOUO~~) 24 March 2016:
 - a. To: [redacted]: informed him that [redacted] had some openings.
3. (U//~~FOUO~~) 29 March 2016:
 - a. To: [redacted]: informed him that his resume looked good except that he needed more specifics.
4. (U//~~FOUO~~) 11 April 2016:
 - a. To: [redacted]: informed him of another position in [redacted] and asked him to take a look at it; told him he thought he would like it there.

(b) (3) -P.L., 86-36
(b) (6)

(b) (3) -P.L., 86-36

(b) (3) -P.L., 86-36

(U//~~FOUO~~) NSA Unclassified Information System Use

(U//~~FOUO~~) The OIG reviewed [redacted] use of the NSA/CSS unclassified IS from 01 January 2016 through 26 April 2016. Examples of the actual conversations can be found in Appendix E.

(U//~~FOUO~~) [redacted]

(b) (3) - P.L. 86-36
(b) (6)

(b) (4)

1. (U//~~FOUO~~) 14 March 2016

a. To: [redacted]; informed him that [redacted] was looking to fill positions for [redacted] roles and told him to check them out. He also advised [redacted] to let him know if he was interested and they could discuss specifics.

(b) (3) - P.L. 86-36

2. (U//~~FOUO~~) 16 March 2016

a. To: [redacted]; wanted to meet him for lunch to discuss the [redacted] position in greater detail.

3. (U//~~FOUO~~) 23 March 2016

a. To: [redacted]; asked for salary requirements for [redacted] and that he had a good meeting with him and [redacted] was ready to move to [redacted].

4. (U//~~FOUO~~) 24 March 2016

a. To: [redacted]; provided him the resume template he needed.

5. (U//~~FOUO~~) 25 March 2016

a. To: [redacted]; asked him if he had the opportunity to complete the resume and that he needed to get it in soon so that the position was not lost.

(b) (3) - P.L. 86-36

6. (U//~~FOUO~~) 28 March 2016

a. To: [redacted]; told him he did a great job on the [redacted] resume but that he needed specific verbiage in the resume and more specifics.

7. (U//~~FOUO~~) 29 March 2016

a. To: [redacted]; informed him that he was missing items from the resume and needed to update it; also provided examples of what he needed.

8. (U//FOUO) 26 April 2016

- a. To: [redacted]; told him he had great news and congratulated him and looked forward to him joining the [redacted] team.

(U) Testimonial Evidence

(U//FOUO) On 31 August 2016, [redacted] provided the following sworn testimony:

(U//FOUO) [redacted] is an NSA contractor affiliate with [redacted]. He is assigned to the [redacted] organization and works on the [redacted] contract. [redacted] primary responsibilities consist of systems engineering, assistant program integrator, producing financial transactions, and project management functions. [redacted] has worked on and off for the NSA since 1985. He joined [redacted] in November 2015. His prior contracting company was [redacted] where he worked for four years until October 2015.

(U//FOUO) When [redacted] left [redacted] to [redacted] [redacted] saw that [redacted] company had the strategic vision he was looking for, and it was "pretty much a no-brainer to move over." [redacted] who was working on an NSA contractor for [redacted] at the time, discussed his interest in working at [redacted] with [redacted] at lunch outside of NSA spaces. Together they came to the mutual decision for him to apply and he was subsequently hired at [redacted].

(U//FOUO) In addition to his full time NSA contract position with [redacted], [redacted] also serves as [redacted]. He is responsible for recruitment at [redacted] and participates in job fairs on a semi-quarterly basis and conducts mentoring session with retired/separated military personnel outside of NSA/CSS spaces. [redacted] testified using his NSA/CSS unclassified IS for the purpose of responding to emails from other vendors, companies, and/or people who are interested in coming to work for [redacted]. His emails included information about [redacted] positions and requirements; he also answered questions from potential hires. He testified to accessing his [redacted] email via the NSA/CSS Unclassified network. [redacted] denies charging NSA for the time he spends answering [redacted] centric emails and recruiting; he deducts that time each day from his timesheet.

(U//FOUO) The OIG reviewed samples of emails that [redacted] sent that appeared to be efforts to recruit for [redacted]. [redacted] acknowledged that he emailed NSA/CSS contractor [redacted] concerning positions available through [redacted]. [redacted] testified that his emails were an effort to recruit [redacted] for an available [redacted] position. [redacted] stated that he should not have discussed the information via NSA/CSS ISSs. As a result of his efforts, [redacted] successfully recruited [redacted] in May 2016. [redacted] did not receive a referral bonus for [redacted] due to his director level position within [redacted].

(U//FOUO) The OIG reviewed a sample of a [redacted] conversation that [redacted] had with NSA/CSS contractor [redacted] that appeared to be an effort to recruit him on behalf of [redacted].

(b) (3) - P.L., 86-36

(b) (3) - P.L., 86-36
(b) (6)

(b) (3) - P.L., 86-36

(b) (3) - P.L., 86-36
(b) (6)

(b) (4)

(b) (3) - P.L., 86-36
(b) (6)

(b) (3) - P.L., 86-36

(b) (3) -P.L., 86-36
(b) (6)

[redacted] testified to discussing available positions at [redacted] with [redacted] and considered his conversations to be recruiting. Despite his efforts, [redacted] has not been hired by [redacted].

(b) (3) -P.L., 86-36
(b) (6)

(U) Analysis and Conclusions

(U//~~FOUO~~) NSA/CSS Policy 6-4, "Contractor Use of NSA/CSS Unclassified ISs and Resources," paragraph 1 specifically states that contractors shall only use NSA/CSS ISs to perform tasks authorized by contract, approved by the CO, and permitted by policy. Paragraph 6 specifically states that contractors shall not use NSA/CSS IS and ITI resources to solicit business; advertise products or services; recruit employees, whether from NSA/CSS or other contractor workforces; or otherwise seek to obtain an unfair competitive advantage. Specifically, contractors shall not use NSA/CSS IT resources to gather information on government or other contractors' employees for the purpose of workforce recruitment. In addition, Paragraph 9 specifically prohibits contractors from using NSA/CSS ISs or telephone services for personal use, except for brief, infrequent communications to deal with urgent matters, and such use cannot be associated with personal business activities outside the scope and purpose of the contract.

(U//~~FOUO~~) The MPOAS clause 352.290-9009, Government Contractor Relations paragraph (e) Non-Recruitment and Non-Interference, specifically states that Contractor personnel shall not recruit Government or other Contractors' personnel on Government premises... Access to and use of Government-furnished facilities, services, resources, and equipment (e.g. computers, telephones, portable computing devices, etc.) are for contract performance purposes only.

(U//~~FOUO~~) From 01 January 2016 through 26 April 2016, [redacted] utilized the NSA Classified Information System [redacted] chat tool function and NSA/CSS unclassified information system to discuss potential employment with [redacted]. He tried to entice people to come to work for [redacted] and discussed openings and resume requirements with potential recruits. [redacted] testified that his [redacted] conversations and emails were efforts to recruit potential hires on behalf of [redacted]. He also testified to successfully recruiting one NSA/CSS contractor as a result of his efforts, which took place on NSA/CSS ISs.

(b) (3) -P.L., 86-36

(U//~~FOUO~~) In using NSA/CSS ISs to find potential cleared recruits for [redacted], communicate with potential [redacted] hires, and discuss vacancies and job offers with other NSA contractors, [redacted] violated NSA/CSS Policy 6-4's prohibitions against using Agency IS resources to recruit employees for [redacted].

(b) (3) -P.L., 86-36
(b) (6)

(U//~~FOUO~~) Further, in communicating with [redacted] potential hires in NSA spaces and over Agency ISs located in NSA spaces, [redacted] violated MPOAS 352.290-9009's prohibitions on recruiting contractor personnel on government premises.

(U//~~FOUO~~) The preponderance of the evidence supports the conclusion that [redacted], on government premises and using NSA/CSS ISs, recruited other NSA/CSS personnel from other contractors to work for [redacted] and conducted personal business activities outside the scope and

purpose of the contract in violation of NSA/CSS Policy 6-4, Paragraphs 1., 6.a, 9.e, and MPOAS 352-290-9009(e).

(U) Response to Tentative Conclusions

(U//~~FOUO~~) On 2 November 2016, [redacted] responded to the OIG's tentative conclusion. [redacted] disagreed with the characterization that he routinely used his [redacted] chat as a means "to entice people to come work for [redacted]." He countered that he was asked by colleagues that he previously worked with to alert them to any potential opportunities. This distinction did not alter that fact that [redacted] used NSA ISs for non-contract-related correspondence with the goal of recruitment.

(U//~~FOUO~~) [redacted] also clarified that he used his corporate [redacted] email not "outlook email" for correspondence. An administrative correction has been made to the report. However, because he used NSA IS to access his corporate email, the findings are unchanged.

(U//~~FOUO~~) [redacted]' full emailed response can be found in Appendix I.

(b) (3) - P.L. 86-36
(b) (6)

(b) (3) - P.L. 86-36

(U) Conclusion - Allegation 4

(U//~~FOUO~~) The preponderance of the evidence supports the conclusion that [redacted], on government premises and using NSA/CSS ISs, recruited other NSA/CSS contractors to work for [redacted] and conducted personal business activities outside the scope and purpose of the contract in violation of NSA/CSS Policy 6-4, Paragraphs 1., 6.a, 9.e, and MPOAS 352-290-9009(e).

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IV. (U) DISTRIBUTION OF RESULTS

(U//~~FOUO~~) A summary of the investigative findings will be provided to Maryland Procurement Office, Contract Administration and Policy Office (B3P), Security and Counterintelligence, [redacted] and the Contracting Officer for appropriate action.

(b) (3) - P.L. 86-36

[redacted]

Investigator

Concurred by:

[redacted]

Assistant Inspector General
for
Investigations

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~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~

APPENDIX A

(U) Applicable Authorities

~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~**(U) NSA/CSS Policy 6-4*****Contractor Use of NSA/CSS Information Systems (ISs) and Resources
Issued 22 October 2013, Revised 21 April 2016.*****(U) Policy**

1. (U) Contractors shall only use NSA/CSS ISs to perform tasks that are authorized by contract, approved by the Contracting Officer (CO), and permitted by this policy.

6. (U) Contractors shall not use NSA/CSS IS and ITI resources to solicit business; advertise products or services; recruit employees, whether from NSA/CSS or other contractor workforces;
or otherwise seek to obtain an unfair competitive advantage. Specifically, contractors shall not:
 - a. (U) Use the NSA/CSS Corporate Directory Service (currently SEARCHLIGHT) or other NSA/CSS ITI resources to gather information on Government or other contractors' employees for the purpose of workforce recruitment.

9. (U) Contractors shall not use NSA/CSS ISs or telephone services for personal use except for brief, infrequent communications to deal with urgent matters. This limited exception to the personal use prohibition applies only when:
 - a. (U) Unavoidable personal matters arise such as, but not limited to, contacting a spouse, dependent family member, or other individuals responsible for a dependent's care; scheduling a physician's appointment; or vehicle maintenance;
 - d. (U) Time spent using the NSA/CSS IS or resource is not billed to the contract and;
 - e. (U) The use is not associated with personal business activities outside the scope and purpose of the contract.

Maryland Procurement Office Acquisition Supplement
(MPOAS) 352.290-9009 Government Contractor Relations

(U) (e) Non-Recruitment and Non-Interference. Contractor personnel shall not recruit Government or other Contractors' personnel on Government premises, nor otherwise act to disrupt official Government business. Access to and use of Government-furnished facilities, services, resources, and equipment (e.g., computers, telephones, portable computing devices, etc.) are for contract performance purposes only.

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APPENDIX B

(U) [redacted] Sample [redacted] and Email Conversations

[redacted]
(b) (3) - P.L. 86-36
(b) (6)

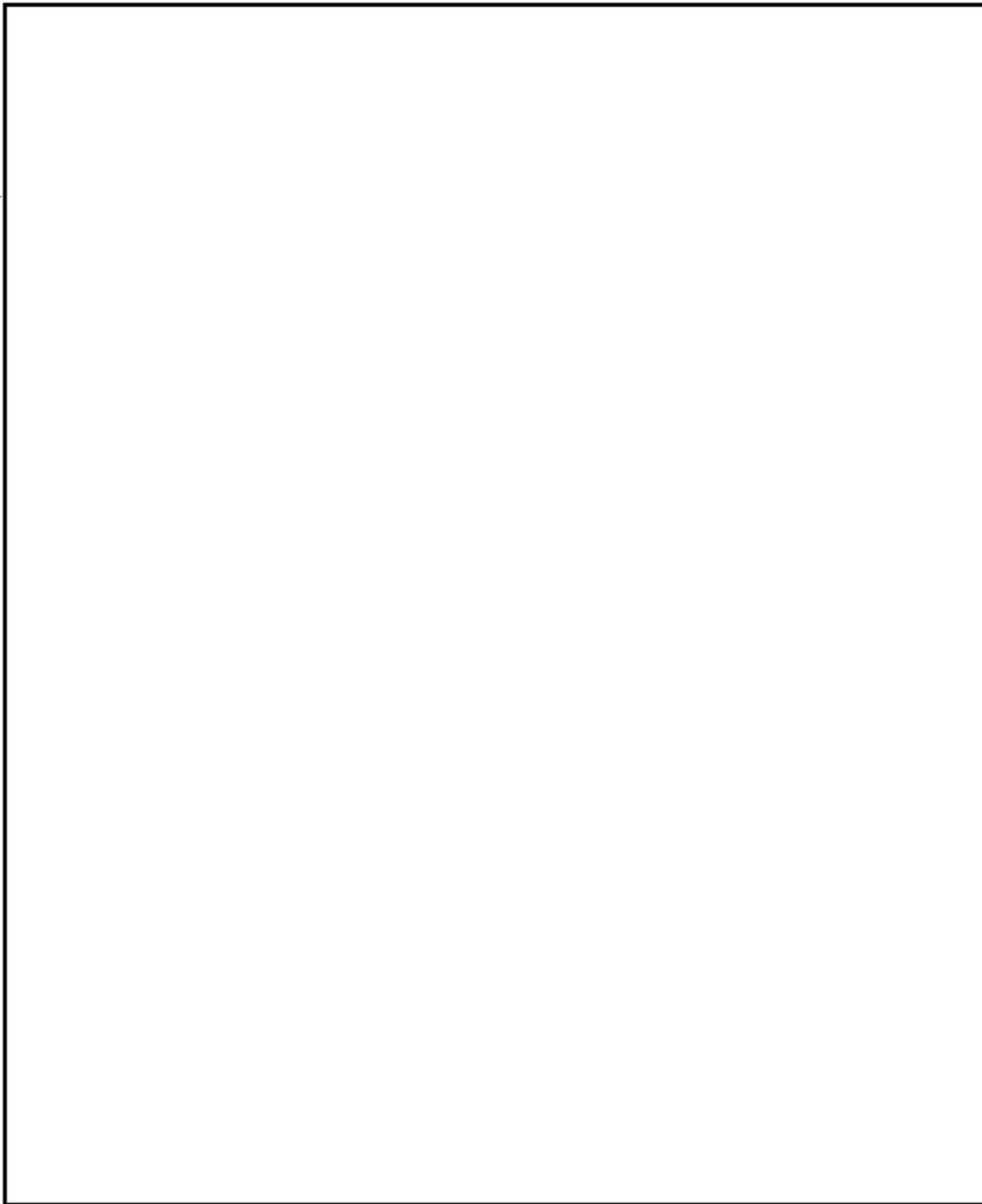
[redacted]
(b) (3) - P.L. 86-36

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UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

(b) (3) - P.L. 86-36
(b) (4)
(b) (6)

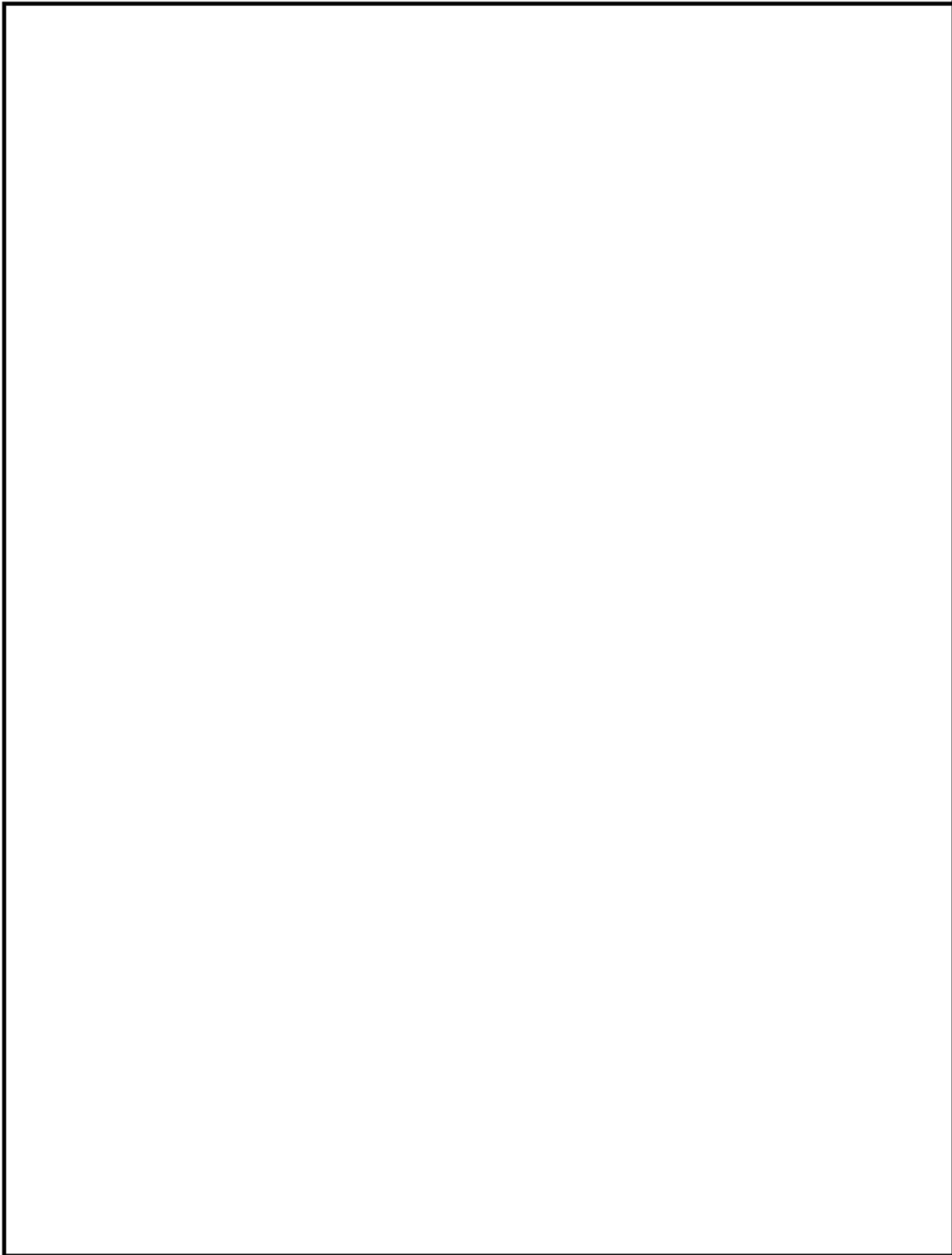
SAMPLE of Communications



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UNCLASSIFIED//FOR OFFICIAL USE ONLY

(b) (3) - P.L. 86-36
(b) (4)
(b) (6)



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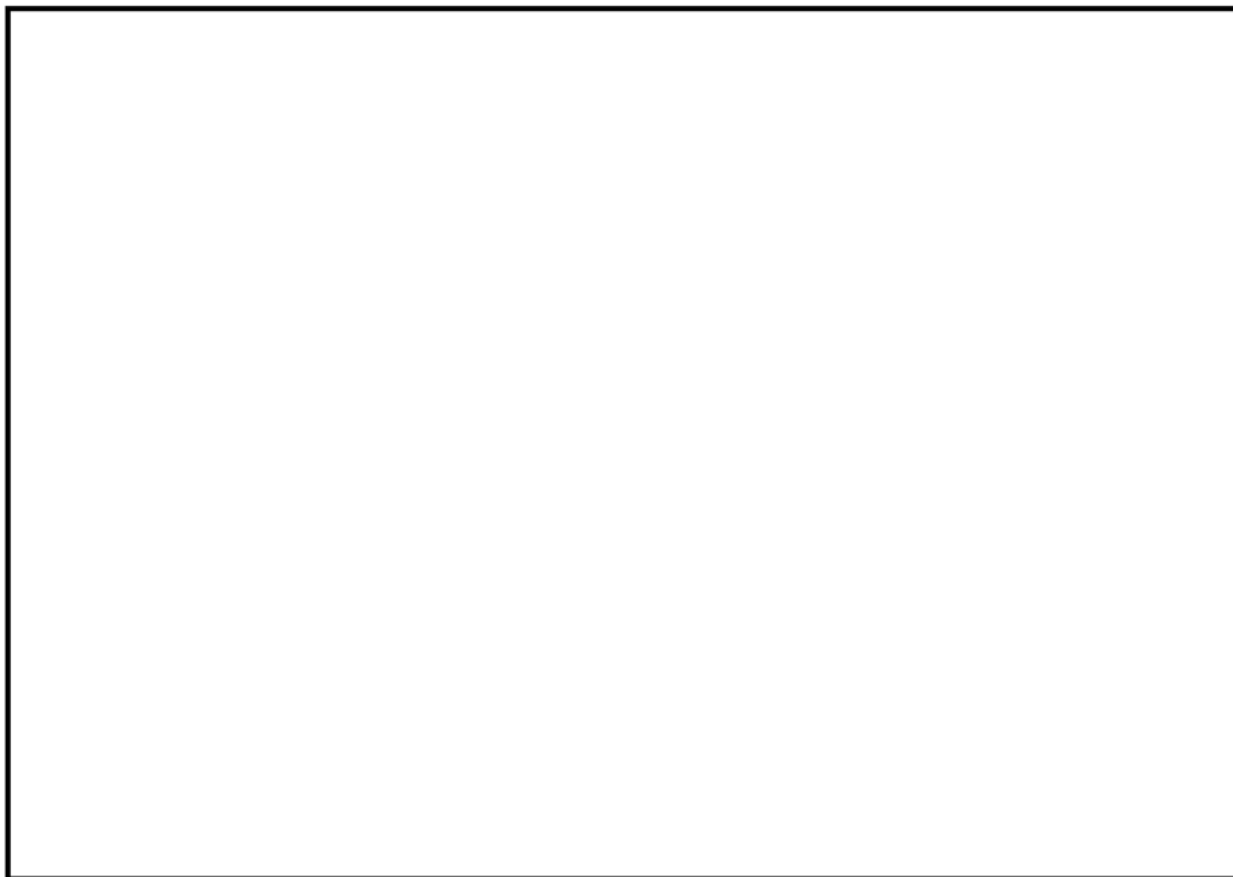
(b) (3) - P.L. 86-36
(b) (4)
(b) (6)



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(b) (3) - P.L. 86-36
(b) (4)
(b) (6)

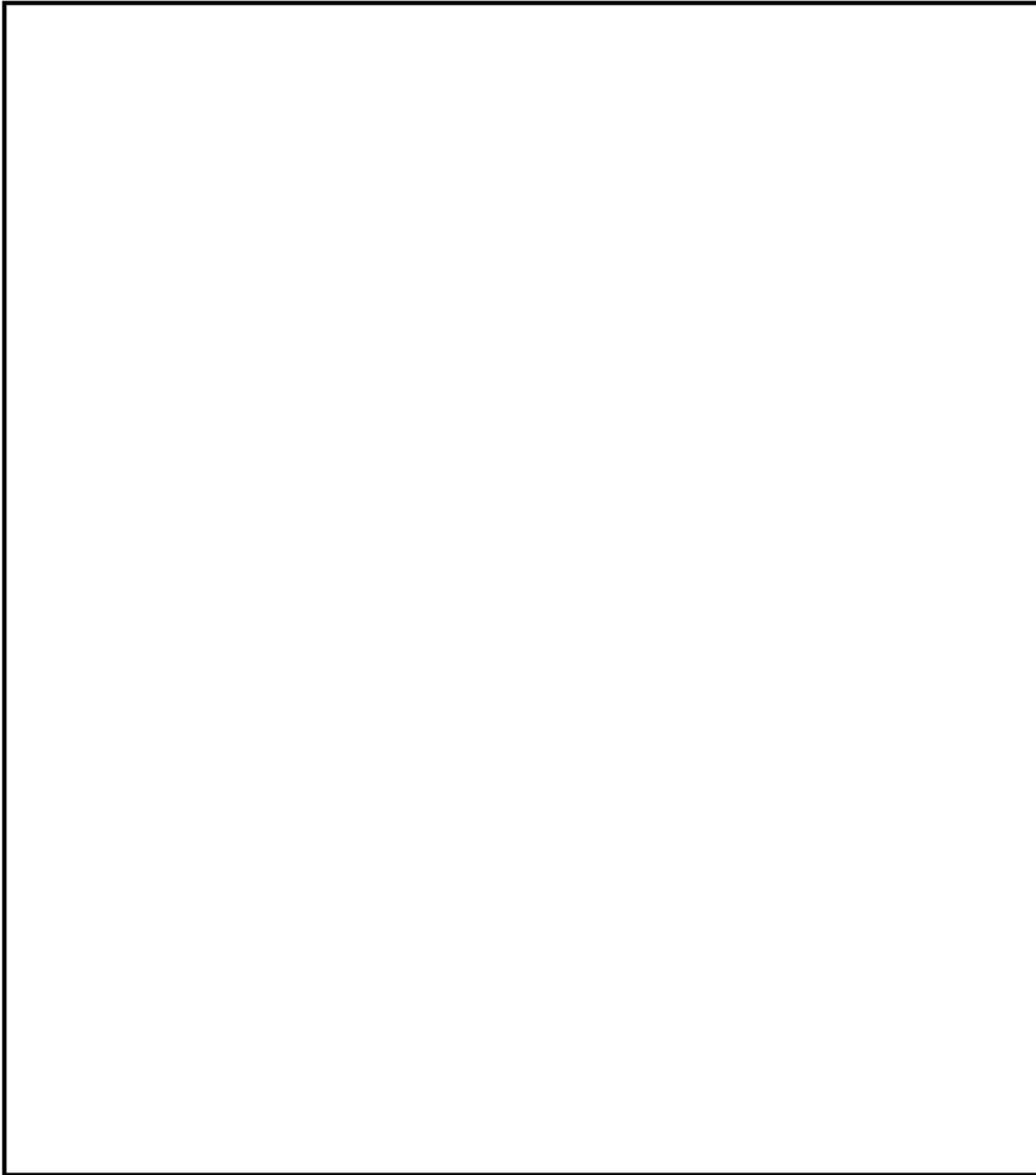


~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~

UNCLASSIFIED//FOR OFFICIAL USE ONLY

(b) (3) - P.L. 86-36
(b) (4)
(b) (6)

SAMPLE Outlook Emails



UNCLASSIFIED//FOR OFFICIAL USE ONLY

(b) (3) - P.L. 86-36
(b) (4)
(b) (6)

UNCLASSIFIED//FOR OFFICIAL USE ONLY



UNCLASSIFIED//FOR OFFICIAL USE ONLY

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

APPENDIX C

(U) [] Sample [] Conversations

(b) (3) - P.L. 86-36
(b) (6)

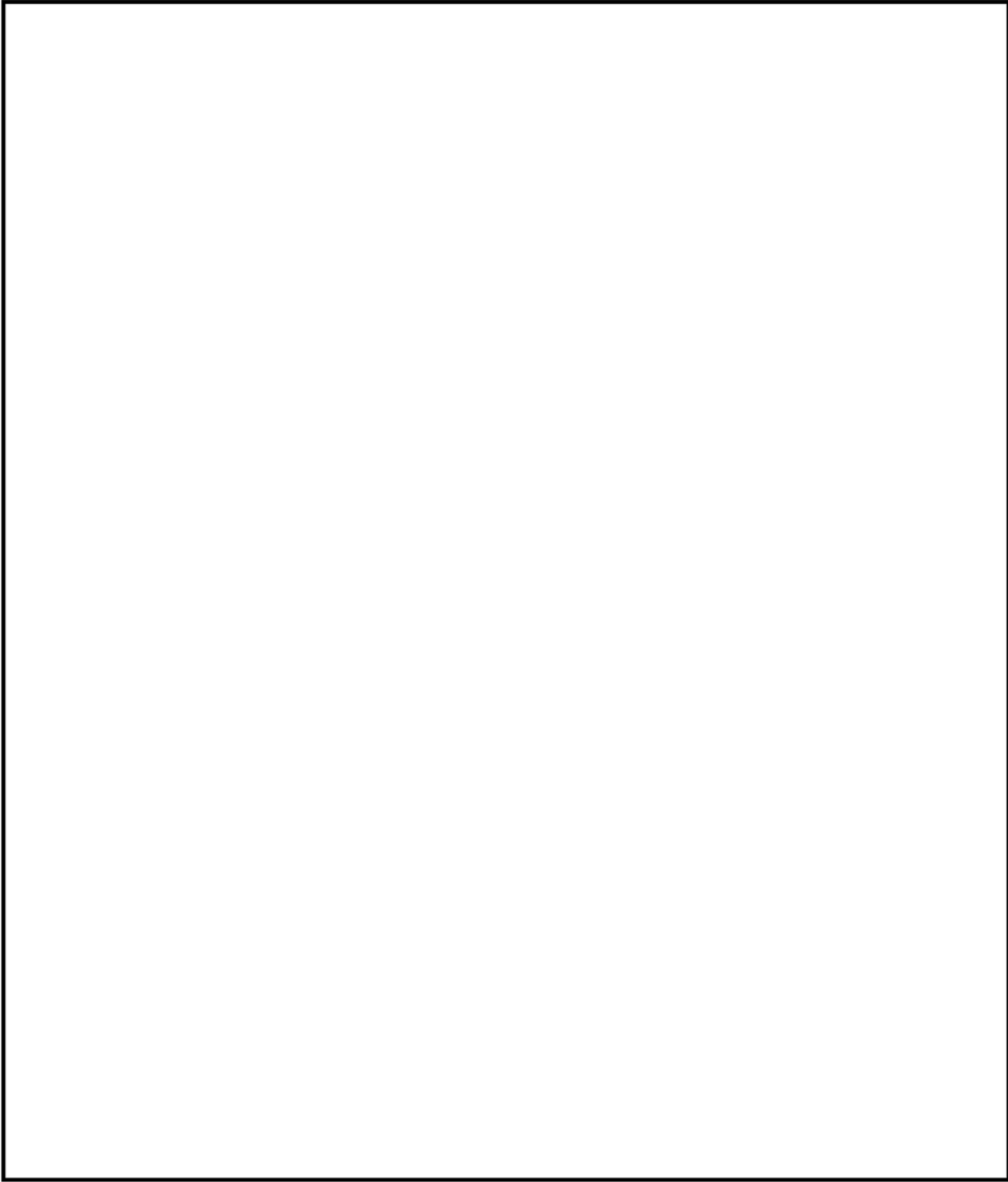
(b) (3) - P.L. 86-36

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

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(b) (3) - P.L. 86-36
(b) (4)
(b) (6)

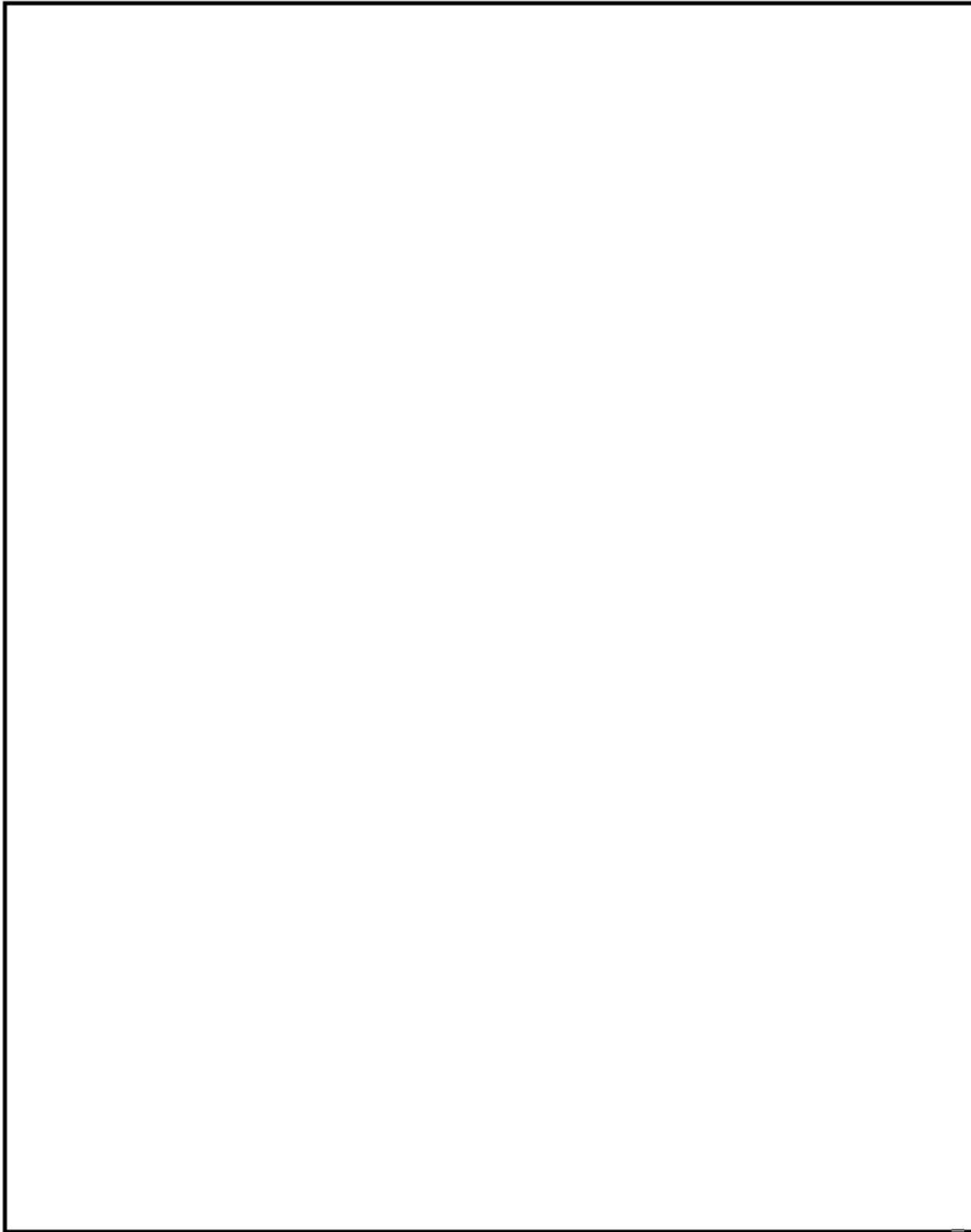
SAMPLE of Communications



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(b) (3) - P.L. 86-36
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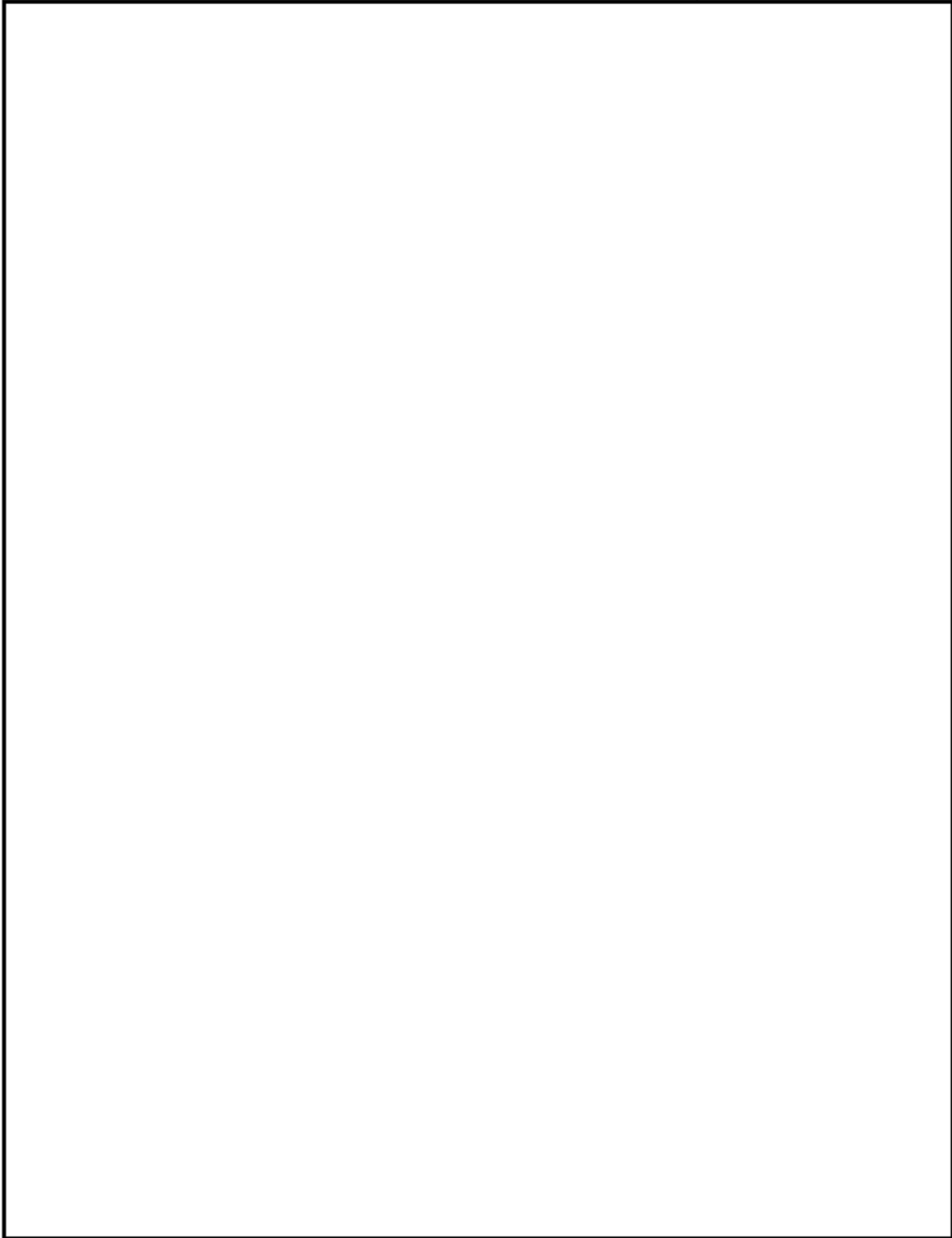
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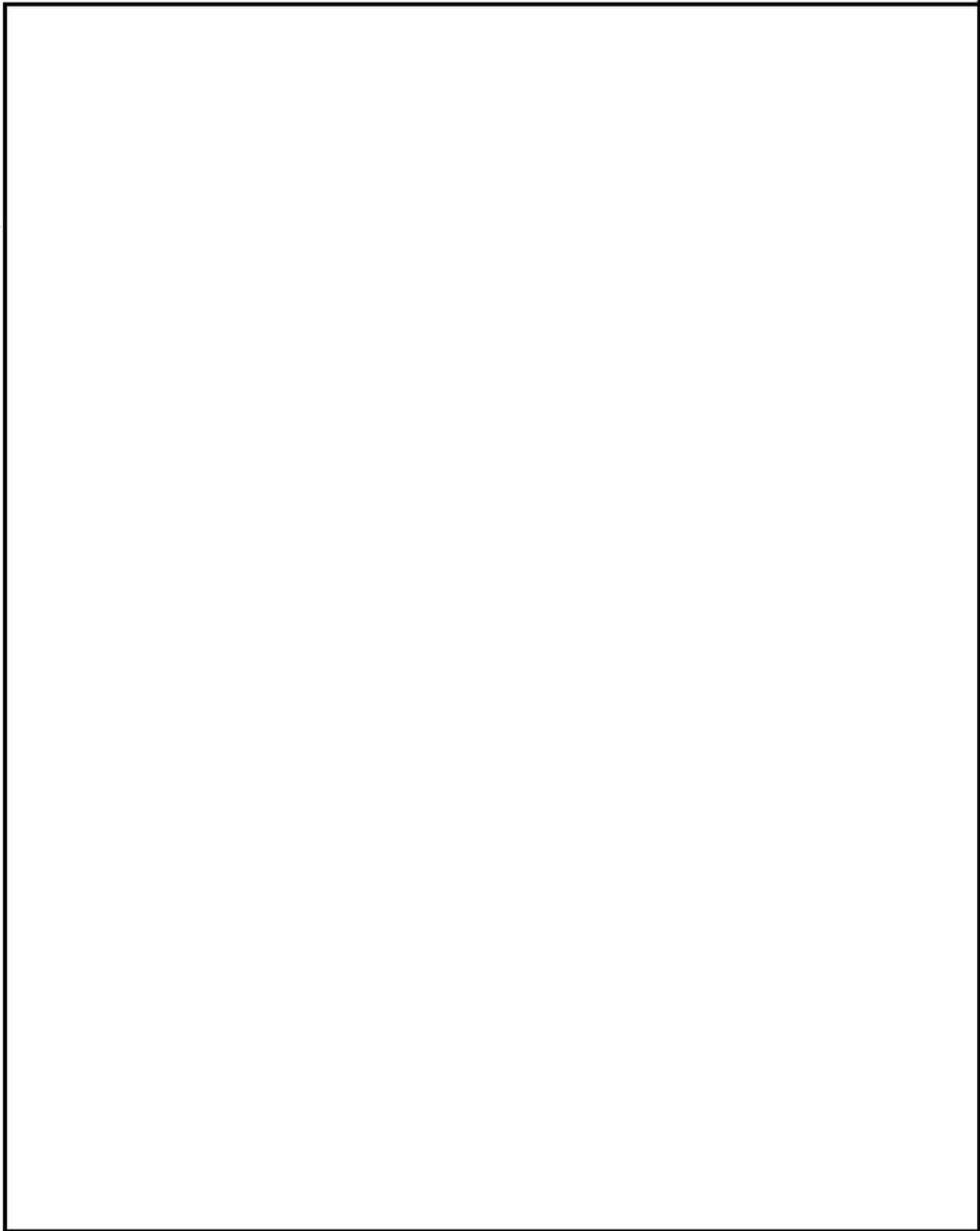
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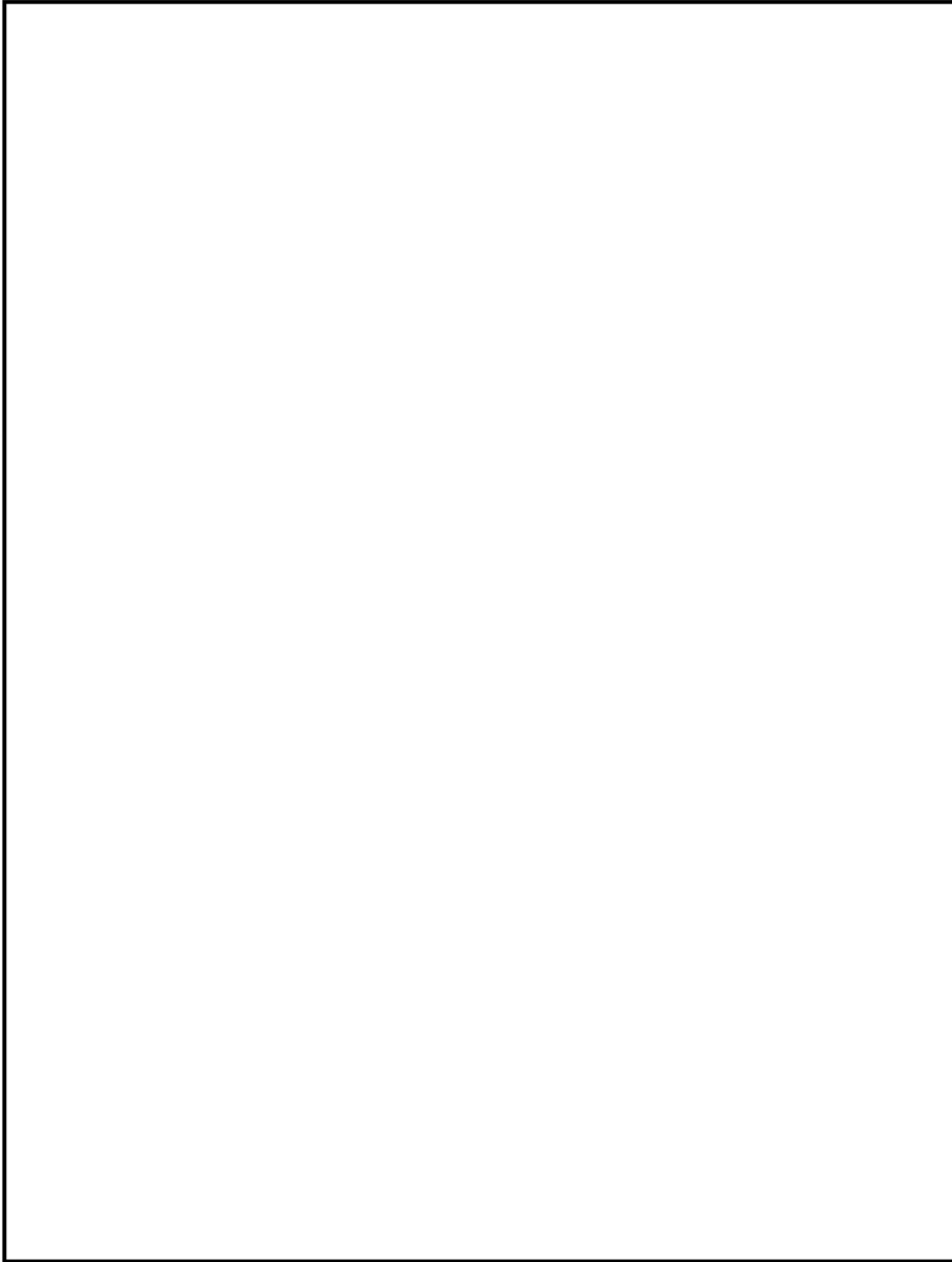
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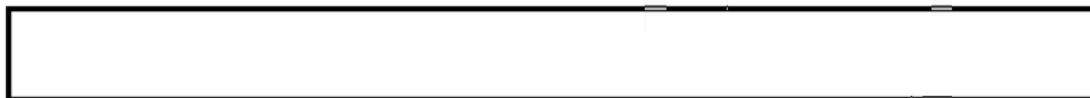
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APPENDIX D

(U) [redacted] Sample [redacted] and Email Conversations

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(b) (6)

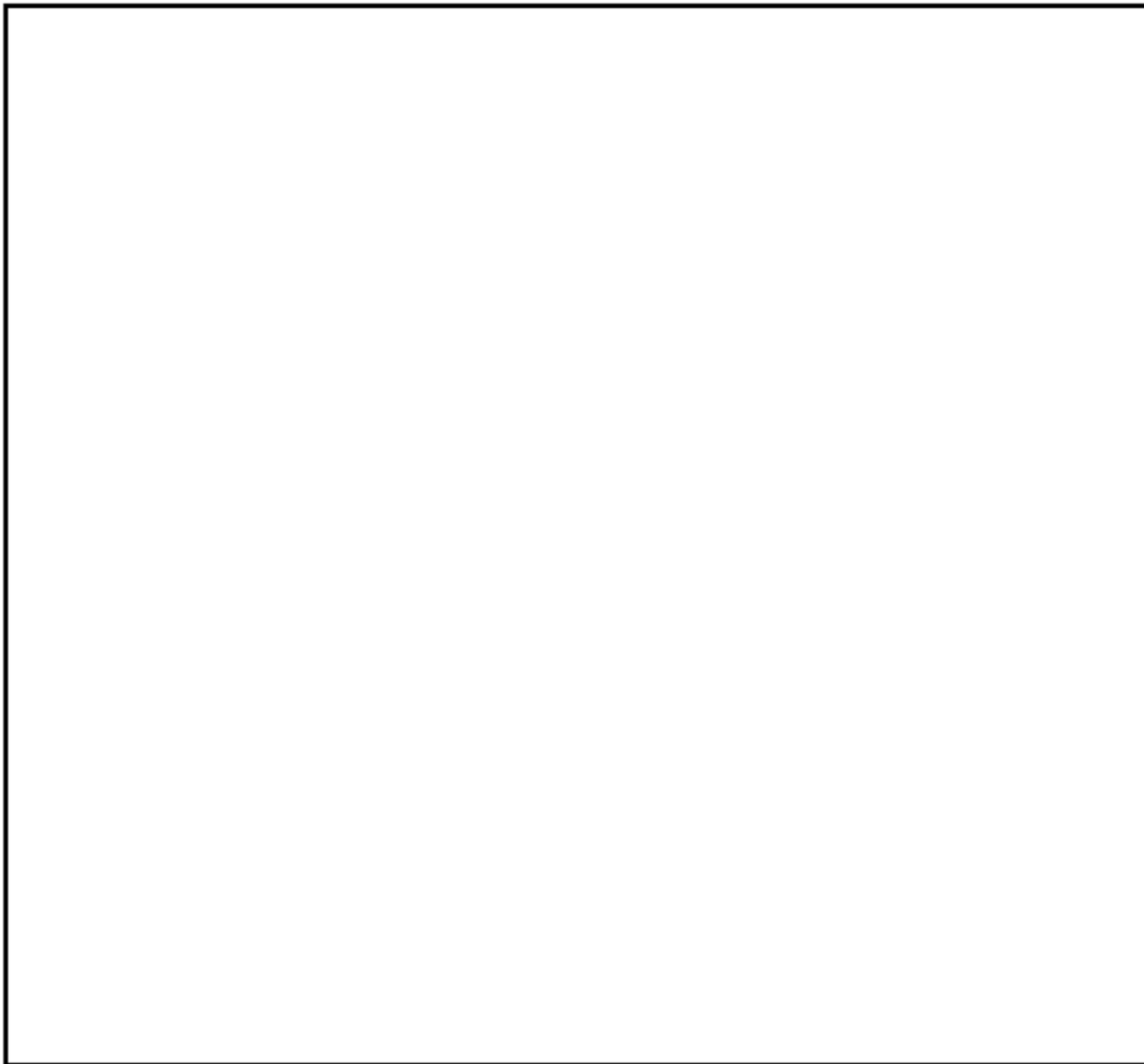
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(b) (6)

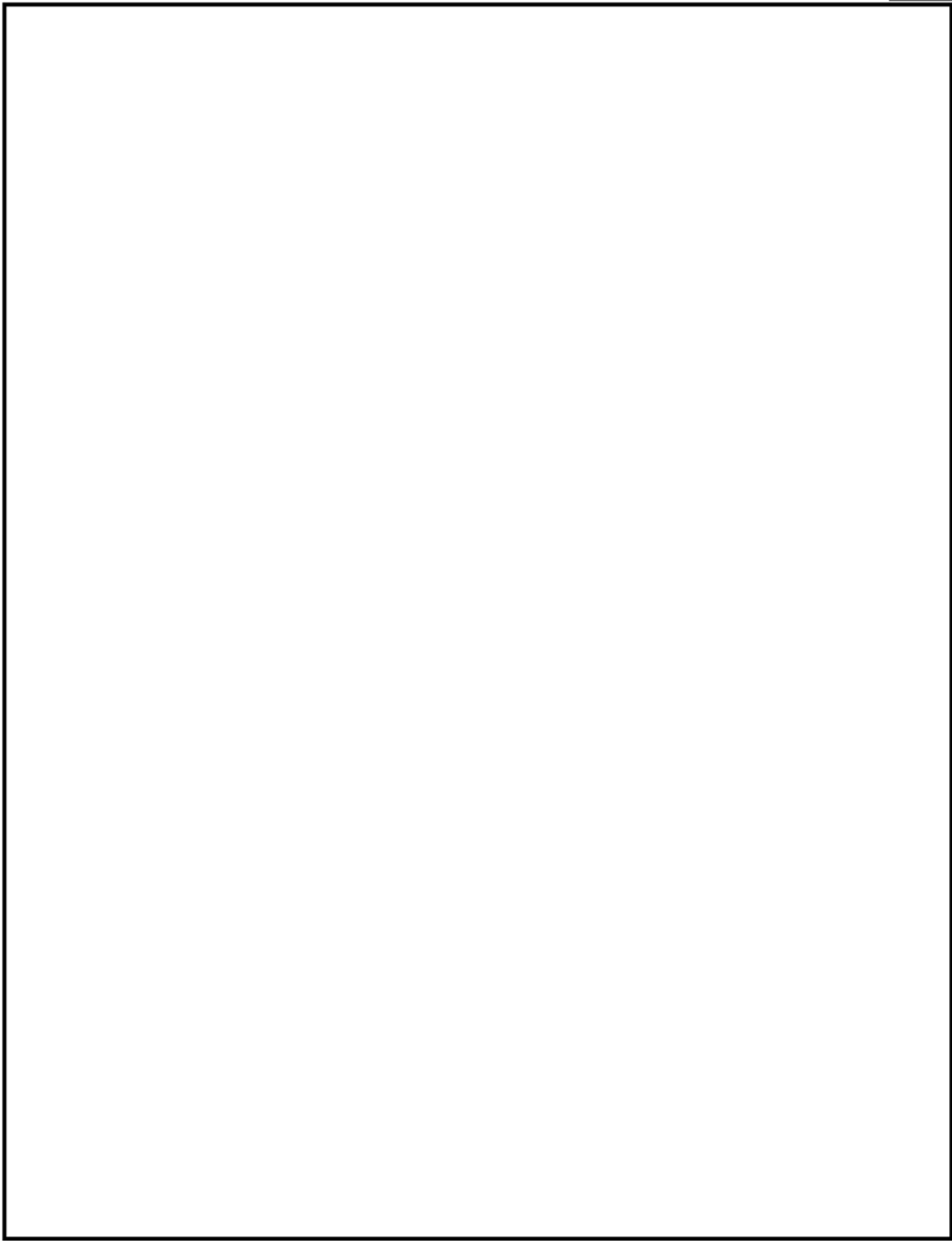
Lync Chat Conversation



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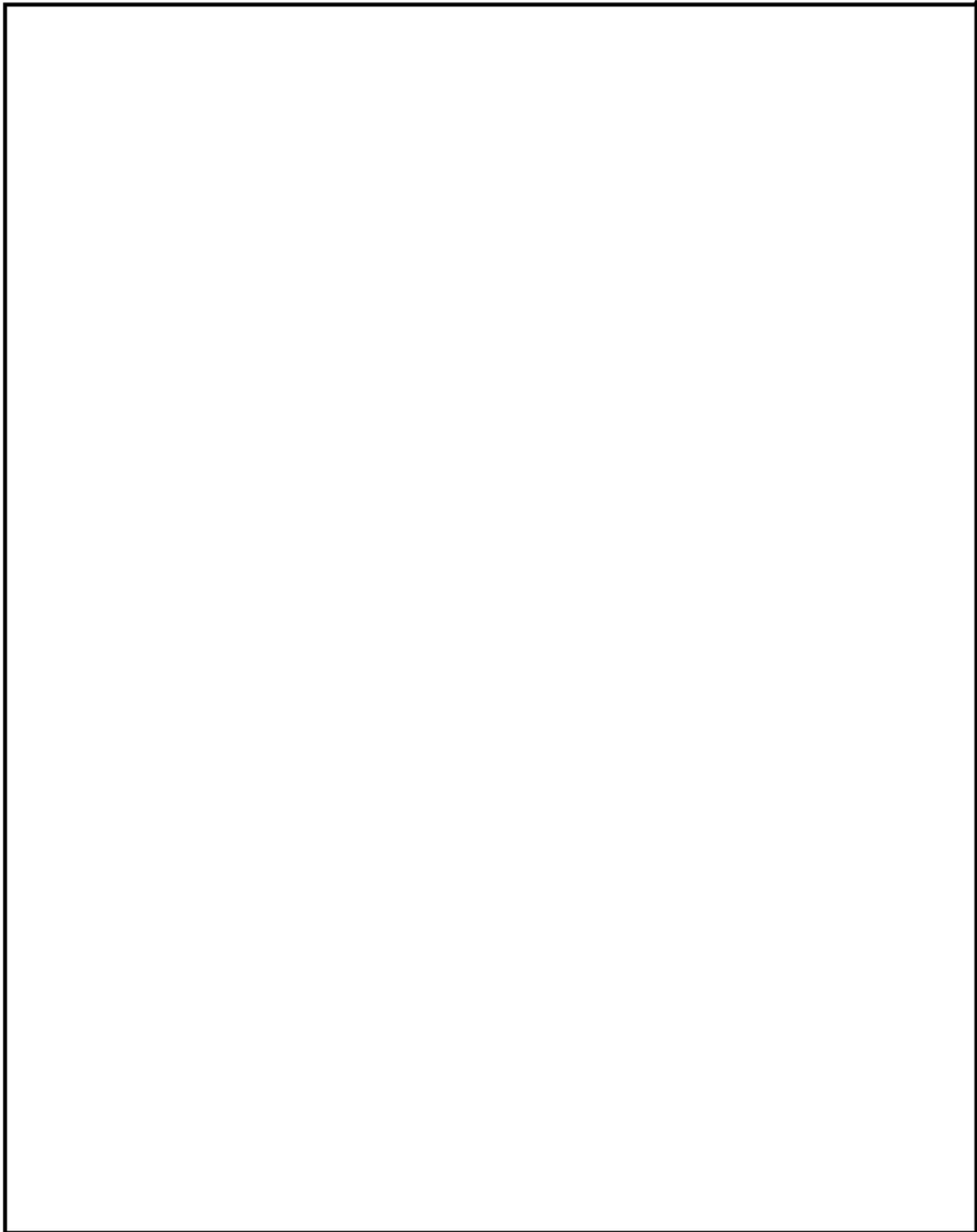
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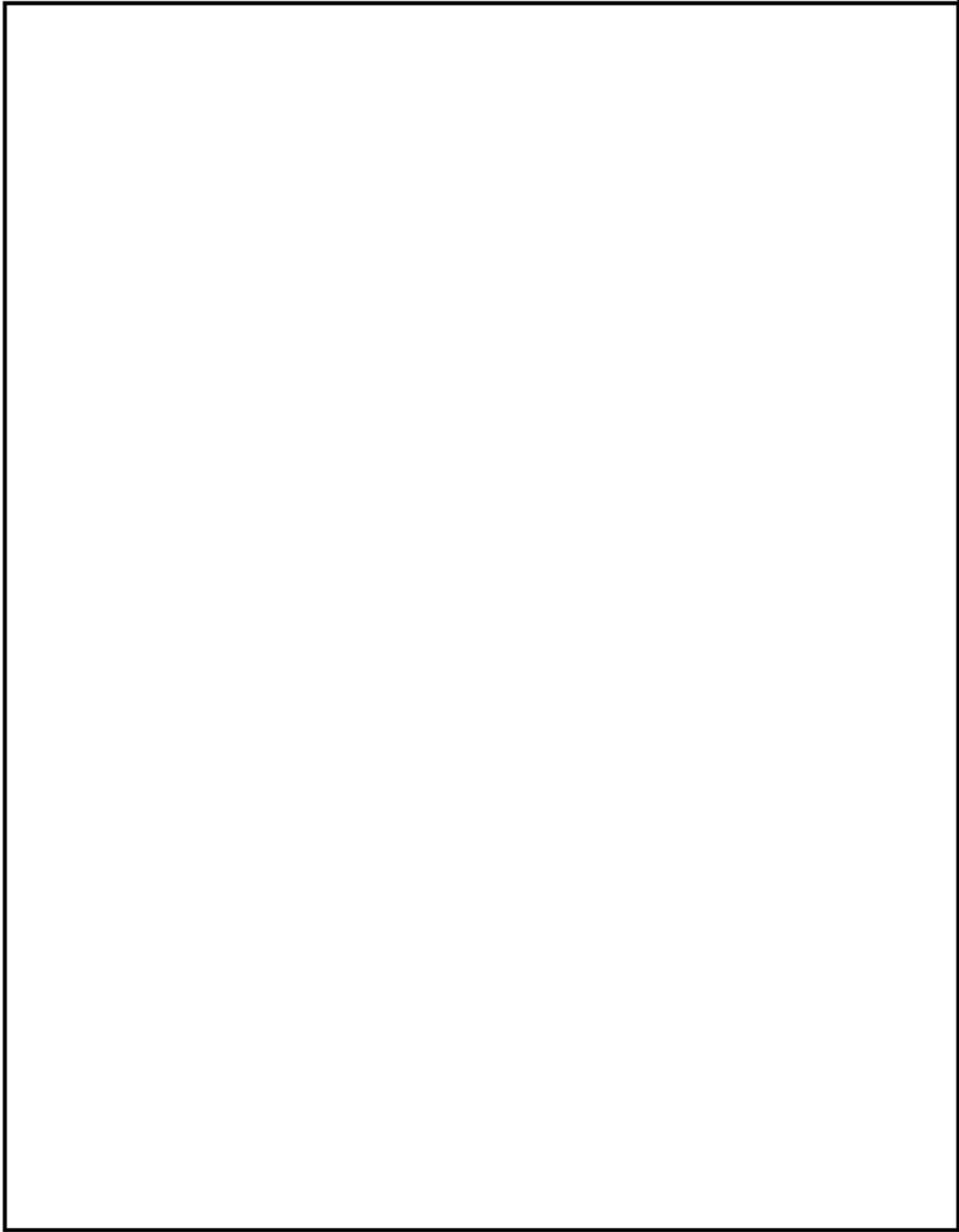
(b) (3) - P.L. 86-36
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(b) (3) - P.L. 86-36
(b) (4)
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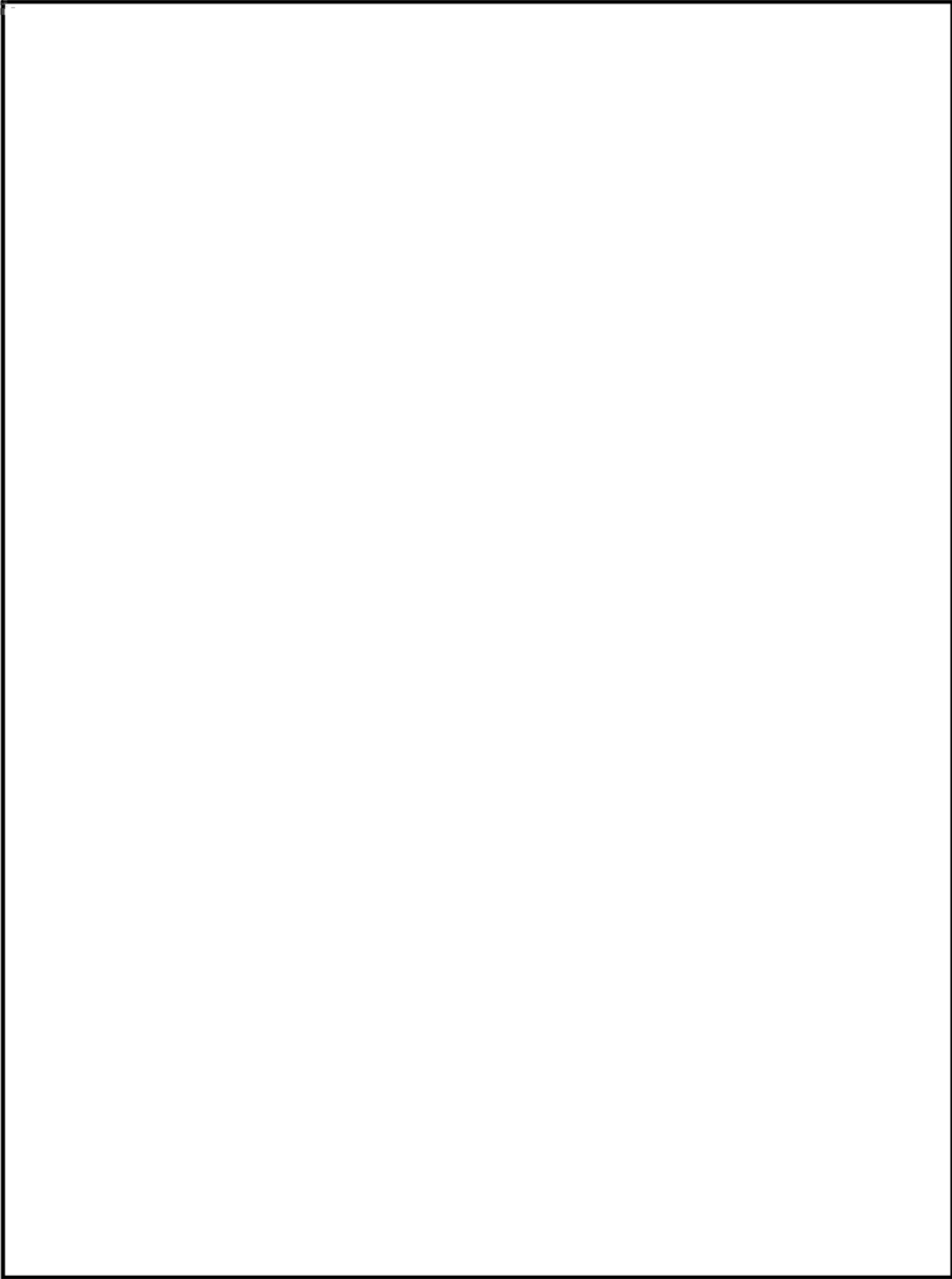
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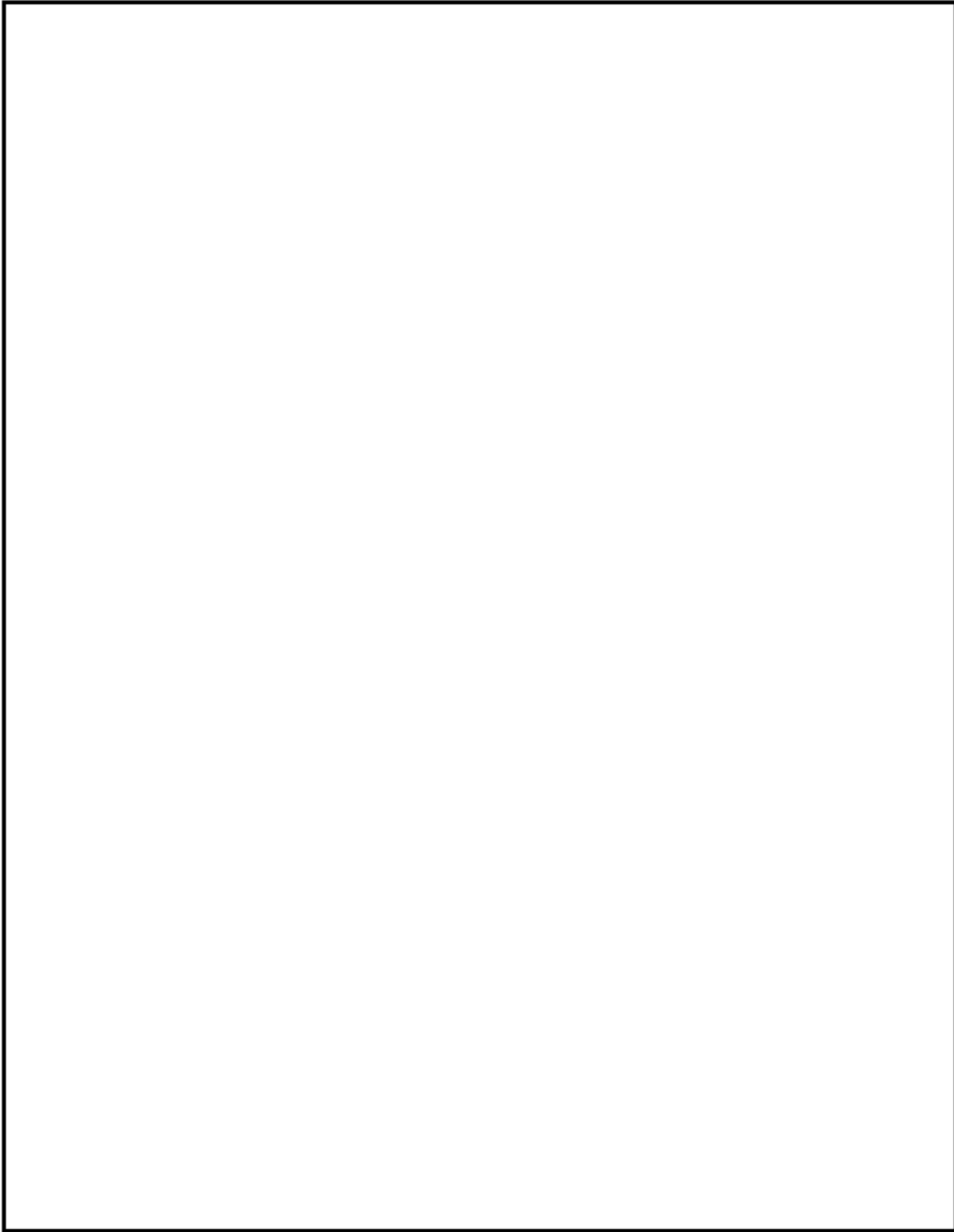
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UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

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(b) (6)

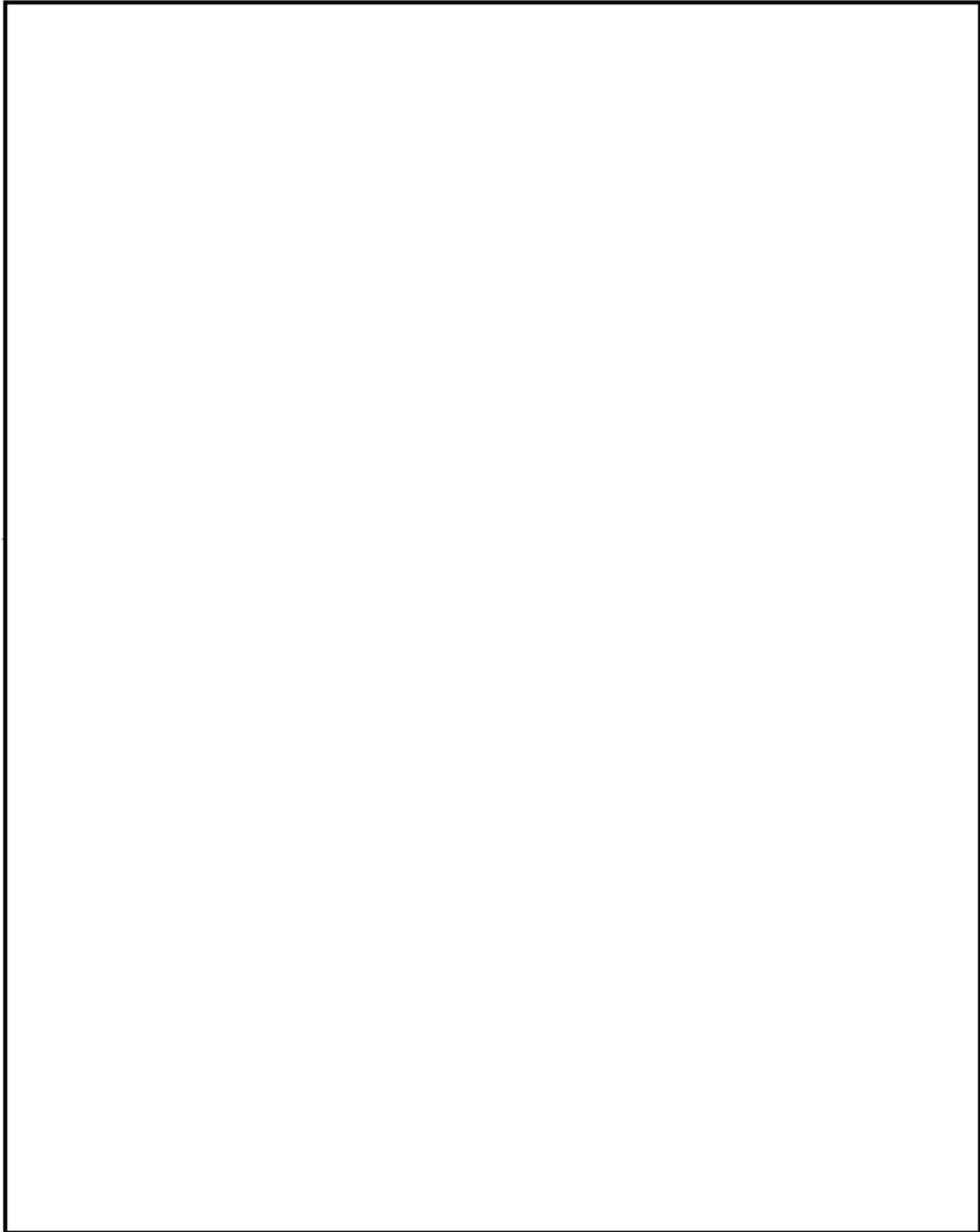
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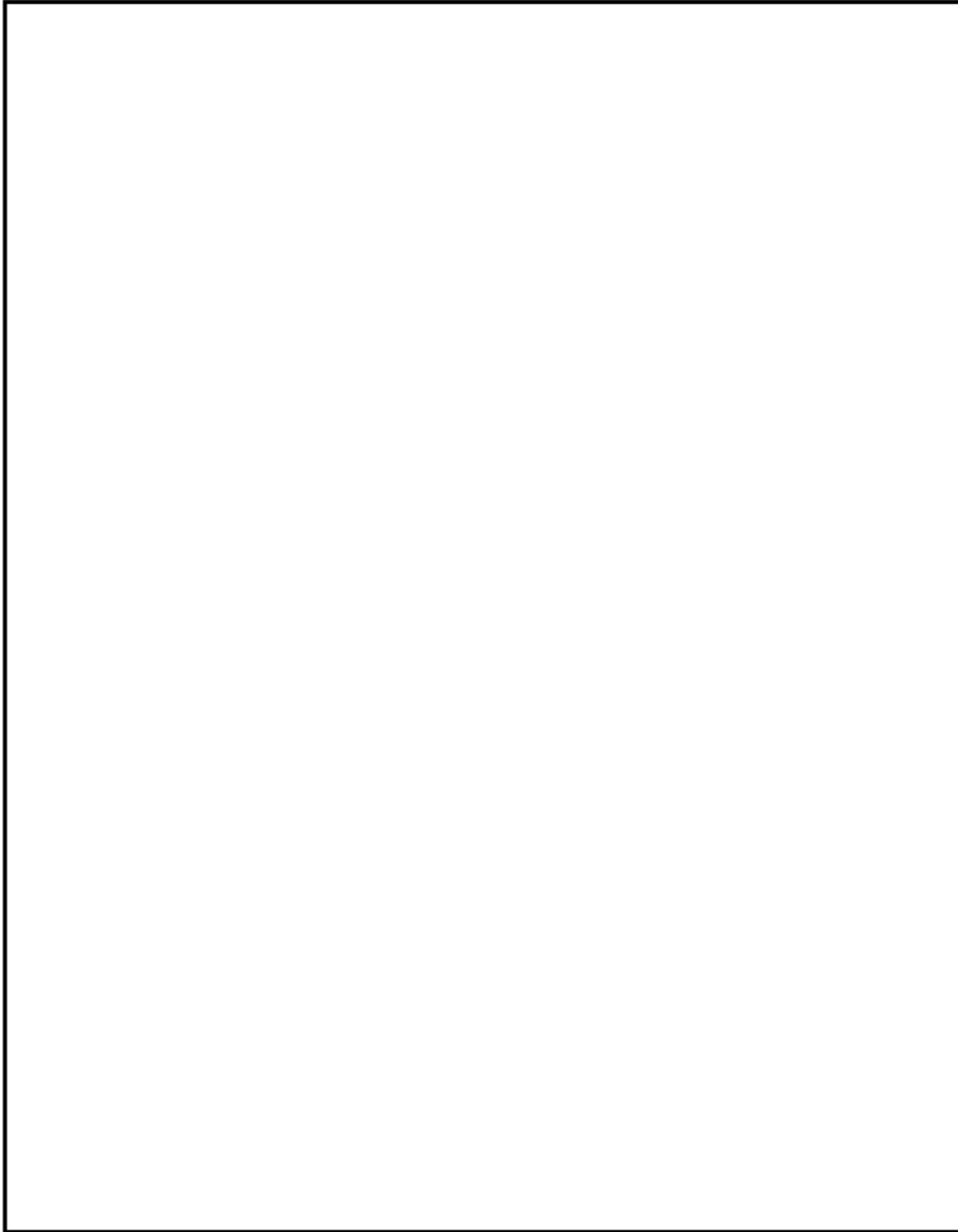
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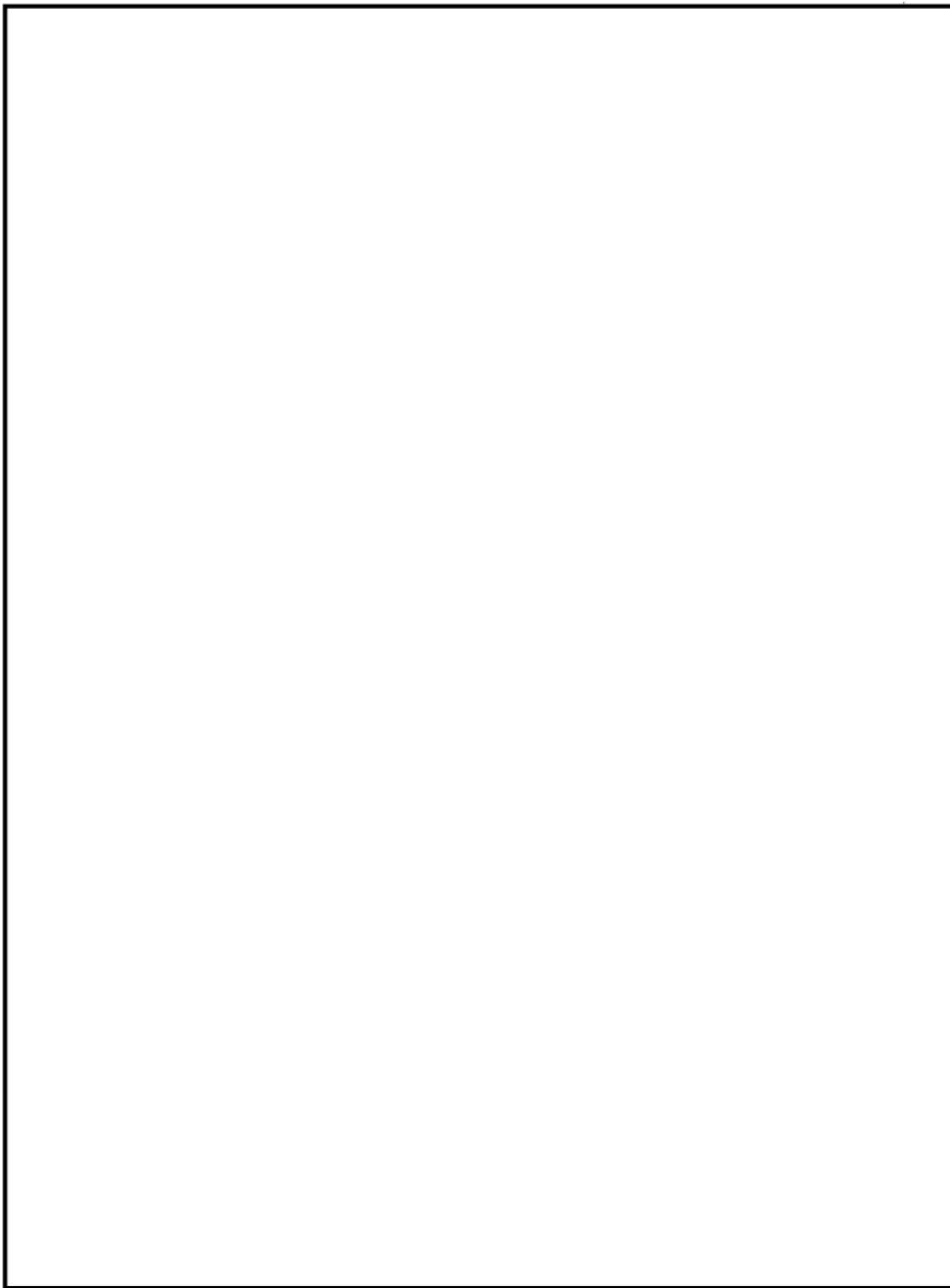
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(b) (4)
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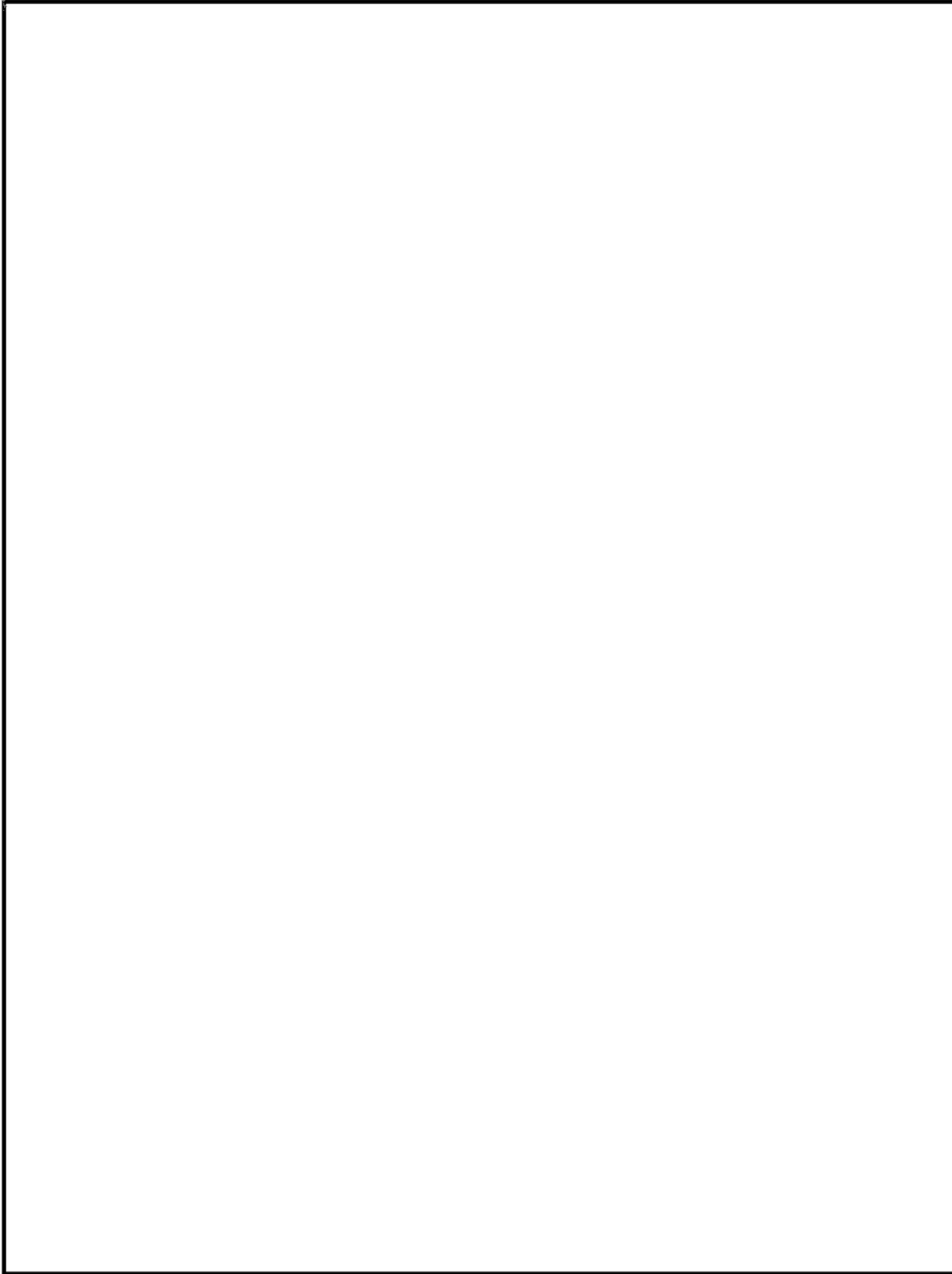
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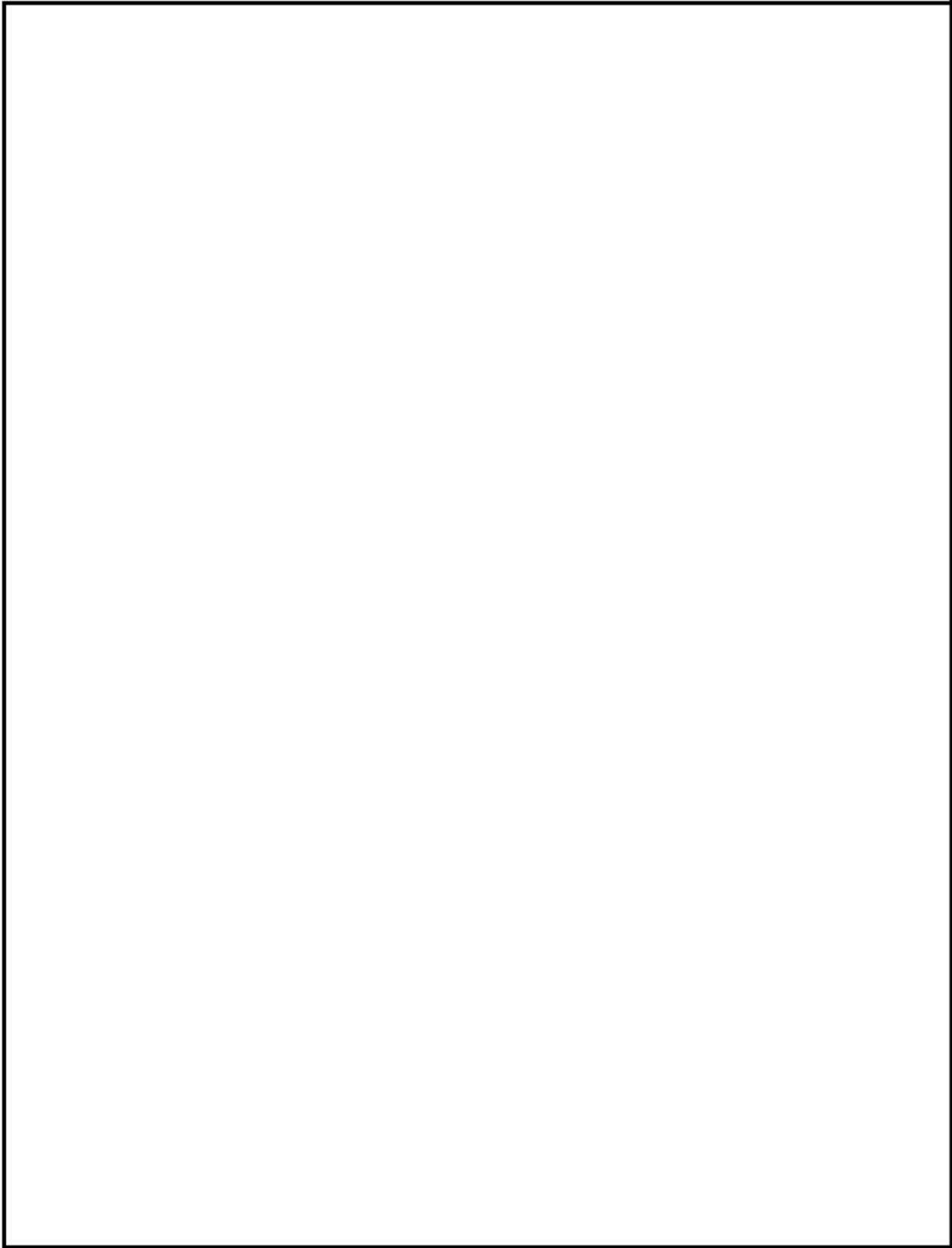
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(b) (3) - P.L. 86-36
(b) (4)
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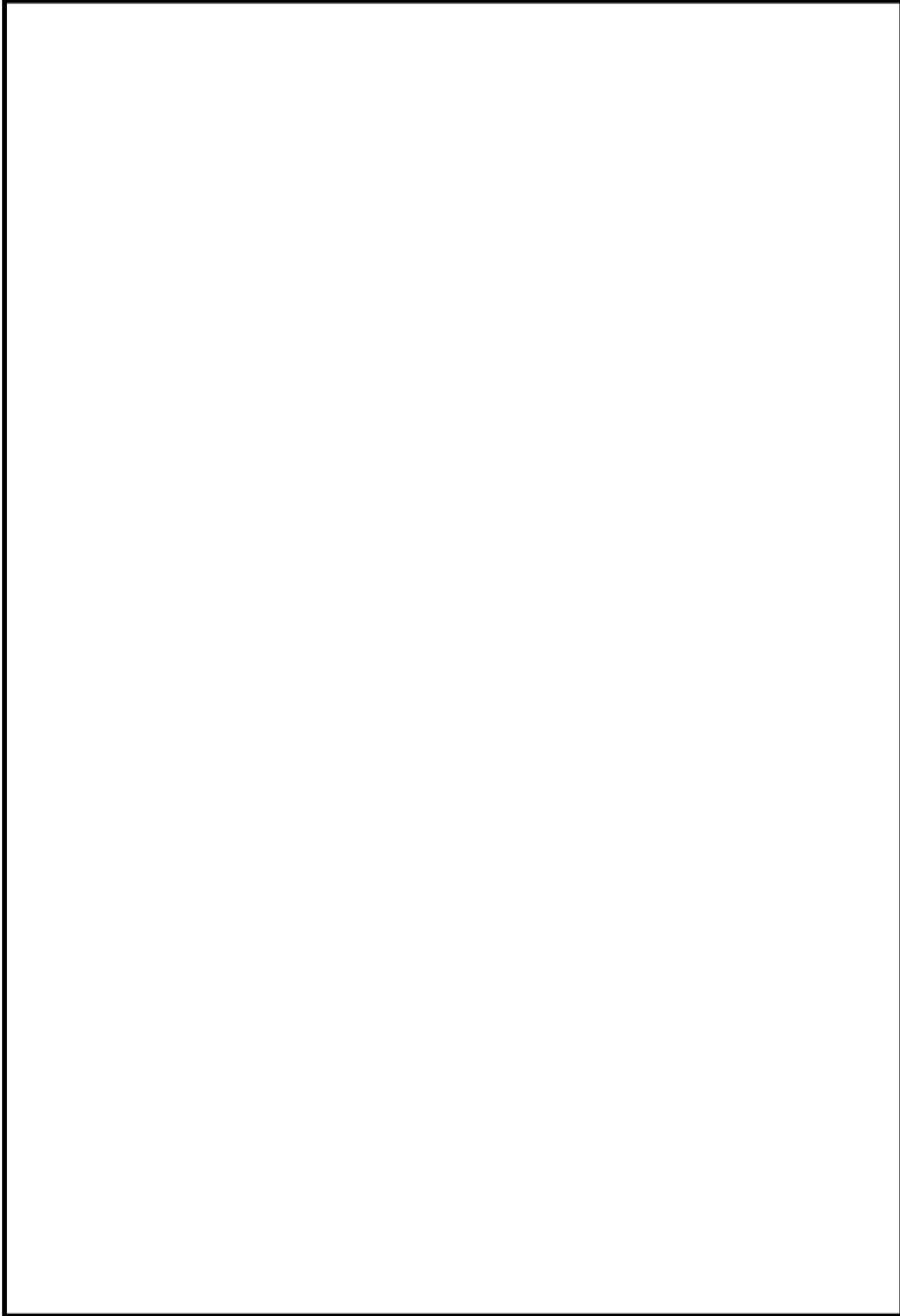
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APPENDIX E

(U) [redacted] Sample [redacted] and Email Conversations

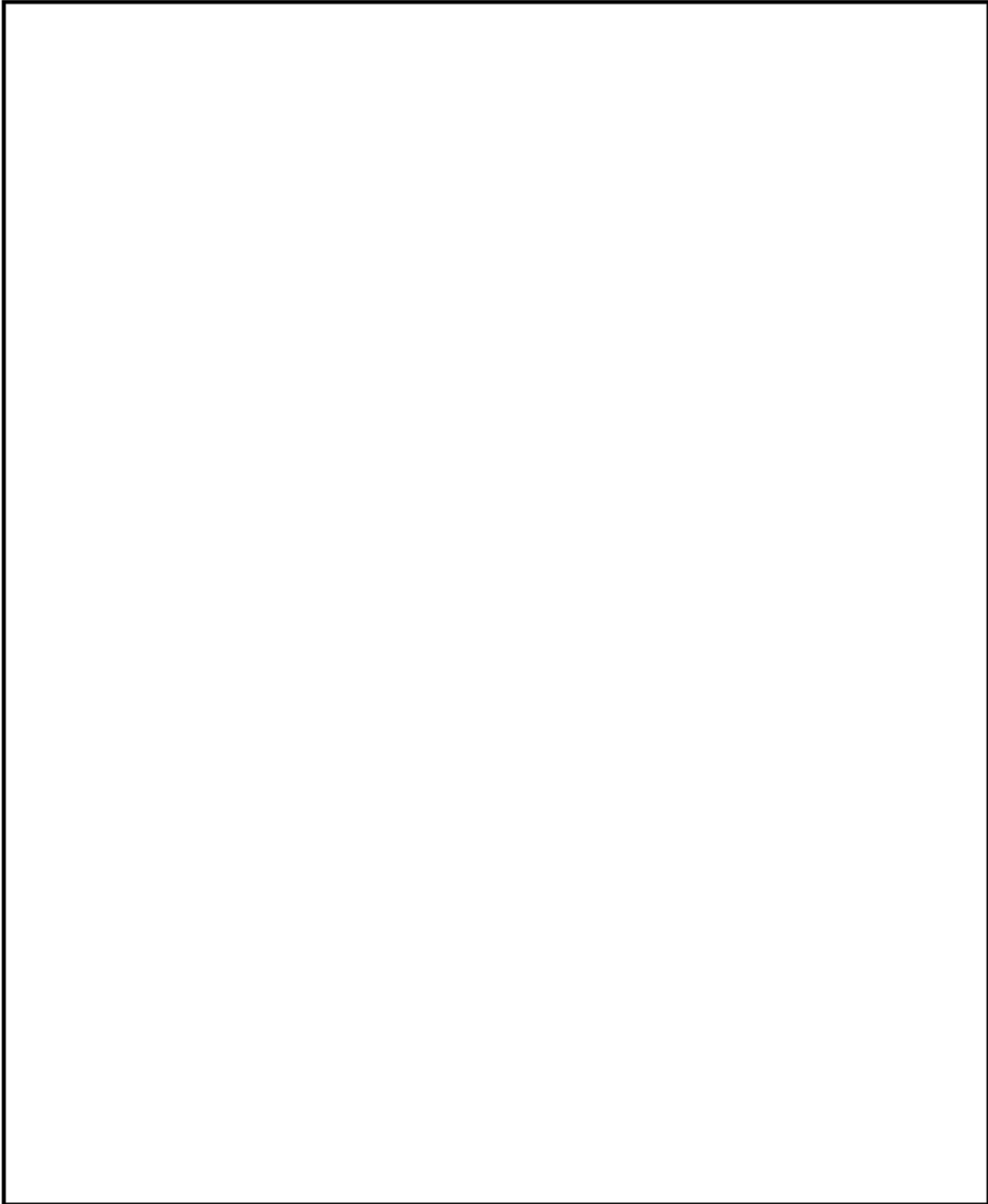
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(b) (6)

(b) (3) - P.L. 86-36

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(b) (6)

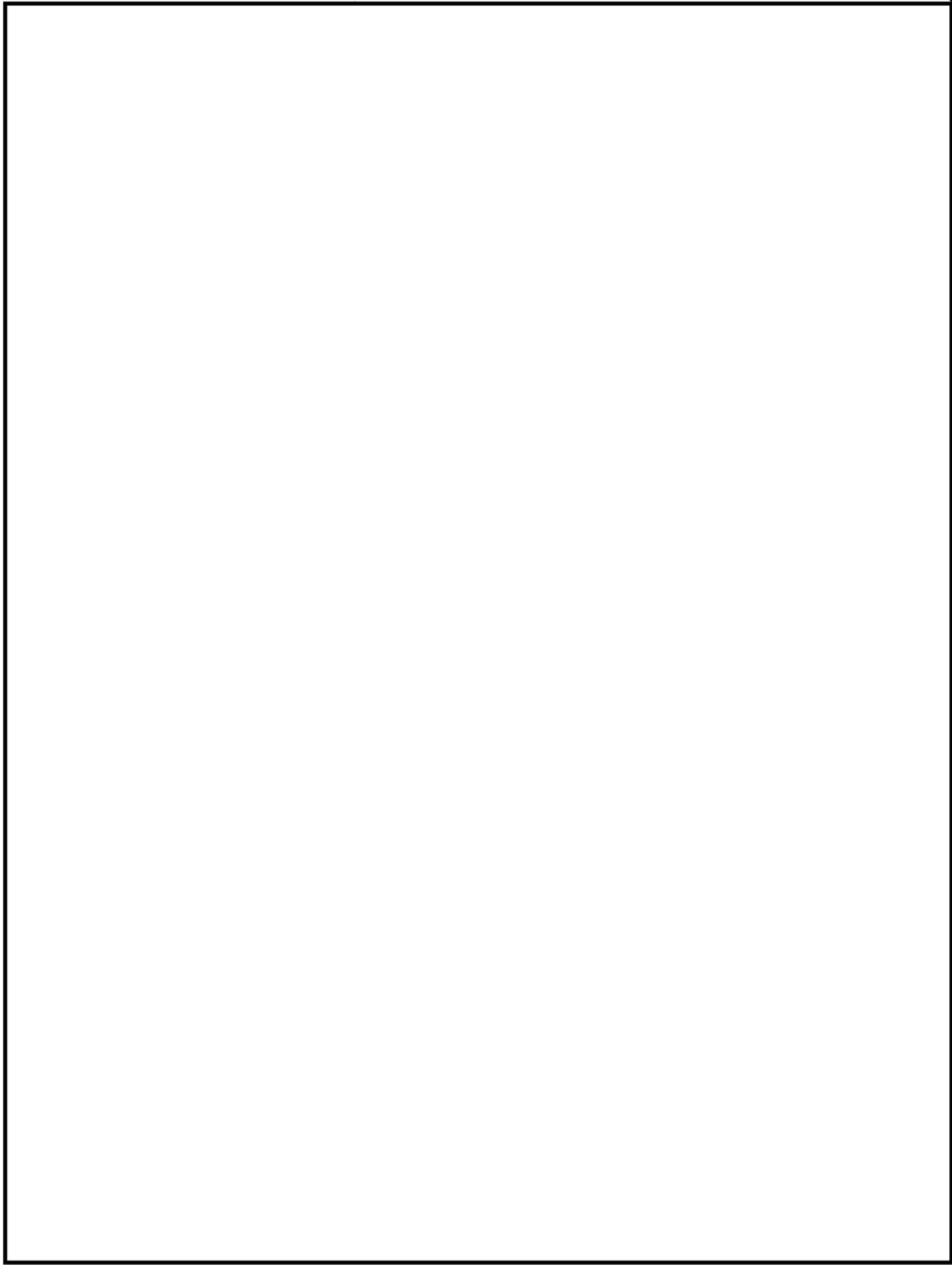
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(b) (4)
(b) (6)

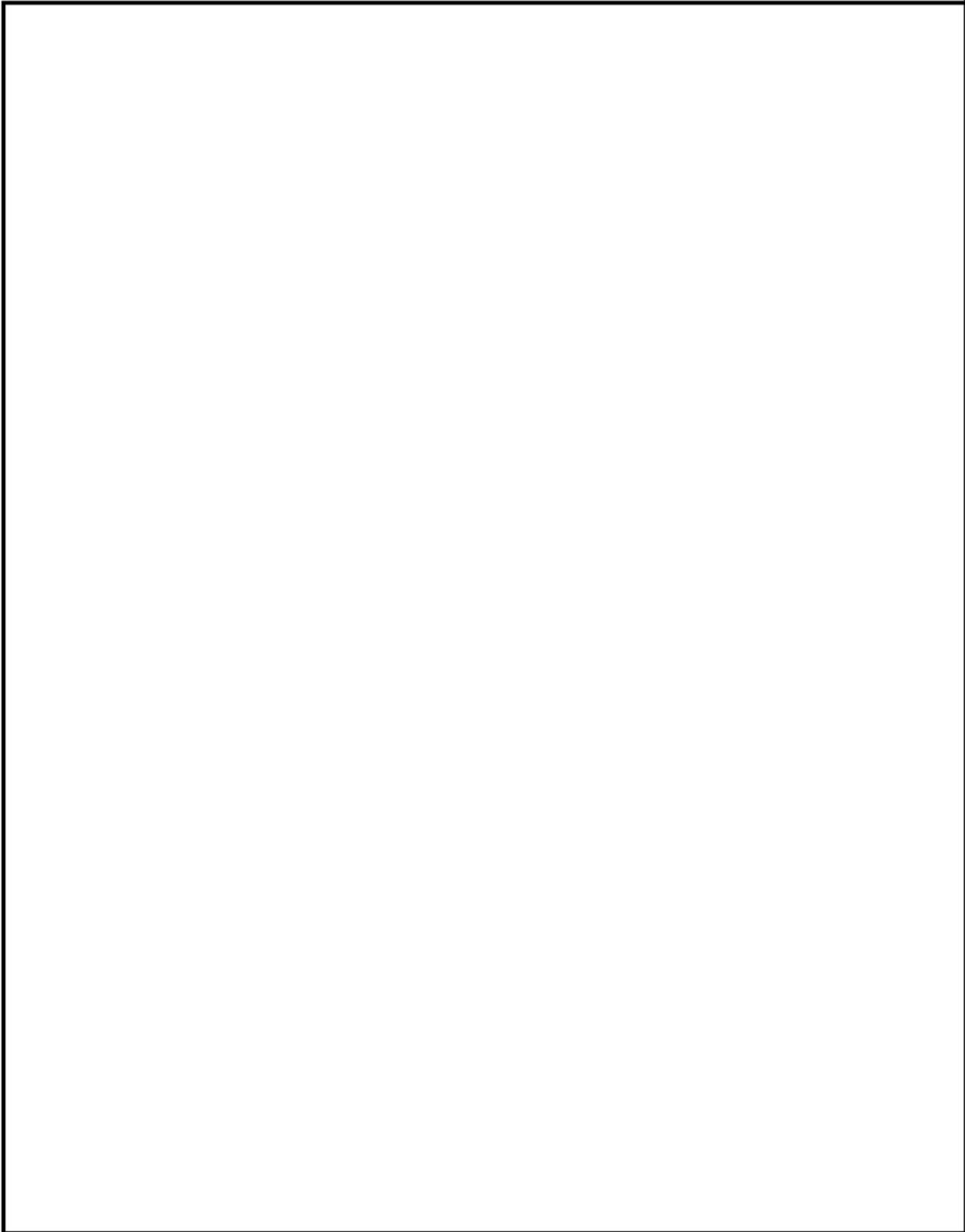
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(b) (3) - P.L. 86-36
(b) (4)
(b) (6)

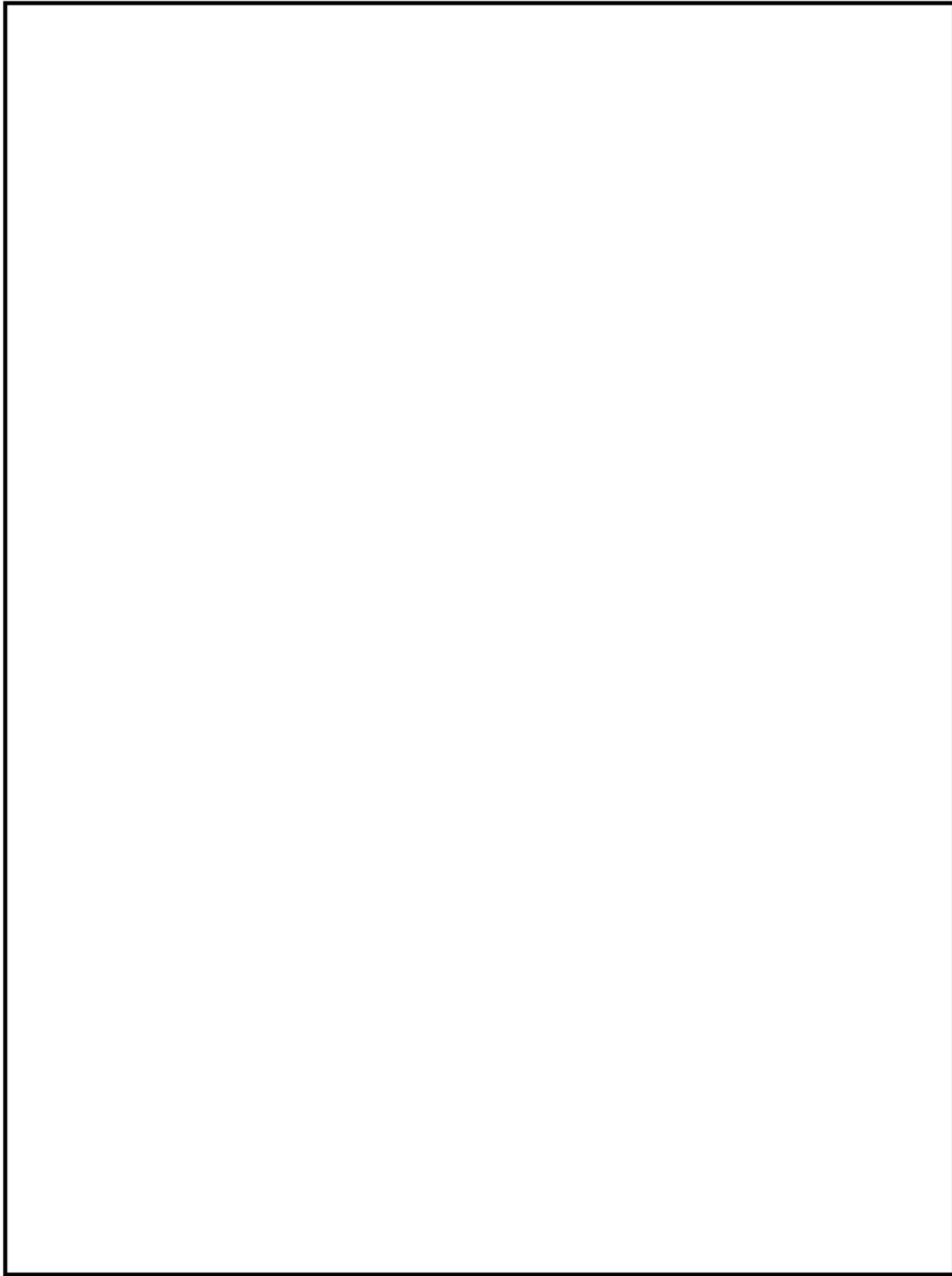
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(b) (3) - P.L. 86-36
(b) (4)
(b) (6)

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APPENDIX F

(b) (3) - P.L. 86-36
(b) (6)

(U) **Response to the Tentative Conclusion**

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

[Redacted]

From: [Redacted]
Sent: Thursday, November 03, 2016 7:14 AM
To: [Redacted]
Subject: RE: OIG Notification of Tentative Conclusion

[Redacted]

I have received your letter. Upon the closure of the investigation, you will be notified of the Final Conclusions in the same manner in which you received the Tentative Conclusions. If you have any questions, please do not hesitate to reach out.

(b) (3) - P.L., 86-36

V/r,

[Redacted]
Investigator
NSA Office of the Inspector General
[Redacted]

(b) (3) - P.L., 86-36
(b) (6)

-----Original Message-----

From: [Redacted]
Sent: Wednesday, November 02, 2016 7:59 PM
To: [Redacted]
Cc: [Redacted]
Subject: Re: OIG Notification of Tentative Conclusion

[Redacted]

Please find attached letter that is my response to the NSA OIG's tentative conclusion memo (dated 20 Oct 2016).

Please acknowledge that you have received this letter.

Sincerely,

[Redacted]

Respectfully,

[Redacted signature block]

From: [Redacted]
Sent: Thursday, October 20, 2016 9:39 PM
To: [Redacted]
Subject: Re: OIG Notification of Tentative Conclusion

[Redacted]

(b) (3) - P.L. 86-36

(b) (3) - P.L. 86-36
(b) (6)

I acknowledge receipt of this letter.

Respectfully,

[Redacted signature block]

[Redacted]

From: [Redacted]

Sent: Thursday, October 20, 2016 11:15 AM

To: [Redacted]

Subject: OIG Notification of Tentative Conclusion

(b) (3) - P.L. 86-36
(b) (6)

(b) (3) - P.L. 86-36

[Redacted]

Attached you will find the Tentative Conclusion to the OIG Investigation regarding allegations that you recruited personnel while on government property and within government spaces. You will find that the document is protected by a password. You will receive a separate email from me containing the password.

If you have any questions, please feel free to contact me.

V/r,

[Redacted]

Investigator

NSA Office of the Inspector General

[Redacted]

[Redacted]

From: [Redacted]
Sent: Wednesday, November 02, 2016 7:59 PM
To: [Redacted]
Cc: [Redacted]
Subject: Re: OIG Notification of Tentative Conclusion
Attachments: [Redacted]

[Redacted]

(b) (3) - P.L. 86-36

Please find attached letter that is my response to the NSA OIG's tentative conclusion memo (dated 20 Oct 2016).

Please acknowledge that you have received this letter.

Sincerely,

[Redacted]

Respectfully,

[Redacted]

(b) (3) - P.L. 86-36
(b) (6)

From: [redacted]
Sent: Thursday, October 20, 2016 9:39 PM
To: [redacted]
Subject: Re: OIG Notification of Tentative Conclusion

(b) (3) -P.L. 86-36
(b) (6)

[redacted]

I acknowledge receipt of this letter.

Respectfully,

[redacted signature block]

(b) (3) -P.L. 86-36

From: [redacted]
Sent: Thursday, October 20, 2016 11:15 AM
To: [redacted]
Subject: OIG Notification of Tentative Conclusion

(b) (3) -P.L. 86-36
(b) (6)

[redacted]

Attached you will find the Tentative Conclusion to the OIG Investigation regarding allegations that you recruited personnel while on government property and within government spaces. You will find that the document is protected by a password. You will receive a separate email from me containing the password.

If you have any questions, please feel free to contact me.

V/r,

[Redacted]

Investigator
NSA Office of the Inspector General

[Redacted]

(b) (3) - P.L. 86-36

2 Nov 2016

NSA/CSS Office of the Inspector General
 Attn: [REDACTED] Investigator

Most important things up front:

First, I would like to reiterate that the Government was not charged during any non-contract related activity. I was always "off the clock" if I took a [REDACTED] related phone call, communicated with anyone that was not related to my Government task, or met someone for coffee (as an example).

[REDACTED] is a Small Business startup and has not previously had the resources for all the training and awareness programs of a larger company. However, in the past two months [REDACTED] has developed and implemented an awareness training program for all new and existing employees. This program goes into detail about the appropriate use of NSA/CSS Information Systems (IS) and IT resources. We require all our employees to complete this training on a quarterly basis. We take security and compliance extremely seriously and this program is one way we are mitigating future issues. I have also completed this training.

The activity noted in the OIG findings concerning [REDACTED] suggests that I engaged in recruiting activities that were repeated and systemic. This is not the case. The contacts I had with potential candidates were limited and intermittent. Additionally, in every case noted by the OIG in its tentative conclusions, the potential candidates contacted me first inquiring about positions, rather than the other way around. All the potential candidates were close friends and colleagues I have previously worked with and had a pre-existing relationship with. There was no effort by me or any other [REDACTED] personnel to reach out to employees of other NSA contractors to attempt to recruit them from their then-current positions.

The conversations I had with potential candidates were not classified, but were sensitive in nature. I consider the Agency's mission; the type jobs and people being recruited; critical skill sets required; and organizational operational tempos to be sensitive in nature. Sensitive but unclassified information when combined together can divulge too much about an NSA/CSS program or effort. This is known as Essential Elements of Friendly Information (EEFI). The current leaks and compromises that have plagued the Agency recently, has driven myself and other leaders in [REDACTED] to err on the side of caution and hold any sensitive conversation

(b) (3) - P, T, 86-36

about a position or program within controlled environments. We were not trying to leverage an unfair advantage or gain information on a competitor. We were merely trying to be the best stewards possible and protect sensitive NSA/CSS information (unclassified but again potential EEFI) when communicating with potential candidates.

Part of our staffing job on [redacted]

The OIG statement that [redacted] actions demonstrate a lack of concern regarding the disruption of mission” could not be further from the truth. I have dedicated my entire adult life working for and supporting the NSA/CSS mission. I have provided selfless (many times at the cost to my personal and family life) service to the mission and our Nation. I served in the military; then as a Government employee; and now as an industry partner to further the Agency’s mission.

Recruiting and staffing is part of my role on the [redacted] contract. [redacted] leadership plays an acknowledged and important sub-contracting role on the [redacted] contract to ensure proper and timely staffing of the mission positions. The Government reviewed and accepted the [redacted] Part of that plan was the acknowledgement that it is typically not enough to only provide qualified staff. The operations tempo of the [redacted] environment, coupled with the mission critical nature of the work, creates a dynamic workspace where cooperation and collaboration are imperative. We know that the ability to work as a team with the Government and other contractors is not just a desired trait, but a requirement for program success.

Agency acknowledges barriers:

The NSA SAE commissioned a study to ascertain Industry’s perceptions of the “NSA Barriers to Innovation. This was an Empirical and Qualitative Study of the NSA’s Innovation Barriers and the results were published in August 31, 2015. The Study’s Goal was to identify barriers and make pragmatic recommendations to senior Agency leadership to lower or eliminate the barriers while being sensitive to time, cost, environment, and Government regulatory constraints.

(b) (3) - P.L. 86-36
(b) (6)

(b) (3) - P.L. 86-36

One of the major findings of the study was that NSA/CSS is losing contractor talent and innovation to private industry and these people leaving, are exiting the Intelligence Community all together. The study concluded that "*It's easier to leave than enter or stay, and many do.*" Industry believes that the loss of long-term intellectual capital to the commercial sector, and the challenges created while recruiting new talent has created increased mission gaps, more program risk, higher costs, and has resultantly reduced NSA's ability to innovate effectively. Further, today, small businesses without prime contracts are precluded from building the innovative NSA workforce and are being presented with increasing impossible security barriers, unrealistic administrative constraints, and delays.

The potential candidates that I was talking to that are noted in this OIG report were in the process of leaving the community all together. I was making an attempt not to hurt the Agency's mission; not to gain a competitive advantage; and not to "poach" from another company; but to retain talent and resources that are critical to the accomplishment of the NSA/CSS mission - many times as the request of the Government. In that regards, I disagree with the OIG's tentative conclusion that my actions described in the OIG's conclusions were intended to harm the NSA's critical mission. Nothing could be further from the truth.

Sincerely,

[Redacted Signature]

(b) (3) - P.L. 86-36
(b) (6)

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APPENDIX G

(b) (3) - P.L. 86-36
(b) (6)

(U) Response to the Tentative Conclusion

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

[Redacted]

From:

[Redacted]

Sent:

Thursday, November 03, 2016 8:19 AM

To:

[Redacted]

Cc:

[Redacted] [Redacted]

Subject:

OIG Notification of Tentative Conclusion

Attachments:

[Redacted]

(b) (3) - P.L. 86-36

[Redacted]

(b) (3) - P.L. 86-36
(b) (6)

Please find the attached letter that is my response to the NSA OIG's tentative conclusion memo (dated 20 Oct 2016).

I appreciate acknowledgement that you have received this letter.

Best Regards,

[Redacted]

[Redacted]

3 November 2016

NSA/CSS Office of the Inspector General

Attn: [redacted] Investigator

(b) (3) - P, I., 86-36

[redacted]
[redacted] (in your report) is a Small Business startup and has not previously had the resources for all the training and awareness programs of a larger company. However, [redacted] has now developed and implemented a Government Information Systems awareness training program for all new and existing employees to ensure that all [redacted] personnel understand and comply with the policies and rules applicable to the appropriate use of NSA/CSS Information Systems (IS) and Government-IT resources. Our first training session, which was company-wide and was mandatory for ALL employees, occurred on 10 August 2016. We now require all of our employees to complete this training on a quarterly basis. We take security and compliance extremely seriously and this program is one way we are mitigating future issues. [redacted] has also provided training to personnel regarding the restrictions on recruitment activities on Government property.

The activity noted in the OIG findings suggests that I engaged in repeated and frequent recruiting activities. This is not the case. Contacts with potential candidates were limited and intermittent. Additionally, in every case the potential candidates contacted me first, rather than the other way around. Further, the people involved were close friends and colleagues I have previously worked with and with whom I had a pre-existing relationship.

(b) (3) - P, I., 86-36
(b) (6)

At no time did I try to leverage any sort of unfair advantage or gain information on a competitor.

The OIG statement that [redacted] actions demonstrate a lack of concern regarding the disruption of mission" could not be further from the truth. I have served NSA's mission faithfully for more than 20 years. The [redacted] chat cited in this report involved someone I have known for more than a decade asking me questions about a mission critical project called [redacted]. As a Senior Company Representative (SCR) on the [redacted] contract; recruiting and staffing mission critical projects like [redacted] within very short timeframes is a part of my role. The Government reviewed and accepted the [redacted]. Part of that plan was the acknowledgement that the operations tempo of the Agency environment, coupled with the mission critical nature of the work, creates a dynamic workspace where cooperation and collaboration are imperative.

(b) (3) - P, I., 86-36

I also dispute that I ever intended to use [redacted] as a "matter of convenience". What I intended to convey was that today technology is pervasive throughout people's lives. People now communicate via texts, messaging apps, and email and expect immediate responses. I have noticed that since people are required to be inside of classified spaces, which prevents them from having or using their cellphone, personal email, etc..., they will quickly turn to mediums like [redacted] and continue discussions that may not be official uses of Government IS's. Towards that, I

have reread all of the rules and regulations cited in this report, and will ensure that neither I, nor anyone I communicate with, use or any other IS for any purpose other than which it was intended.

With regards to the OIG's finding that I recruited candidate(s) physically in NSA spaces, this is not the case. I did pick up employee forms from someone in the NSA space (at Starbucks) because the individual was unable to meet me anywhere else at that time. I have reviewed the applicable rules and policy directives governing use of government information systems and permitted activities on Government premises and commit that I will comply with all such rules and policy directives in the future.

Agency acknowledges barriers:

The NSA SAE commissioned a study to ascertain Industry's perceptions of the "NSA Barriers to Innovation. This was an Empirical and Qualitative Study of the NSA's Innovation Barriers and the results were published in August 31, 2015. The Study's Goal was to identify barriers and make pragmatic recommendations to senior Agency leadership to lower or eliminate the barriers while being sensitive to time, cost, environment, and Government regulatory constraints.

One of the major findings of the study was that NSA/CSS is losing contractor talent and innovation to private industry and these people leaving are exiting the Intelligence Community all together. The study concluded that "It's easier to leave than enter or stay, and many do." Industry believes that the loss of long-term intellectual capital to the commercial sector, and the challenges created while recruiting new talent has created increased mission gaps, more program risk, higher costs, and has resultantly reduced NSA's ability to innovate effectively. Further, today, small businesses without prime contracts are precluded from building an innovative NSA workforce pipeline, and are being presented with increasing impossible security barriers and delays.

To the above challenges highlighted in this study, the potential candidates that are noted in this OIG report, were contemplating leaving the community all together. I was making an attempt not to hurt the Agency's mission; not to gain a competitive advantage; not to "poach" from another company; but to retain talent and resources that are critical to the accomplishment of the NSA/CSS mission.

Finally, I would like to reiterate that I did not charge time to the Government for any non-contract related activity. I carefully noted any time that was spent on items unrelated to my mission tasking, including time spent going to lunch, getting coffee, etc., and made sure those were not reflected in my timesheet.

[Redacted]

From: [Redacted]
Sent: Thursday, November 03, 2016 8:42 AM
To: [Redacted]
Subject: RE: OIG Notification of Tentative Conclusion

[Redacted]

I have received your response. Upon the completion of the investigation, you will receive Final Conclusions in the same manner in which you received the Tentative Conclusions.

If you have any additional questions, please feel free to contact me.

V/r,

[Redacted]
Investigator
NSA Office of the Inspector General.

[Redacted]

(b) (3) - P.L. 86-36
(b) (6)

(b) (3) - P.L. 86-36

-----Original Message-----

From: [Redacted]
Sent: Thursday, November 03, 2016 8:19 AM
To: [Redacted]
Cc: [Redacted]
Subject: OIG Notification of Tentative Conclusion

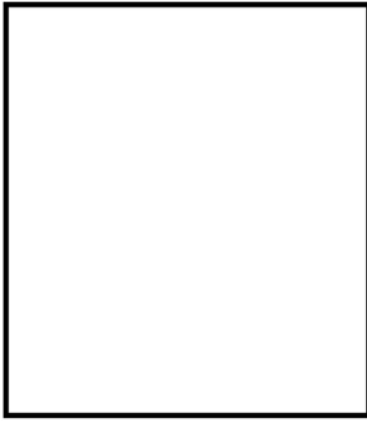
[Redacted]

Please find the attached letter that is my response to the NSA OIG's tentative conclusion memo (dated 20 Oct 2016).

I appreciate acknowledgement that you have received this letter.

Best Regards,

[Redacted]



(b) (3) - P.L. 86-36
(b) (6)

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APPENDIX H

(b) (3) - P.L. 86-36
(b) (6)

(U) **Response to the Tentative Conclusion**

~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~

From: [redacted]
To: [redacted]
Subject: RE: (U) OIG Notification of Tentative Conclusion (2)
Date: Wednesday, November 02, 2016 4:05:33 PM*

~~Classification: UNCLASSIFIED//FOR OFFICIAL USE ONLY~~

[redacted]
In response to the OIG Notification of Tentative Conclusion, sent to me on Thursday, 20 October, 2016, the following should be included:

As [redacted] has stated that "From 4 February through 11 July, [redacted] utilized the [redacted] chat tool function..." - it should be noted that I did not join [redacted] as an employee until 1 April, 2016. The 4 February [redacted] chat that [redacted] is referencing was a follow up between myself and [redacted] a longtime friend of my family, which I had requested previously outside of work. This timeline, along with the statement that I "tried to entice people to come work for [redacted]" insinuates a continuous effort to recruit beginning in February. That is factually inaccurate.

(b) (3) - P.L. 86-36

With regard to my stated "lack of concern regarding the disruption of mission", I was very clear with [redacted] that the people I was speaking with were referred to me as their contracts were ending, or their time in the military was coming to a close, and they did not have follow-on work. This is not a matter of removing resources from other NSA contractors in order to benefit [redacted], and I take the mission here very seriously. As I pointed out to [redacted] one of these gentlemen was forced to deploy again as a result of not being able to identify work after his time in the military. He continues to seek employment from overseas. Two others are facing a similar issue as their time in the military draws to a close and no follow-on work has been identified.

(b) (3) - P.L. 86-36
(b) (6)

The time I spent speaking with these people was not charged to my contract. In addition to not charging this time, my contract is a performance-based contract and the government is not charged an hourly rate for my time.

In addition to the points of clarification above, I also wish to explain the remedial measures I have taken recently to ensure my compliance with rules and policies surrounding my use of government information systems. I have been counseled by [redacted] and have sought and completed additional training regarding appropriate use of government information systems. I take this investigation very seriously and I have no intentions of repeating this unfortunate situation.

Respectfully,

[redacted signature box]

[Redacted]

From: [Redacted]
Sent: Thursday, October 20, 2016 12:17 PM

To: [Redacted]
Subject: (U) OIG Notification of Tentative Conclusion (2)

Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

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[Redacted]

(U//~~FOUO~~) This email is being resent to you with regards to your request to amend the original date of 01 January 2016. As previously notified, the OIG reviewed the information and found that 01 January 2016 was an error and amended the date to 04 February 2016 as evidenced by documentation that indicates you discussed potential employment with [Redacted] on that date. Please re-respond by the date indicated below with any mitigation, facts, information, or evidence that might not have been considered in reaching our conclusion.

(U//~~FOUO~~) The OIG has completed the field work associated with our investigation into allegations that you misused NSA/CSS Information Systems (ISs).

(U//~~FOUO~~) Prior to finalizing the Report of Investigation, we are notifying you of our tentative conclusion and extending an opportunity for you to provide a response. We include this step in our investigation process to ensure that subjects are afforded the opportunity to review our findings and reply with any mitigation, facts, information, or evidence that might not have been considered in reaching our conclusion.

Tentative Conclusion:

(U//~~FOUO~~) NSA/CSS Policy 6-4, "Contractor Use of NSA/CSS Unclassified ISs and Resources," paragraph 1 specifically states that contractors shall only use NSA/CSS ISs to perform tasks authorized by contract, approved by the CO, and permitted by policy. Paragraph 6 specifically states that contractors shall not use NSA/CSS IS and ITI resources to solicit business; advertise products or services; recruit employees, whether from NSA/CSS or other contractor workforces; or otherwise seek to obtain an unfair competitive advantage. Specifically, contractors shall not use NSA/CSS IT resources to gather information on government or other contractors' employees for the purpose of recruitment. In addition, Paragraph 9 specifically prohibits contractors from using NSA/CSS ISs or telephone services for personal use, except for brief, infrequent communications to deal with urgent matters, and such use cannot be associated with personal business activities outside the scope and purpose of the contract.

(U//FOUO) The MPOAS clause 352.290-9009, Government Contractor Relations paragraph (e) Non-Recruitment and Non-Interference, specifically states that Contractor personnel shall not recruit Government or other Contractors' personnel on Government premises... Access to and use of Government-furnished facilities, services, resources, and equipment (e.g. computers, telephones, portable computing devices, etc.) are for contract performance purposes only.

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(U//FOUO) From 04 February 2016 (amended to indicate corrected date) through 11 July 2016, [redacted] utilized the [redacted] chat tool function and NSA/CSS classified network Outlook email to discuss potential employment with [redacted]. She tried to entice people to come to work for [redacted] and discussed compensation and referral bonuses with recruits. Although she denied her efforts constituted recruiting, [redacted] acknowledged that her conversations via [redacted] were against NSA/CSS policy and that she was aware that recruiting on Government resources was prohibited. Further, [redacted] actions demonstrate a lack of concern regarding the disruption of mission that could result from her recruitment of other NSA/CSS contractors' employees from their current contracts for the purpose of benefiting [redacted].

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(b) (3) -P.L. 86-36
(b) (6)

(U//FOUO) In using NSA/CSS ISs to find potential cleared recruits for [redacted], communicate with potential [redacted] hires, and discuss vacancies and job offers with other NSA contractors, [redacted] violated NSA/CSS Policy 6-4's prohibitions against using Agency IS resources to recruit employees for [redacted]. These communications also constituted personal business activities that were outside the scope and purpose of the [redacted] contract to which she was assigned.

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(U//FOUO) Further, in communicating with [redacted] potential hires in NSA spaces and over Agency ISs located in NSA spaces, [redacted] violated MPOAS 352.290-9009's prohibitions on recruiting contractor personnel on government premises.

(U//FOUO) The preponderance of the evidence supports the conclusion that [redacted] recruited personnel for the benefit of [redacted] and conducted personal business activities outside the scope and purpose of the contract while on NSA/CSS ISs and on government premises in violation of NSA/CSS Policy 6-4, Paragraphs 1., 6.a., 9.e., and MPOAS 352.290-9009(e).

(U//FOUO) Please take the following actions:

1. (U//FOUO) Immediately confirm receipt of this email.
2. (U//FOUO) Although you are not required to provide any input, if you choose to do so, please provide your input by Thursday November 3, 2016. Your reply can be in the form of an email, memo, or any format you choose. Please provide as much detail as possible, including dates, facts, names, and supporting documentation.
3. (U//FOUO) If you choose not to provide any input, please let us know as soon as practicable, but no later than Thursday November 3, 2016.

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(U//FOUO) Feel free to contact me if you have any questions.

V/r,

[redacted signature box]

Investigator
NSA Office of the Inspector General

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APPENDIX I

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(b) (6)

(U) [redacted] Response to the Tentative Conclusion

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

From: [Redacted]
To: [Redacted]
Cc: [Redacted]
Subject: RE: (U) OIG Notification of Tentative Conclusion
Date: Wednesday, November 02, 2016 2:28:57 PM

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[Redacted]

(b) (3) - P.L., 86-36

I thank you for the opportunity to respond to your findings. I only have a few remarks in response.

1. As a point of clarity with regards to paragraph 3, I did not routinely use my [Redacted] chat as I means to "entice people to come work for [Redacted]". As I mentioned during my interview, I was asked by colleagues that I previously worked with to alert them to any potential opportunities.
2. I would like to clarify the reference to using my unclassified network Outlook email. It was my corporate [Redacted] email I accessed via Firefox as presented to me during my interview.

Since this very stressful ordeal began mid-August 2016, I have made it my main purpose to not use my classified and unclassified system for non-work related activities. I have used my unclassified system primarily for time-card management. Additionally, I have taken aggressive measures to not engage with prior work colleagues via my [Redacted] chat tool on potential recruiting related manners when solicited. To ensure I am well-educated on all governing regulations as it relates to the use of government information systems, I enrolled and completed the Cyber Awareness Challenge (OIAC1180) for a second time this year for remediation. I volunteer to complete any other related NCS course. I checked the catalog available to contractors and did not note any of these courses. I have learned a very serious lesson, I sincerely apologize for my actions and vow to not ever violate these policies again.

Once again thank you for the opportunity to respond.

Sincerely

[Redacted Signature Block]

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(b) (6)

From: [Redacted]
Sent: Thursday, October 20, 2016 8:08 AM
To: [Redacted]
Subject: (U) OIG Notification of Tentative Conclusion
Importance: High

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(U//~~FOUO~~) The OIG has completed the field work associated with our investigation into allegations that you misused NSA/CSS Information Systems (ISs).

(U//~~FOUO~~) Prior to finalizing the Report of Investigation, we are notifying you of our tentative conclusion and extending an opportunity for you to provide a response. We include this step in our investigation process to ensure that subjects are afforded the opportunity to review our findings and reply with any mitigation, facts, information, or evidence that might not have been considered in reaching our conclusion.

Tentative Conclusion:

(U//~~FOUO~~) NSA/CSS Policy 6-4, "Contractor Use of NSA/CSS Unclassified ISs and Resources," paragraph 1 specifically states that contractors shall only use NSA/CSS ISs to perform tasks authorized by contract, approved by the CO, and permitted by policy. Paragraph 6 specifically states that contractors shall not use NSA/CSS IS and ITI resources to solicit business; advertise products or services; recruit employees, whether from NSA/CSS or other contractor workforces; or otherwise seek to obtain an unfair competitive advantage. Specifically, contractors shall not use NSA/CSS IT resources to gather information on government or other contractors' employees for the purpose of workforce recruitment. In addition, Paragraph 9 specifically prohibits contractors from using NSA/CSS ISs or telephone services for personal use, except for brief, infrequent communications to deal with urgent matters, and such use cannot be associated with personal business activities outside the scope and purpose of the contract.

(U//~~FOUO~~) The MPOAS clause 352.290-9009, Government Contractor Relations paragraph (e) Non-Recruitment and Non-Interference, specifically states that Contractor personnel shall not recruit Government or other Contractors' personnel on Government premises... Access to and use of Government-furnished facilities, services, resources, and equipment (e.g. computers, telephones, portable computing devices, etc.) are for contract performance purposes only.

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(b) (6)

(U//~~FOUO~~) From 01 January 2016 through 26 April 2016, [redacted] utilized the [redacted] chat tool function and NSA/CSS unclassified network Outlook email to discuss potential employment with [redacted]. He tried to entice people to come to work for [redacted] and discussed openings and resume requirements with potential recruits. [redacted] testified that his [redacted] conversations and emails were efforts to recruit potential hires on behalf of [redacted]. He also testified to successfully recruiting one NSA/CSS contractor as a result of his efforts, which took place on NSA/CSS ISs. [redacted] actions demonstrate a lack of concern regarding the disruption of mission that could result from his recruitment of other NSA/CSS

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contractors' employees from their current contracts for the purpose of benefiting [redacted]

(U//FOUO) In using NSA/CSS ISs to find potential cleared recruits for [redacted], communicate with potential [redacted] hires, and discuss vacancies and job offers with other NSA contractors, [redacted]

[redacted] violated NSA/CSS Policy 6-4's prohibitions against using Agency IS resources to recruit employees for [redacted].

(U//FOUO) Further, in communicating with [redacted] potential hires in NSA spaces and over Agency ISs located in NSA spaces, [redacted] violated MPOAS 352.290-9009's prohibitions on recruiting contractor personnel on government premises.

(U//FOUO) The preponderance of the evidence supports the conclusion that [redacted], on government premises and using NSA/CSS ISs, recruited other NSA/CSS personnel from other contractors to work for [redacted] and conducted personal business activities outside the scope and purpose of the contract in violation of NSA/CSS Policy 6-4, Paragraphs 1., 6.a, 9.e, and MPOAS 352-290-9009(e).

(U//FOUO) Please take the following actions:

1. (U//FOUO) Immediately confirm receipt of this email.
2. (U//FOUO) Although you are not required to provide any input, if you choose to do so, please provide your input by Thursday November 3, 2016. Your reply can be in the form of an email, memo, or any format you choose. Please provide as much detail as possible, including dates, facts, names, and supporting documentation.
3. (U//FOUO) If you choose not to provide any input, please let us know as soon as practicable, but no later than Thursday November 3, 2016.

(U//FOUO) Feel free to contact me if you have any questions.

V/r,

[redacted]

Investigator
NSA Office of the Inspector General

[redacted]

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