IN THE UNITED STATES ARMY
FIRST JUDICIAL CIRCUIT

UNITED STATES	)	
	)	
v.	)	**DEFENSE NOTICE OF**
	)	**PLEA AND FORUM**
MANNING, Bradley E., PFC	)	
U.S. Army, xxx-xx-(b) [redacted]	)	
Headquarters and Headquarters Company, U.S.	)	
Army Garrison, Joint Base Myer-Henderson Hall,	)	DATED: 30 January 2013
Fort Myer, VA 22211	)	

In accordance with the Rules of Practice before Army Courts-Martial, PFC Manning, by and through his attorney hereby serves notice to the Government and Court of anticipated plea, requested forum, and expected motions.

Plea:

To the Specification of Charge I and to Charge I: Not Guilty.

To Specification 1 of Charge II: Not Guilty.

To Specification 2 of Charge II: Guilty, except the words and figures "15 February 2010" and "5 April 2010", substituting therefore the words and figures "14 February 2010" and "21 February 2010"; further excepting the words "information relating to the national defense, to wit:"; further excepting the words "with reason to believe such information could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicate, deliver, transmit, or cause to be communicated, delivered, or transmitted,", substituting therefore the words "did willfully communicate"; further excepting the words and figures, "in violation of 18 U.S. Code Section 793(e),"; to the excepted words and figures, Not Guilty; to the substituted words and figures, Guilty.

(Revised Specification 2 of Charge II: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 14 February 2010 and on or about 21 February 2010, having unauthorized possession of a video file named "12 JUL 07 CZ ENGAGEMENT ZONE 30 CG Anyone.avi", willfully communicate the said information, to a person not entitled to receive it, such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.)

To Specification 3 of Charge II: Guilty, except the words and figures "22 March 2010" and "26 March 2010", substituting therefore the words and figures "17 March 2010" and "22 March 2010"; further excepting the words "information relating to the national defense, to wit:";

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further excepting the words "with reason to believe such information could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicate, deliver, transmit, or cause to be communicated, delivered, or transmitted,", substituting therefore the words "did willfully communicate"; further excepting the words and figures "in violation of 18 U.S. Code Section 793(e),"; to the excepted words and figures, Not Guilty; to the substituted words and figures, Guilty.

(Revised Specification 3 of Charge II: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 17 March 2010 and on or about 22 March 2010, having unauthorized possession of more than one classified memorandum produced by a United States government intelligence agency, willfully communicate the said information, to a person not entitled to receive it, such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.)

To Specification 4 of Charge II: Not Guilty.

To Specification 5 of Charge II: Guilty, except the words and figures "31 December 2009" and "9 February 2010", substituting therefore the words and figures "5 January 2010" and "3 February 2010"; further excepting the words "information relating to the national defense, to wit:"; further excepting the words "with reason to believe such information could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicate, deliver, transmit, or cause to be communicated, delivered, or transmitted,", substituting therefore the words, "did willfully communicate"; further excepting the words and figures "in violation of 18 U.S. Code Section 793(e),"; to the excepted words and figures, Not Guilty; to the substituted words and figures, Guilty.

(Revised Specification 5 of Charge II: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 5 January 2010 and on or about 3 February 2010, having unauthorized possession of more than twenty classified records from the Combined Information Data Network Exchange Iraq database, willfully communicate the said information, to a person not entitled to receive it, such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.)

To Specification 6 of Charge II: Not Guilty.

To Specification 7 of Charge II: Guilty, except the words and figures "31 December 2009" and "9 February 2010", substituting the words and figures "5 January 2010" and "3 February 2010"; further excepting the words "information relating to the national defense, to wit:"; further excepting the words "with reason to believe such information could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicate, deliver, transmit, or cause to be communicated, delivered, or transmitted,", substituting therefore the words "did willfully communicate"; further excepting the words and figures "in violation of 18 U.S. Code 793(e),"; to the excepted words and figures, Not Guilty; to the substituted words and figures, Guilty.

(Revised Specification 7 of Charge II: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 5 January 2010 and on or about 3 February 2010, having unauthorized possession of more than twenty classified records from the Combined Information Data Network Exchange Afghanistan database, willfully communicate the said information, to a person not entitled to receive it, such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.)

To Specification 8 of Charge II: Not Guilty.

To Specification 9 of Charge II: Guilty, except the words and figures "between on or about 8 March 2010 and on or about 27 May 2010", substituting therefore the words and figures "on or about 8 March 2010"; further excepting the words "information relating to the national defense, to wit:"; further excepting the words "with reason to believe such information could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicate, deliver, transmit, or cause to be communicated, delivered, or transmitted,", substituting therefore the words "did willfully communicate"; further excepting the words and figures "in violation of 18 U.S. Code 793(e)"; to the excepted words and figures, Not Guilty; to the substituted words and figures, Guilty.

(Revised Specification 9 of Charge II: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, on or about 8 March 2010, having unauthorized possession of more than three classified records from a United States Southern Command database, willfully communicate the said information, to a person not entitled to receive it, such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.)

To Specification 10 of Charge II: Guilty, except the words and figures "11 April 2010" and "27 May 2010", substituting therefore the words and figures "10 April 2010" and "12 April 2010"; further excepting the words "information relating to the national defense, to wit:"; further excepting the words "with reason to believe such information could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicate, deliver, transmit, or cause to be communicated, delivered, or transmitted,", substituting therefore the words "did willfully communicate"; further excepting the words and figures "in violation of 18 U.S. Code Section 793(e)"; to the excepted words and figures, Not Guilty; to the substituted words and figures, Guilty.

(Revised Specification 10 of Charge II: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 10 April 2010 and on or about 12 April 2010, having unauthorized possession of more than five classified records relating to a military operation in Farah Province, Afghanistan occurring on or about 4 May 2009, willfully communicate the said information, to a person not entitled to receive it, such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.)

To Specification 11 of Charge II: Not Guilty.

To Specification 12 of Charge II: Not Guilty.

To Specification 13 of Charge II: Guilty, except the words and figures "27 May 2010", substituting therefore the words and figures "4 May 2010"; further excepting the words "knowingly exceeded authorized access", substituting therefore the words "knowingly accessed"; further excepting the words "with reason to believe that such information so obtained could be used to the injury of the United States, or to the advantage of any foreign nation, in violation of 18 U.S. Code Section 1030(a)(1)"; to the excepted words and figures, Not Guilty; to the substituted words and figures, Guilty.

(Revised Specification 13 of Charge II: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 28 March 2010 and on or about 4 May 2010, having knowingly accessed a Secret Internet Protocol Router Network computer, and by means of such conduct having obtained information that has been determined by the United States government pursuant to an Executive Order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, to wit: more than seventy-five classified United States Department of State cables, willfully communicate, deliver, transmit, or caused to be communicated, delivered, or transmitted the said information, to a person not entitled to receive it, such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.)

To Specification 14 of Charge II: Guilty, except the words and figures "15 February 2010" and "18 February 2010", substituting therefore the words and figures "14 February 2010" and "15 February 2010"; further excepting the words "knowingly exceeded authorized access", substituting therefore the words "knowingly accessed"; further excepting the words "with reason to believe that such information so obtained could be used to the injury of the United States, or to the advantage of any foreign nation, in violation of 18 U.S. Code Section 1030(a)(1)"; to the excepted words and figures, Not Guilty; to the substituted words and figures, Guilty.

(Revised Specification 14 of Charge II: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 14 February 2010 and on or about 15 February 2010, having knowingly accessed a Secret Internet Protocol Router Network computer, and by means of such conduct having obtained information that has been determined by the United States government pursuant to an Executive Order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, to wit: a classified Department of State cable titled "Reykjavik-13", willfully communicate, deliver, transmit, or caused to be communicated, delivered, or transmitted the said information, to a person not entitled to receive it, such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.)

To Specification 15 of Charge II: Guilty, except the words and figures "between on or about 15 February 2010 and on or about 15 March 2010", substituting therefore the words and

figures "on or about 8 March 2010"; further excepting the words "information relating to the national defense, to wit:"; further excepting the words "with reason to believe such information could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicate, deliver, transmit, or cause to be communicated, delivered, or transmitted,", substituting therefore the words "did willfully communicate"; further excepting the words and figures "in violation of 18 U.S. Code Section 793(e),"; to the excepted words and figures, Not Guilty; to the substituted words and figures, Guilty.

(Revised Specification 15 of Charge II: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, on or about 8 March 2010, having unauthorized possession of a classified record produced by a United States Army intelligence organization, dated 18 March 2008, willfully communicate the said information, to a person not entitled to receive it, such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.)

To Specification 16 of Charge II: Not Guilty.

To Charge II: Guilty.

To Specification 1 of Charge III: Not Guilty.

To Specification 2 of Charge III: Not Guilty.

To Specification 3 of Charge III: Not Guilty.

To Specification 4 of Charge III: Not Guilty.

To Specification 5 of Charge III: Guilty, except the words and figures "1 November 2009", substituting therefore the words and figures "8 January 2010"; to the excepted words and figures, Not Guilty; to the substituted words and figures, Guilty.

To Charge III: Guilty.

Forum:

Trial by Military Judge Alone.

Maximum Punishment:

The maximum punishment authorized in this case, based solely on PFC Manning's guilty plea is: reduction to E-1, total forfeiture of all pay and allowances, confinement for 20 years, and a dishonorable discharge.

The Defense arrives at this maximum punishment determination based upon the findings of the Court in Appellate Exhibit 421 and the Defense's belief the proposed pleas to specification

13 and 14 should each carry a maximum punishment of reduction to E-1, total forfeiture of all pay and allowances, confinement for 2 years, and a dishonorable discharge.

PFC Manning's proposed pleas to specifications 13 and 14 of Charge II under clauses 1 and 2 of Article 134 are lesser included offenses of the offenses charged under 18 U.S.C. Section 1030(a)(1) and Article 134. The Defense asserts that the Article 134 lesser included offenses are not included in or closely analogous to an offense listed in the MCM. The Defense also asserts that the conduct and *mens reas* of the lesser included offenses are not essentially the same as a violation of United States Code Section 1030(a)(1) because PFC Manning is pleading to a residuum of elements for that offense. Army Regulation (AR) 380-5 dated 29 September 2000 (Information Security Program) establishes a custom of the service penalizing disclosures of classified and sensitive information. A disclosure in violation of AR 380-5 would be charged under Article 92 of the UCMJ. A violation of Article 92 would carry a maximum punishment of reduction to E-1, total forfeiture of all pay and allowances, confinement for 2 years, and a dishonorable discharge. Thus, the maximum punishment for each of the lesser included offenses of specification 13 and 14 proposed by PFC Manning should be reduction to E-1, total forfeiture of all pay and allowances, confinement for 2 years, and a dishonorable discharge.

Expected Motions:

Motion to Dismiss: Unreasonable Multiplication of Charges for Findings and Sentencing (after announcement of Findings).

Respectfully submitted,

DAVID EDWARD COOMBS
Civilian Defense Counsel