

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

2017 JUL 12 P 3:49

CLERK US DISTRICT COURT  
ALEXANDRIA, VIRGINIA

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 )  
**WILLIAM HOLOWECKI** )  
**12000 Thornbrooke Court** )  
**Bristow, Virginia 20136** )  
 )  
**Plaintiff,** )  
 )  
 v. )  
 )  
**AVAYA GOVERNMENT SOLUTIONS** )  
**12730 Fair Lakes Circle** )  
**Fairfax, Virginia 22033** )  
 )  
**Serve: CT Corporation System** )  
**4701 Cox Road, Suite 301** )  
**Glen Allen, VA 23060** )  
 )  
 )  
**Defendant.** )  
 )  
 \_\_\_\_\_)

Case No. 1:12cv 778  
LMB/TRJ

**CIVIL COMPLAINT FOR EQUITABLE  
AND MONETARY RELIEF AND DEMAND FOR JURY TRIAL**

**Introduction**

1. Avaya Government Solutions (AvayaGov) fired William Holowecki on December 19, 2011 (1) because he took acts in furtherance of a *qui tam* suit, in violation of the anti-retaliation provision of the False Claims Act (FCA), 31 U.S.C. §§ 3730(h); (2) because of his age, in violation of the Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 *et seq.*; and (3) because he refused to engage in criminal activity that would have violated Virginia and federal law, thus wrongfully discharging Holowecki in violation of the public policy of Virginia.

2. Holowecki, the Information Systems Security Manager for AvayaGov, discovered, documented, and reported false reports made by AvayaGov to a federal government customer regarding unauthorized access to restricted areas of AvayaGov's facility.

3. Holowecki warned AvayaGov management that its failure to correct the false reports constituted fraudulent conduct.

4. Holowecki reasonably believed that AvayaGov's knowing failure to disclose the access discrepancies intentionally induced the government to pay claims under false pretenses.

5. AvayaGov fired Holowecki because of his protected conduct under the FCA.

6. AvayaGov also fired Holowecki because he refused to engage in illegal conduct by providing classified information to unauthorized persons.

7. AvayaGov fired Holowecki because of his age, replacing him with a younger and less qualified person.

#### **JURISDICTION AND VENUE**

8. This Court has jurisdiction over the subject matter of this complaint pursuant to 28 U.S.C. § 1331, because this is an action arising under the laws of the United States, specifically, the False Claims Act, 31 U.S.C. § 3730(h), and the Age Discrimination in Employment Act of 1967 (ADEA), as amended, 29 U.S.C. §§ 621 *et seq.*

9. Venue in this district is appropriate pursuant to 28 U.S.C. § 1391 because it is the judicial district where the unlawful employment practices are alleged to have been committed, and because AvayaGov may be found in this District.

10. This Court also has supplemental jurisdiction over the pendent wrongful discharge claim under Virginia common law pursuant to 28 U.S.C. § 1367.

11. AvayaGov is subject to personal jurisdiction of this Court pursuant to Va. Code Ann. § 8.01-328.1(A)(1), (2), (3), and (6).

### **PARTIES**

12. Plaintiff Holowecki resides in Virginia at 12000 Thornbrooke Court, Bristow, Virginia 20136. He is a proper plaintiff in this matter as he is an “employee” as defined in 29 U.S.C. § 630(f).

13. Defendant AvayaGov is headquartered at 12730 Fair Lakes Circle, Fairfax, Virginia 22033. AvayaGov is incorporated under the laws of Delaware. AvayaGov is a proper defendant in this matter as it is an “employer” as defined in 29 U.S.C. § 630(b).

### **FACTUAL ALLEGATIONS**

#### **Holowecki Served in the Marines for 24 Years, Holds Multiple Degrees, and Began a Career in Systems Security After His Military Service.**

14. Holowecki is 58 years old.

15. Holowecki served in the U.S. Marine Corps for 24 years, rising to the rank of Major and retiring in 1998.

16. Holowecki has a B.S. Degree in Electrical Engineering, an M.A. in Economics, an M.S. in Information Systems, and an M.B.A.

17. In 2000, Holowecki began his post-military career as a Training Specialist with Anteon Corporation in Fort Shafter, Hawaii,

18. From June 2001 through February 2004, Holowecki was appointed as an Information Assurance Security Officer by Director for the Civilian Personnel Advisory Center (CPAC) in Fort Shafter, Hawaii.

19. From April 2006 through December 2009, Holowecki was the Information Systems Security Manager for Nortel Government Solutions Inc. (NGS) in Fairfax, Virginia.

20. Avaya, Inc. bought NGS in December 2009, and NGS subsequently became AvayaGov.

21. AvayaGov is a wholly-owned subsidiary of Avaya Inc.

22. Holowecki worked as the Information Systems Security Manager for AvayaGov in Fairfax, Virginia from December 2009 until AvayaGov fired him on December 19, 2011.

23. At the time of his termination, Holowecki earned an annual salary of \$106,000.

24. Rick Wilmoth supervised Holowecki at NGS from June 2006 through its acquisition by Avaya, Inc. in December 2009, and at AvayaGov from December 2009 to December 19, 2011.

25. Holowecki held a top secret security clearance during his employment with AvayaGov.

**AvayaGov, as a Federal Contractor, Must Follow Stringent Security Requirements on Many of Its Projects.**

26. AvayaGov is a contractor to various federal government entities, including the Department of State (DoS) and the Department of Defense (DoD).

27. AvayaGov predominantly provides information technology services.

28. Law and contract impose stringent security requirements on many of AvayaGov's projects.

29. AvayaGov's work for the U.S. government often involved handling classified information.

30. Such projects required that the AvayaGov facility have "building security postures" approved by the DoD and/or the U.S. government sponsor for the project.

31. When AvayaGov bid on projects that involved classified information, AvayaGov submitted a security proposal that outlined how it would safeguard the government's information.

32. The contracts into which AvayaGov entered with the U.S. government often explicitly required that AvayaGov properly safeguard information.

33. The contracts also imposed on AvayaGov reporting requirements to the government regarding information security.

34. Many of AvayaGov's government contracts specifically limited access to identified individuals within AvayaGov.

35. As part of AvayaGov's "building security posture," AvayaGov's facility was divided into areas that required access badges for entry.

36. A particular employee's access badge granted the employee access only to those areas where the employee had legitimate business and authorization.

37. At AvayaGov, Holowecki was often required to handle Sensitive Compartmented Information (SCI) or Special Access Program (SAP) information.

38. SCI and SAP are protocols for handling sensitive or classified information.

39. One component of SCI or SAP requires the appropriate security clearance level eligibility to access information.

40. Another principal component of SCI or SAP is a "need to know" the information.

41. At AvayaGov, only specified individuals could access SCI information relating to certain programs.

42. The identity of some of AvayaGov's customers, and the existence of some programs, could only be revealed to those with a "need to know."

**Avaya Did Not Understand the Security Requirements Imposed on AvayaGov by Law and Contract; and Avaya Changed Holowecki's Supervisory Chain and AvayaGov's Security Systems.**

43. Avaya's leadership did not understand the foundational security concepts that governed AvayaGov's federal contracts.

44. Avaya failed to grasp that many of AvayaGov's federal contracts specifically limited access to identified individuals within AvayaGov.

45. Avaya viewed access issues from the perspective of its corporate policy, which did not impose the significant access restrictions required by the federal government and AvayaGov's contracts.

46. In February 2010, Avaya changed Holowecki's supervisory chain.

47. Pursuant to the change, Holowecki continued to report directly to AvayaGov Manager Wilmoth, but his second-line supervisor became Avaya Manager Bill Parkin.

48. Wilmoth, AvayaGov leadership, and the U.S. government continued to perform all necessary supervisory duties related to the oversight of Holowecki's work.

49. With the change in Holowecki's supervisory chain, Avaya stripped AvayaGov's control processes, though AvayaGov employees still performed the substantive work.

50. On or about March 9, 2010, Holowecki assumed the duty of managing access badges for the AvayaGov facility following the elimination of the position and associated termination of the individual previously assigned those responsibilities.

51. Wilmoth authorized Holowecki to assume those duties.

52. On or about August 11, 2010, AvayaGov Manager Brian Bradley informed Holowecki that Avaya was switching AvayaGov's access badges from a Siemens-based system to an Avaya-based system.

53. As a result of switching to an Avaya-based system for access badges, AvayaGov no longer created the access badges on-site.

54. AvayaGov maintained management of access authority, and Avaya began producing access badges in Colorado and New Jersey for use at AvayaGov's Fairfax facility based on input from specifically designated AvayaGov personnel.

55. Duane Trosin, an Avaya employee, assumed responsibility for managing aspects of the access badge production and the assignment of the authorized access levels in compliance with the input from specifically designated AvayaGov personnel.

56. But Avaya did not relieve Holowecki of his access authorization duties or his access control audit responsibilities for the AvayaGov facility.

**Avaya, Through Trosin, Produced a False Report for a Federal Customer Regarding Access to Secured Areas; and Holowecki Determined that the Report was False.**

57. In September 2010, Program Manager Manuel Villar sent Holowecki an e-mail to inform Holowecki of an access authorization issue.

58. Villar told Holowecki that Villar's employees, who were authorized for access to secured areas, could not access the secured areas, while the facility's security guards, who were not authorized, could access the restricted areas.

59. Avaya used another subsidiary to provide security guards for AvayaGov's facility.

60. Pursuant to Avaya's corporate policy, and contrary to the definitive access authorizations provided to Trosin during the August 2010 transition to the Avaya access control application, Avaya granted these security guards access to all areas of the AvayaGov facility.

61. This access to all areas by security guards violated the contractual terms of several of AvayaGov's federal contracts.

62. After Villar's revelation, the government customer associated with a different project, through its contract officer, requested an access authorization report to ensure that AvayaGov was complying with its contractual obligations.

63. In response to the government contract officer's request, Trosin produced a report that merely recited the access authorization specified by the contract.

64. Holowecki conducted an independent access review.

65. Holowecki's review revealed that individuals without access authorization were, in fact, able to access restricted areas.

66. Holowecki determined that there was a discrepancy between those who had access authorization to the restricted areas pursuant to the contract with the government, and those who had actually accessed the restricted areas

**Holowecki, at His Supervisor's Request, Produced a Report that Documented the Access Discrepancies.**

67. Holowecki promptly reported his findings to Wilmoth and Trosin's designated point of contact for badge and access issues, Paul Suazo.

68. Wilmoth ordered Holowecki to identify the access discrepancies in detail.

69. Holowecki gathered the information through system-wide reports from Avaya's and Siemens' systems and produced a report with his findings.

70. Holowecki produced his report consistent with his access badge authorities, and consistent with protocols verbally established by Suazo.

71. The report revealed that only eleven persons were authorized access on the project in question, but 29 people had actually been granted access to the restricted area.

72. Three unauthorized persons gained access through access badges that improperly granted access.



73. The unauthorized individuals who had been granted access to the restricted space included at least four persons who were not U.S. citizens.

74. Holowecki unsuccessfully tried to contact Wilmoth for guidance.

75. AvayaGov Program Manager Mike Patnode told Holowecki that the government customer was upset because AvayaGov had not provided the requested reports by the established deadline.

76. Holowecki explained to Patnode that Trosin had provided an inaccurate report – a report that only documented the eleven persons authorized access by the government customer, as opposed to a report that included the 18 unauthorized persons who had been granted access to his restricted area.

**Avaya Manager Parkin Concealed the Unauthorized Access from the Government Customer; and Parkin Falsely Accused Holowecki of Improper Actions in the Course of Holowecki's Efforts to Document the Unauthorized Access.**

77. Holowecki made several attempts to get Trosin to issue a corrected report.

78. Holowecki's attempts were unsuccessful.

79. Wilmoth then forwarded e-mail chains that documented his findings to Parkin for action.

80. Parkin ensured that the access issues were corrected, so that actual access and access authorization for the project were identical.

81. Parkin then provided a new access report to Wilmoth that reflected the corrections that eliminated the discrepancies between actual access and contractual access authorization.

82. Patnode submitted the new report to the government customer.

83. No one at Avaya or AvayaGov informed the government customer of the extent of the prior unauthorized access.

84. Though the government customer knew, through Patnode, of three instances of unauthorized access after successfully swiping the badge, it did not know the scope of the unauthorized access that had been granted by Avaya Corporate Security representatives as revealed by Holowecki's internal investigation and disclosures.

85. Holowecki raised concerns about whether it was proper to not inform the government customer about the scope of the unauthorized access.

86. Parkin dismissed Holowecki's concerns with the following assertions: according to Parkin, the access authorization report and the actual access report reflected the same information, and AvayaGov did not have badge readers for secured areas located within common areas.

87. In other words, according to Parkin, even if an individual had a "faulty" access badge, the unauthorized individual would not be in a physical location where they could improperly gain access to a restricted area.

88. Holowecki's report showed both assertions to be false: at least three unauthorized individuals had actually entered restricted areas.

89. After Holowecki produced his report detailing the unauthorized access, Parkin accused Holowecki of accessing information without authorization and "hacking" information.

90. Parkin then transferred all of Holowecki's access badge duties to Trosin.

91. In fact, Holowecki had conducted the investigation at the express direction of Wilmoth, his superior.

92. Holowecki had conducted the investigation in the manner prescribed by Suazo, who was previously identified by Trosin as the primary point of contact for badge and access issues.

93. Holowecki's investigation was consistent with Holowecki's access badge duties.

**Parkin Improperly, and Illegally, Requested SCI Information from Holowecki.**

94. In September 2010, Parkin called Holowecki.

95. Parkin told Holowecki that he had meant to call Wilmoth.

96. Wilmoth's and Holowecki's telephone extensions are not similar.

97. Parkin asked Holowecki about various projects on which Holowecki was working.

98. Those projects involved classified information.

99. In addition to "ordinary" restrictions, the projects had access restrictions; the federal government had granted access only to specified individuals.

100. Though Parkin holds a collateral top secret clearance, Parkin was not an authorized individual regarding the projects about which Parkin was making inquiries to Holowecki.

101. Initially, Holowecki politely declined to respond substantively to Parkin's inquiries, citing the access issues.

102. Holowecki referred Parkin to Wilmoth, who also had access to the information.

103. Wilmoth, as Holowecki's superior, was the appropriate individual to make decisions about releasing classified information.

104. Parkin insisted that Holowecki respond to his inquiries.

105. Parkin emphasized to Holowecki that Parkin was Wilmoth's direct supervisor, and asserted that he was entitled to access the information.

106. Holowecki refused to divulge the secured information to Parkin.

107. Parkin continued to insist, and Holowecki told Parkin something to the effect of, “You are about to cross a line that I would prefer not cross.”

108. Parkin relented and did not further press his inquiries.

109. Holowecki later confirmed his understanding of the access authorization with the government’s contract officer.

110. The contract officer instructed Holowecki not to divulge the existence of the program or the customer’s identity to anyone not on the authorized list.

111. Parkin was not on the authorized list.

**O’Hara, Wilmoth’s New Supervisor, Berated Holowecki for Requesting a Missing Access Audit from Trosin.**

112. Avaya created an intermediary management position between Wilmoth and Parkin.

113. Jean O’Hara assumed this position.

114. O’Hara thus became Wilmoth’s new first line supervisor.

115. In or about February 2011, Trosin failed to produce a routine access audit.

116. On two occasions, Holowecki politely asked Trosin for the audits

117. After Holowecki’s second request to Trosin, O’Hara inserted herself into the situation.

118. O’Hara, because Holowecki had requested the missing audit from Trosin, sent Holowecki an email in which she criticized Holowecki’s judgment, teamwork, and communication skills.

119. On other occasions, O’Hara and Parkin complained about Holowecki’s adherence to protocols, insinuating that he was “too military” and needed to be more flexible in his adherence to policies and procedures.

120. Other Avaya personnel made similar comments about Holowecki to Wilmoth.

**Parkin and O'Hara Continued to Make Improper, and Illegal, Requests for Classified Information.**

121. Parkin and O'Hara continued to improperly request classified information from Holowecki.

122. To Holowecki, their level of knowledge about certain projects indicated that some AvayaGov and Avaya employees had improperly shared information about the classified projects.

123. Holowecki continued to oppose the improper sharing of classified information between AvayaGov and Avaya employees, including Parkin and O'Hara.

124. Holowecki's continued opposition caused tension between Holowecki and the Avaya managers, Parkin and O'Hara, and some of his co-workers.

**After February 2011, Parkin and O'Hara Set Out to Terminate Holowecki; O'Hara First Gave Holowecki a Negative Evaluation; and Parkin and O'Hara Eliminated Holowecki's Position in December 2011.**

125. After the February 2011 access audit issue, Parkin and O'Hara began efforts to terminate Holowecki and Wilmoth.

126. Parkin and O'Hara saw Holowecki and Wilmoth as a joint problem and wanted them both terminated.

127. AvayaGov Executive Leadership, including Mike Paige (AvayaGov Vice President, Operations) and Steve Derr (Vice President, EVP Strategy and System Engineering), initially stalled Parkin and O'Hara's efforts to terminate Wilmoth and Holowecki.

128. AvayaGov leadership cited federal contracts that specifically required Holowecki and Wilmoth's services.

129. AvayaGov leadership cited the time it would take to transition the active government contracts to new workers.
130. AvayaGov leadership stood behind Holowecki and Wilmoth's performances.
131. Nonetheless, in October 2011, O'Hara ordered Wilmoth to downgrade Holowecki's performance evaluation.
132. Avaya did not issue Holowecki or Wilmoth's performance evaluations at the same time as other employees' evaluations were issued.
133. Holowecki eventually received his lowest performance rating ever.
134. Holowecki had never had a performance or conduct issue since coming to work for NGS in 2006.
135. On his performance review for the previous year, Holowecki had received the highest possible rating.
136. For that year, though, Avaya had lowered the ratings of all AvayaGov employees by one level, so that Holowecki officially received the next-to-highest possible rating.
137. Parkin and O'Hara decided to get rid of Holowecki and Wilmoth by eliminating their positions.
138. This permitted Parkin and O'Hara to circumvent the leadership of AvayaGov, who had blocked their prior efforts to fire Holowecki and Wilmot for cause.
139. On December 5, 2011, Angeli Jaramillo (HR) and Parkin told Holowecki that Avaya had eliminated his position, and that his employment would end on December 19, 2011.
140. Parkin and Jaramillo said that there was a "change in the strategic direction of the company that would result in the consolidation of some roles."

141. They said that Holowecki's performance had nothing to do with the decision to eliminate his position.

142. Parkin initially issued a similar termination notice to Wilmoth.

143. But prior to the end of Holowecki's employment, Avaya extended Wilmoth's employment, ostensibly so that Wilmoth could complete the transition of his and Holowecki's duties.

144. Wilmoth's employment with AvayaGov ended on February 24, 2012.

**AvayaGov Replaced Holowecki with a Younger Person Who Lacked a Security Background.**

145. After eliminating Holowecki and Wilmoth's positions, Avaya created a new position within AvayaGov: Security Manager/Information System Security Manager.

146. This "new" position absorbed Holowecki's former duties, as well as some of Wilmoth's former duties.

147. Avaya filled the position with Jeff Boyd.

148. AvayaGov assigned Boyd to perform the same work that Holowecki performed before Holowecki was fired.

149. Boyd did not have a security background.

150. Boyd had no experience doing the work that Holowecki and Wilmoth had performed.

151. Boyd did not possess the qualifications of an Information Systems Security Manager.

152. Boyd's previous work experience consisted of audit work performed on AvayaGov's Local Area Network (LAN).

153. Boyd is younger than Holowecki.

**COUNT I**  
**Retaliation in Violation of the False Claims Act, 31 U.S.C. § 3730(h)**

154. Holowecki hereby incorporates the allegations set forth in the foregoing paragraphs as though fully alleged herein.

155. AvayaGov cannot retaliate against an employee who engages in protected conduct under the False Claims Act, 31 U.S.C. § 3730(h), by taking lawful actions in furtherance of an FCA action, including investigation for, testimony for, or assistance in an action filed under the FCA.

156. An employee has engaged in protected conduct when litigation under the False Claims Act is a distinct possibility, when the conduct reasonably could lead to a viable FCA action, or when litigation is a reasonable possibility.

157. An employee need not actually file a *qui tam* suit or even know about the protections of section 3730(h) to qualify for protection under the retaliation provision.

158. An employee who characterizes the employer's conduct as illegal or fraudulent, or recommends that legal counsel become involved, engages in protected conduct.

159. Holowecki discovered, documented, and reported false reports about to be made by AvayaGov to a federal government customer if it submitted the original reports provided by Trosin, and he warned AvayaGov management that its failure to obtain corrected reports for the false reports constituted fraudulent conduct.

160. In approximately September 2010, Holowecki investigated Avaya Corporate Security's production of false reports regarding access to restricted areas.

161. Holowecki knew that it was improper for AvayaGov to fail to disclose access discrepancies to its government customer.



162. Holowecki knew that approved building security postures and security plans were conditions precedent to induce the government to enter into contracts with AvayaGov.

163. Holowecki knew that the false reports were audits intended to ensure compliance if government officials became aware of potential access problems.

164. Holowecki knew that AvayaGov would mislead the federal government by submitting access reports after resolving access problems and without disclosing the problems.

165. Holowecki disclosed his concerns to Wilmoth, Patnode, and Trosin; and Wilmoth disclosed these concerns to Parkin.

166. Holowecki reasonably believed that Parkin's explanation for the reports was false.

167. Holowecki's investigation went beyond contractual non-compliance.

168. Holowecki reasonably believed that AvayaGov's knowing failure to disclose the access discrepancies intentionally induced the government to pay claims under false pretenses.

169. Parkin, Wilmoth, Patnode, Trosin, and other AvayaGov and Avaya employees knew of Holowecki's investigation.

170. Holowecki took lawful actions in furtherance of an FCA action by investigating the access discrepancies and related false reports.

171. A reasonable employee in the same or similar circumstances as Holowecki might believe that AvayaGov was possibly committing fraud against the federal government.

172. Holowecki acted beyond the scope of his ordinary duties when he insisted that AvayaGov obtain a corrected report for the false access report, and when he reported his concerns and findings regarding the false report.

173. After learning of Holowecki's protected activities under the FCA, AvayaGov retaliated by firing Holowecki.

174. AvayaGov would not have made its retaliatory decision to fire Holowecki, by purportedly eliminating his position, if Holowecki had not engaged in protected activities under the FCA.

175. Holowecki demands such legal or equitable relief as will effectuate the purposes of the FCA, including, but not limited to economic damages, compensatory damages, punitive damages, reasonable attorney's fees, pre-judgment interest, court costs, and any other relief that this Court deems just and equitable.

**COUNT II**  
**Age Discrimination in Employment Act**  
**29 U.S.C. §§ 621 *et seq.***  
**Discrimination**

176. Holowecki hereby incorporates the allegations set forth in the foregoing paragraphs as though fully alleged herein.

177. The Age Discrimination in Employment Act, 29 U.S.C. §§ 621 *et seq.*, makes it unlawful for an employer to discharge any individual because of such individual's age. 29 U.S.C. § 623(a)(1) ("It shall be unlawful for an employer . . . to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age.").

178. Employees over the age of forty are in the group protected by the ADEA.

179. Holowecki is over the age of forty.

180. Holowecki is an "employee" as the term is defined at 29 U.S.C. § 630(f).

181. AvayaGov is an "employer" as defined in 29 U.S.C. § 630(b).

182. AvayaGov fired Holowecki because of his age, in violation of the ADEA.

183. Holowecki sustained substantial monetary and non-monetary damages as the result of AvayaGov's illegal conduct.

184. Holowecki demands such legal or equitable relief as will effectuate the purposes of the ADEA, including, but not limited to, economic damages, compensatory damages, punitive damages, reasonable attorney's fees, pre-judgment interest, court costs, and any other relief that this Court deems just and equitable.

### **COUNT III**

#### ***(Bowman Claim)***

#### **Wrongful Discharge/Public Policy – Refusal to Engage in Criminal Activity that would have Violated Federal Law**

***Bowman v. State Bank of Keysville, 229 Va. 534, 331 S.E. 2d 797 (1985)***

185. Holowecki hereby incorporates the allegations set forth in the foregoing paragraphs as though fully alleged herein.

186. AvayaGov, through Parkin, repeatedly asked Holowecki to engage in illegal conduct by demanding that Holowecki provide SCI and other classified program information to Parkin which Parkin was not authorized to receive.

187. If Holowecki had complied with AvayaGov's requests, made through Parkin, Holowecki would have violated the Espionage Act of 1917, 18 U.S.C. 792 *et seq.*

188. Holowecki refused to engage in the illegal conduct requested by AvayaGov, through Parkin.

189. Holowecki's refusal to engage in criminal activity that would have violated federal law motivated, at least in part, AvayaGov's decision to fire him by purportedly eliminating his position.

190. Holowecki's firing by AvayaGov thus violated the public policy of Virginia.

191. Holowecki sustained substantial monetary and non-monetary damages as the result of AvayaGov's wrongful discharge.

192. As a result of AvayaGov's wrongful discharge, Holowecki has suffered damages, including, but not limited, to lost wages, lost benefits, diminished professional status, diminished job opportunities, mental anguish, and stress.

**COUNT IV**  
**(Bowman Claim)**  
**Wrongful Discharge/Public Policy – Refusal to Engage in Criminal Activity**  
**that would have Violated Virginia Law**  
***Bowman v. State Bank of Keysville, 229 Va. 534, 331 S.E. 2d 797 (1985)***

193. Holowecki hereby incorporates the allegations set forth in the foregoing paragraphs as though fully alleged herein.

194. AvayaGov, through Parkin, repeatedly asked Holowecki to engage in illegal conduct by demanding that Holowecki provide SCI and other classified program information to Parkin which Parkin was not authorized to receive.

195. If Holowecki had complied with Parkin's requests, it would have violated Va. Code § 18.2-178, which prohibits obtaining money by false pretenses, because AvayaGov would have received contract payments while falsely certifying that it was complying with all contract terms.

196. Holowecki refused to engage in the illegal conduct requested by AvayaGov, through Parkin.

197. Holowecki's refusal to engage in criminal activity that would have violated Virginia law motivated, at least in part, AvayaGov's decision to fire him by purportedly eliminating his position.

198. Holowecki's firing by AvayaGov thus violated the public policy of Virginia.

199. Holowecki sustained substantial monetary and non-monetary damages as the result of AvayaGov's wrongful discharge.

200. As a result of AvayaGov's wrongful discharge, Holowecki has suffered damages, including, but not limited, to lost wages, lost benefits, diminished professional status, diminished job opportunities, mental anguish, and stress.

### **PRAYER FOR RELIEF**

Based on the foregoing retaliation and discrimination, Holowecki respectfully requests that he be awarded the following relief:

201. Reinstatement with the same seniority status, duties and working conditions applicable at the time of his termination, and abatement of the retaliatory conduct directed toward him, or alternatively, front pay;

202. Economic damages for lost wages and benefits, including two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination;

203. Compensatory (non-economic) damages, including damages for emotional distress and loss of reputation;

204. Non-economic damages for mental and emotional distress, embarrassment and humiliation, career damage, and harm to reputation;

205. Punitive damages to punish AvayaGov for malicious acts of retaliation and to deter them from similar retaliatory conduct toward other employees;

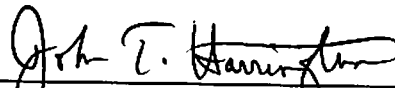
206. Injunctive or equitable relief, as may be appropriate, to prevent further harm to others and the public caused by AvayaGov's retaliation against a whistleblower;

207. Reasonable litigation costs, expert fees and reasonable attorney's fees, together with all other relief available from law and equity.

**JURY DEMAND**

Holowecki demands a trial by jury for any and all issues proper to be so tried.

Respectfully submitted,



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