



**U.S. Department of Justice**  
Office of Information Policy  
Sixth Floor  
441 G Street, NW  
Washington, DC 20530-0001

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Telephone: (202) 514-3642

October 6, 2023

Lisa McGee  
9104 Nolley Court  
Unit H  
Charlotte, NC 28270  
[mcgeelisa@hotmail.com](mailto:mcgeelisa@hotmail.com)

Re: FOIA-2023-02191  
DRH:SBT

Dear Lisa McGee:

This responds to your Freedom of Information Act (FOIA) request dated and received in this Office on August 4, 2023, seeking a copy of the oath of office of Special Counsel Jack Smith.

A search has been conducted, and material related to your request has been located. I have determined that this material can be released without withholdings, and copies are enclosed. Please be advised that we have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c) (2018). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact our FOIA Public Liaison, Valeree Villanueva, for any further assistance and to discuss any aspect of your request at: Office of Information Policy, United States Department of Justice, Sixth Floor, 441 G Street, NW, Washington, DC 20530-0001; telephone at 202-514-3642.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, MD 20740-6001; e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with this Office's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy, United States Department of Justice, Sixth Floor, 441 G Street, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following

the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically submitted within ninety days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,



Douglas R. Hibbard  
Chief, Initial Request Staff



**U.S. Department of Justice**

Justice Management Division

Human Resources

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*Washington, D.C. 20530*

**MEMORANDUM FOR THE RECORD**

**SUBJECT:** Oath of Office, John L. Smith

**EXECUTIVE SUMMARY:** This memorandum serves as record that an appointment affidavit (SF 61) has been signed and executed for the appointment of John L. Smith, Special Counsel. On November 18, 2022, John L. Smith was appointed by Attorney General Merrick B. Garland to serve as the Special Counsel by Order No. 5559-2022.

**DISCUSSION:** Mr. Smith signed an SF 61 on November 20, 2022. Upon reviewing documentation, it was discovered that a witness signature was missing (more than likely as Mr. Smith was on board while overseas). JMD/Human Resources consulted with the JMD/Office of General Counsel (OGC) to ensure proper corrective action. OGC's recommendation and advice was to readminister the oath of office and execute a new SF 61 to ensure procedural compliance.

**Attachments**

- A. Attorney General Order 5559-2022
- B. SF 61, signed and executed on 9/14/2023
- C. SF 61, signed on 11/20/2022

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# APPOINTMENT AFFIDAVITS

Special Counsel

(Position to which Appointed)

11/18/2022

(Date Appointed)

U.S. Department of Justice  
(Department or Agency)

Office of the Special Counsel  
(Bureau or Division)

Washington, DC, United States  
(Place of Employment)

I, John Luman Smith, do solemnly swear (or affirm) that--

## A. OATH OF OFFICE

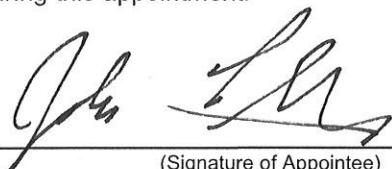
I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

## B. AFFIDAVIT AS TO STRIKING AGAINST THE FEDERAL GOVERNMENT

I am not participating in any strike against the Government of the United States or any agency thereof, and I will not so participate while an employee of the Government of the United States or any agency thereof.

## C. AFFIDAVIT AS TO THE PURCHASE AND SALE OF OFFICE

I have not, nor has anyone acting in my behalf, given, transferred, promised or paid any consideration for or in expectation or hope of receiving assistance in securing this appointment.



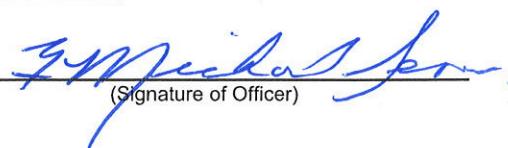
(Signature of Appointee)

Subscribed and sworn (or affirmed) before me this 14 day of September, 2023

at Washington  
(City)

DC  
(State)

(SEAL)



(Signature of Officer)

Commission expires \_\_\_\_\_

(If by a Notary Public, the date of his/her Commission should be shown)

(Title)

Note - If the appointee objects to the form of the oath on religious grounds, certain modifications may be permitted pursuant to the Religious Freedom Restoration Act. Please contact your agency's legal counsel for advice.

# APPOINTMENT AFFIDAVITS

Special Counsel

11/3/12

(Position to which Appointed)

(Date Appointed)

(Department or Agency)

(Name of Division)

(Place of Employment)

1.  I solemnly swear that I

do solemnly swear for all time that-

## A. OATH OF OFFICE

I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true and faithful allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

## B. AFFIDAVIT AS TO STRIKING AGAINST THE FEDERAL GOVERNMENT

I am not participating in any strike against the Government of the United States or any agency thereof and I will not do participate while an employee of the Government of the United States or any agency thereof.

## C. AFFIDAVIT AS TO THE PURCHASE AND SALE OF OFFICE

I have not, nor has anyone acting in my behalf, given, promised or paid any consideration for or in expectation or hope of receiving assistance in securing this appointment.



(Signature of Appointee)

Subscribed and sworn (or affirmed) before me the 10 day of November, 2012.

(Sign)

(Initials)

(Signature of Officer)

(SEAL)

### Commission Expires

If it is longer than the date of this Commission, it should be written:

(Date)

Note: This affidavit is subject to the form of the particular request procedure. Certain modifications may be permitted pursuant to the Religious Freedom Restoration Act. Please consult your agency's legal counsel for advice.



Office of the Attorney General  
Washington, D. C. 20530

ORDER NO. 5559-2022

APPOINTMENT OF JOHN L. SMITH AS SPECIAL COUNSEL

By virtue of the authority vested in the Attorney General, including 28 U.S.C. §§ 509, 510, 515, and 533, in order to discharge my responsibility to provide supervision and management of the Department of Justice, and to ensure a full and thorough investigation of certain matters, I hereby order as follows:

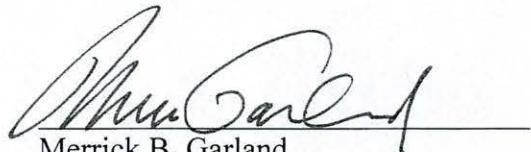
- (a) John L. Smith is appointed to serve as Special Counsel for the United States Department of Justice.
- (b) The Special Counsel is authorized to conduct the ongoing investigation into whether any person or entity violated the law in connection with efforts to interfere with the lawful transfer of power following the 2020 presidential election or the certification of the Electoral College vote held on or about January 6, 2021, as well as any matters that arose or might arise directly from this investigation or that are within the scope of 28 C.F.R. § 600.4(a). This authorization does not apply to prosecutions that are currently pending in the District of Columbia, as well as future investigations and prosecutions of individuals for offenses they committed while physically present on the Capitol grounds on January 6, 2021. Those investigations and prosecutions remain under the authority of the United States Attorney for the District of Columbia. Further delineation of the authorizations between the Special Counsel and the United States Attorney for the District of Columbia will be provided as necessary and appropriate.

(c) The Special Counsel is further authorized to conduct the ongoing investigation referenced and described in the United States' Response to Motion for Judicial Oversight and Additional Relief, *Donald J. Trump v. United States*, No. 9:22-CV-81294-AMC (S.D. Fla. Aug. 30, 2022) (ECF No. 48 at 5–13), as well as any matters that arose or may arise directly from this investigation or that are within the scope of 28 C.F.R. § 600.4(a).

(d) The Special Counsel is authorized to prosecute federal crimes arising from the investigation of these matters. The Special Counsel is also authorized to refer to the appropriate United States Attorney discrete prosecutions that may arise from the Special Counsel's investigation.

(e) Sections 600.4 to 600.10 of title 28 of the Code of Federal Regulations are applicable to the Special Counsel.

11/18/22  
Date



Merrick B. Garland  
Attorney General