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|  | **DEPARTMENT OF THE AIR FORCE**  **[Appropriate header]** |

DATE

MEMORANDUM FOR AFLOA/ADC (Capt Defense)

FROM: /JA (Capt TC)

SUBJECT: United States v. Accused – M.R.E. 404(b) Notice

1. Pursuant to M.R.E. 404(b) and Uniform Rules of Practice Before Air Force Courts-Martial, the prosecution provides notice of its intent to use uncharged misconduct to show absence of mistake, identity, motive, intent, and/or common scheme/plan in the findings phases of the above styled court-martial.

a. On or about date, the Accused \_\_\_\_. See REFER TO EVIDENCE (previously provided). The Government’s theory of admissibility under M.R.E 404 is that such conduct is admissible to show (i.e., insert theory motive, intent and absence of mistake) on the part of the Accused.

b. On or about date, the Witness \_\_\_\_\_. See REFER TO EVIDENCE (previously provided). The Government’s theory of admissibility under M.R.E 404 is that such conduct is admissible to show (i.e., insert theory motive, intent and absence of mistake) on the part of the witness.

c.

2. If the Government becomes aware of any other such evidence, the government will advise the defense as soon as practicable.

3. To the extent that any statement previously noticed in the Government’s MRE 304(d) notice amounts to uncharged misconduct, the Government hereby formally notifies the Defense of its intent, pursuant to MRE 404(b), to use such statements as direct facts surrounding the events, for purposes other than proving the character of a person in order to show action in conformity therewith.

4. The Government reserves the right to offer any evidence, including, but not limited to, evidence regarding the matters enumerated above in the pre-sentencing phase of the trial pursuant to R.C.M. 1001.

5. This notice incorporates all M.R.E. 404(b) statements found within any and all previously discovered evidence and prior notices to include responses to discovery requests. Please contact me at (contact info) with any questions or if I may be of any assistance to you.

NAME, Capt, USAF

Trial Counsel