

## FORMAL COMPLAINT SUBMITTAL <sup>r0</sup>

CMMC Accreditation Body

Via email to [cmmcab@cmmcab.org](mailto:cmmcab@cmmcab.org), [conversations@cmmcab.org](mailto:conversations@cmmcab.org)

Copied to: [kjohnson@cmmcab.org](mailto:kjohnson@cmmcab.org),

12 February 2021

### 1. PREAMBLE

Oxebridge Quality Resources International (Oxebridge) hereby requests formal corrective action by the CMMC Accreditation Body (CMMC-AB) in accordance with clauses 7.12 of ISO 17011, to include a documented acknowledgement of receipt of this complaint, a thorough and systemic investigation, corrective and preventive corrective action, and notification of actions taken when complete.

NOTE: ISO 17011 clause 3.20 defines “complaint” as the “*expression of dissatisfaction, other than appeal, by any person or organization, to an accreditation body, relating to the activities of that accreditation body or of an accredited conformity assessment body, where a response is expected.*” Furthermore, other standards, including ISO 17021-1, indicates that complaints may be issued by “*parties that rely on certification.*” ISO 17011 itself then references ISO 10002, which allows for the submission of complaints by “interested parties.” Based on this information, Oxebridge asserts it right to submit this complaint not only on behalf of its clients, but on behalf of itself as an interested party and industry stakeholder, having satisfied all requirements for asserting its rights thereof.

### 2. APPLICABLE ISO 17011 CLAUSES

Oxebridge asserts that the CMMC-AB is subject to a requirement to formal process complaints per ISO 17011 as the US Dept. of Defense has mandated that CMMC-AB become compliant to that standard. This demand was put in place in the original Memorandum of Understanding (MOU) issued jointly by the US Dept. of Defense and the CMMC-AB, and subsequently in the formal contract between the CMMC-AB and DOD.

While Oxebridge understands the CMMC-AB does not yet have full accreditation to ISO 17011, it is expected that the CMMC-AB will nevertheless formally process complaints submitted to it regardless.

ISO 17011 clause 7.12 requires the following:

*7.12.1 The accreditation body shall have a documented process to receive, evaluate and make decisions on complaints. The accreditation body shall, where appropriate, ensure that a complaint concerning an accredited conformity assessment body is first addressed by the conformity assessment body.*

*7.12.2 A description of the handling process for complaints shall be available to any interested party.*



*7.12.3 Upon receipt of a complaint, the accreditation body shall confirm whether the complaint relates to accreditation activities that it is responsible for and, if so, shall deal with it.*

*7.12.4 The handling process for complaints shall include at least the following elements and methods:*

- a) a description of the process for receiving, validating, investigating the complaint, and deciding what actions are to be taken in response to it;*
  - b) tracking and recording complaints, including actions undertaken to resolve them;*
  - c) ensuring that any appropriate action is taken in a timely manner.*
- 4 7.12.5 The accreditation body shall acknowledge receipt of the complaint and provide the complainant with progress reports and the outcome.*

*7.12.6 The accreditation body shall be responsible for gathering and verifying all necessary information to validate the complaint.*

*7.12.7 The accreditation body shall be responsible for all decisions at all levels of the handling process for complaints.*

*7.12.8 The decision to be communicated to the complainant shall be made by, or reviewed and approved by, individual(s) not involved in the activities in question.*

*7.12.9 The accreditation body shall give formal notice of the end of the complaint handling process to the complainant.*

*7.12.10 Investigation and decision on complaints shall not result in any discriminatory actions against the complainant.*

### **3. WHISTLEBLOWER PROGRAM & RIGHTS**

In August of 2020, Oxebridge expanded its international ISO Whistleblower Program to include issues related to the CMMC scheme. That system was updated to allow CMMC stakeholders to file anonymous or confidential complaints related to CMMC actors and oversight bodies. Oxebridge has received three such filings since August. Filings are reviewed and vetted by Oxebridge before further action.

In keeping with industry-standard rules on complaints handling, Oxebridge then files the issue directly with the subject of the complaint, allowing them time to investigate and resolve the issue. If that process fails, Oxebridge then escalates the issue to the appropriate oversight bodies, regulatory authorities and, if criminal violations of law are alleged, law enforcement.

To date, Oxebridge has processed over 100 such reports, resulting in criminal investigations, de-accreditation of non-compliant bodies, and other corrective actions.

Oxebridge has provided reporting and testimony under the Defense Intelligence Community Whistleblower Protection Program (DICWP) program, and enjoys the protections under same, as well as whistleblower programs under the Federal Aviation Authority (FAA) and US food and Drug Administration (FDA).



#### 4. ALLEGATION # 1

Oxebridge alleges a pattern of abuse by CMMC-AB Board Members in violation of the published Board Code of Ethics, available at <https://www.cmmcab.org/ethics>. The allegation also alleges violations of the Board Member Conflict of Interest Policy, as published at <https://www.cmmcab.org/coi>.

The Code of Ethics was published in early 2020, and is signed by Ty Schieber, the former Board Chair. Therefore, it has been in effect during all the specific events alleged herein. Nevertheless, the Board has displayed utter contempt for the Code, and allowed its Board members to willfully and openly flout the ethics rules, specifically those against self-dealing.

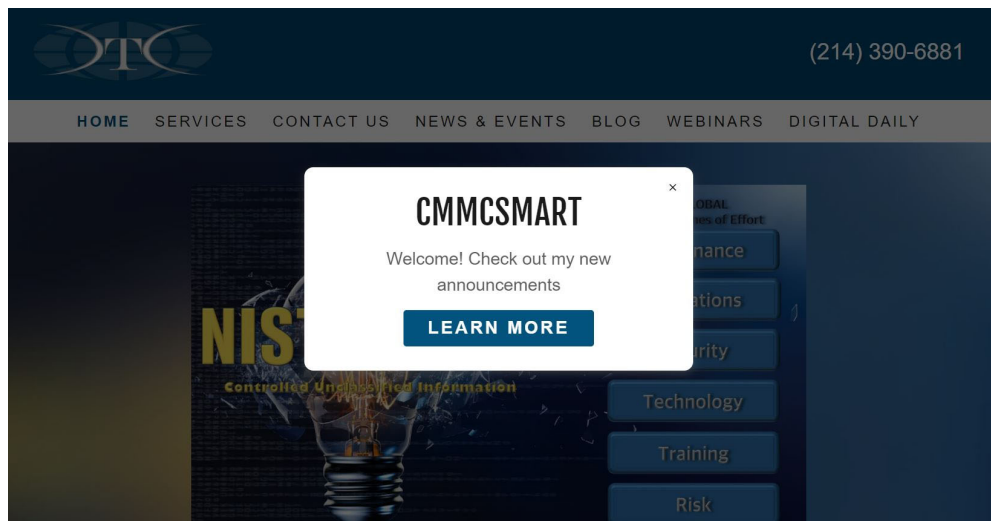
The allegation is based on the following four facts:

1. In March of 2020, Ty Schieber signed official “certs and reps” documentation per FAR and DFARS requirements in order to obtain a CAGE code from the Defense Logistics Agency (DLA). At that time, he falsely declared, under penalty of criminal prosecution, that the CMMC-AB had already obtained its tax-exempt status. In fact, the CMMC-AB never obtained that status, and still operates – as of this filing – as a **for-profit** entity. At no time did Mr. Schieber ever reveal this falsification, nor correct it, despite the fact that he operated under the Code of Ethics – which he personally signed – which requires, as part of the “Duty of Compliance” clause, *“The leadership must, now and always, obey all applicable laws, regulations, commitments, governance documents, and best practices in both actions and appearances. Leadership commits to maintain the legal, moral, and ethical high ground in all that it does on behalf of the CMMC-AB.”*
2. Until his ouster in 2020, former Board member Mark Berman operated – and continues to operate – the company Future Feed, which provides a software product aimed at helping companies maintain CMMC compliance. The company’s website makes no attempt to hide the fact that the FutureFeed product is aimed at CMMC users; see: <https://futurefeed.co/cmmc>. Pricing for that product reaches \$300/month or higher, depending on client company size. This product was sold by Mr. Berman throughout his entire tenure as Board Member, in violation of the Code of Ethics “Duty of Loyalty” clause, which demands, *“This includes taking actions that are in the best interest of the mission, placing service before self, avoiding/addressing conflicts of interest consistent with the CMMC-AB Conflict of Interest Policy, safeguarding confidential information, and refraining from the pursuit of private gain.”* This furthermore violates the Conflict of Interest Policy which prohibits conflicts of interest related to *“Financial Interests, where a Director may directly or indirectly may benefit or profit as a result of a decision made or transaction entered into by the CMMC-AB.”* It is clear that Mr. Berman attempted to personally profit from his Board work at CMMC-AB by simultaneously selling the FutureFeed product which he then sold to companies over which the CMMC-AB would eventually adjudicate CMMC certification decisions and appeals.



3. Current Board member Regan Edens operates a company called DTC which sells two products aimed at CMMC user organizations. The first is done through a daughter company called “CUI Supply” and consists of labels and other marking products for CUI. Previously, the CUI Supply offering appeared to steer clear from tying itself to CMMC, and thus was free of overt conflicts of interest. More recently, however, the CUI Supply website was updated to feature the CMMC logo and directly tie the product to CMMC compliance. See: <https://cuisupply.com/cui-marking-requirements>

Next, related to the DTC company itself, Mr. Edens company has ramped up efforts to market the company’s offerings as tied to CMMC compliance. As of February 12, 2021, the home page at <https://dtcglobal.us/> includes a popup graphic reading “CMMC SMART: Welcome! Check out my new announcements.” See graphic below:



The “Learn More” button then links to a page at <https://dtcglobal.us/services> which reveals Mr. Edens is selling no less than **seven** separate services related to CMMC compliance for end user organizations:

*CMMCsmart Solutions include an array of turnkey compliant products and services that accelerate AND sustain your DFARS compliance.*

- CMMCsmart Policies & Procedures
- CMMCsmart Training
- CMMCsmart Partnered Risk & Security Assessment Software
- CMMCsmart Partnered POA&M Management & SSP Software
- CMMCsmart Partnered CUI Cloud Storage Environment
- CMMCsmart partnered Data Loss Prevention
- CMMCsmart Partnered Distributed Key Encryption Email and Data Management Solutions



The website goes on to tie DTC offerings even further with CMMC compliance, saying, “*Pressure from prime contractors to verify and validate DFARS compliance, and the impending CMMC third party certification in 2020.*” It then goes on to offer an additional set of **four** CMMC-related services:

- *CMMCsmart Compliance Sprints makes it happen, RIGHT NOW*
- *Understand the Convergence of ITAR & EAR Compliance with CMMC/DFARS Requirements*
- *Understand the growing Federal False Claims Act (FCA) risk*
- *CMMCsmart Partners Program*

The website then goes further, offering additional services while saying, “Help is on the way to your company and your valued suppliers to develop a DFARS/CMMC Supply Chain Risk Management Strategy.” This section then lists an additional four services aimed at CMMC users:

- *CMMCsmart supplier Compliant Enterprise Solutions*
- *CMMCsmart Supplier Compliant CUI Data Management Cloud Environment*
- *CMMCsmart Compliant Network Supplier Security Architecture Redesign*
- *CMMCsmart Compliant VSOC for Suppliers*

In total, Oxebridge counted **fifteen** different service offerings aimed at the companies who will later obtain CMMC, and thus be subject to oversight by Mr. Edens personally and the CMMC-AB as it adjudicates C3PAO certification decisions and appeals. The actual number of CMMC-related services provided by Mr. Edens may be much larger.

To confirm Mr. Edens’ personal involvement in these activities, it must be noted that the phone number appearing on the official DTC website resolves to a personal landline phone operated by Mr. Edens, per public listing on Whitepages.com.

Showing no inclination to curb such bad behavior, Mr. Edens then gave an exclusive interview with the cybersecurity website Security Boulevard, which was published in an article entitled “*Helping Contractors Achieve DFARS Compliance – Interview with CMMC-AB Standards Chair Regan Edens, Part 1*” and is located at <https://securityboulevard.com/2021/02/helping-contractors-achieve-dfars-compliance/>

In this article, which features the DTC logo, Mr. Edens openly markets the CMMC-related services of his company, and includes the following quote which reveals not only does DTC provide such services, it was **specifically founded** by Mr. Edens to do so:

*DTC (Digital Transformation Compliance) is rooted in my interest of applying technology to hard problems. So, when DFARS and CMMC came up in 2019, I thought it was a fit for the type of challenge and digital transformation I thought I could help with. You had the important national security interest, the compliance requirements of DoD and then the cybersecurity aspect. Through conversations, I realized the size of the challenge and need for manpower to establish the DFARS framework.*

*That’s when I started DTC.*



*Today, DTC focuses solely on defense companies and helping them with their ITAR and CMMC compliance issues. We work with small companies (200 employees or fewer) and large Primes but not many in between. We specialize in documentation and providing the templates that can expedite defense companies' compliance path. We help companies with turnkey solutions as well as audit preparation. So far, we have done around 100 audits since the beginning of 2020.*

It must be pointed out – again – that Mr. Edens openly markets his company as developing “documentation” and “templates” related to CMMC compliance. Later, CMMC-AB accredited bodies would be responsible for auditing such documentation and templates, injecting an insurmountable conflict of interest.

The level of these ethical violations cannot be overstated. The ISO 17011 standard, which the CMMC-AB must comply with, states:

*4.4.2 The accreditation body shall be responsible for the impartiality of its accreditation activities and shall not allow commercial, financial or other pressures to compromise impartiality.*

*4.4.3 The accreditation body shall have top management commitment to impartiality. It shall document and make public an impartiality policy which includes the importance of impartiality in carrying out its accreditation activities, managing conflict of interest and ensuring objectivity of its accreditation activities.*

*4.4.4 All accreditation body personnel and committees who could influence the accreditation process shall act objectively and shall be free from any undue commercial, financial and other pressures that could compromise impartiality.*

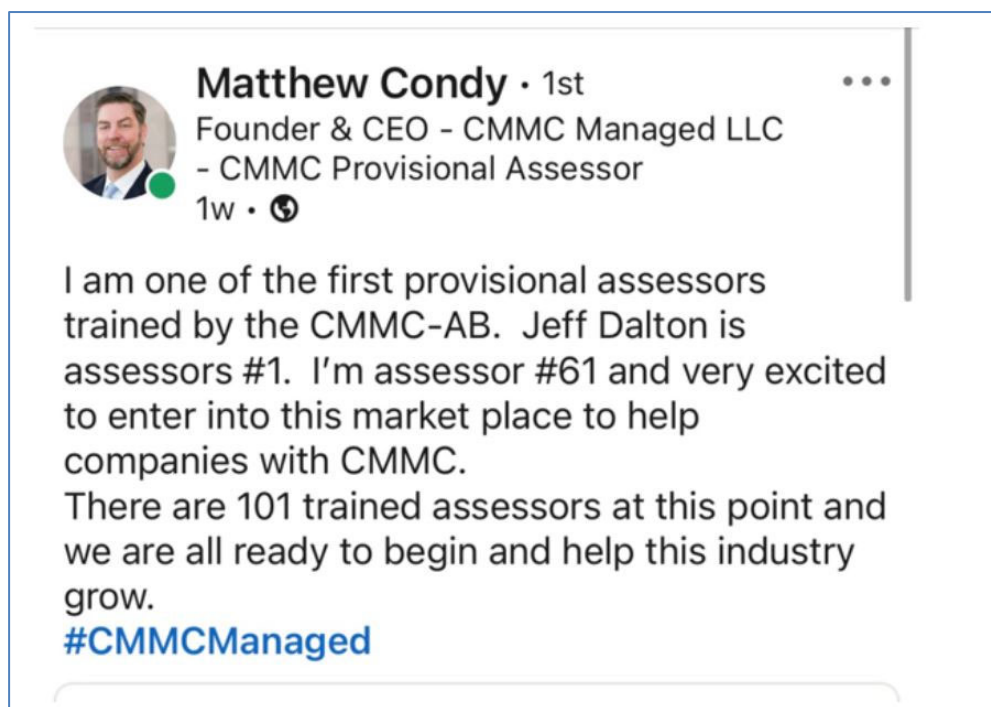
*4.4.11 The accreditation body and any part of the same legal entity shall not offer or provide any service that affects its impartiality, such as:*

- *conformity assessment activities covered by accreditation which include but are not limited to testing, calibration, inspection, certification of management systems, persons, products, processes and services, provision of proficiency testing, production of reference materials, validation and verification;*
- *consultancy.*

Mr. Edens and DTC – as well as the CUI Supply daughter company – are in clear, overt and unapologetic violation of these principles, along with the CMMC-AB Code of Ethics “Duty of Loyalty” clause, which demands, “This includes taking actions that are in the best interest of the mission, placing service before self, avoiding/addressing conflicts of interest consistent with the CMMC-AB Conflict of Interest Policy, safeguarding confidential information, and refraining from the pursuit of private gain.” This furthermore violates the Conflict of Interest Policy which prohibits conflicts of interest related to “Financial Interests, where a Director may directly or indirectly may benefit or profit as a result of a decision made or transaction entered into by the CMMC-AB.”



4. Finally, CMMC-AB Board Vice Chairman Jeff Dalton is listed as the CMMC-AB Chair of the Accreditation & Credentialing Committee, and oversees the credentialing of Provisional Assessors and other related credentials. Ignoring all impropriety, Mr. Dalton nevertheless issued himself a Provisional Assessor certification, which was then revealed to be the first such certification issued when another user posted this information on LinkedIn:



It hardly requires further explanation as to why it remains a gross and irredeemable conflict of interest to award one's self with a professional credential.

## 6. COMPLAINT

Based on the facts presented above, Oxebridge alleges that the CMMC-AB Boards has willfully neglected its responsibility to enforce its Code of Ethics and policies against Conflicts of Interest.

To be very clear: in its role as official, DOD-mandated accreditation body, the CMMC-AB will have to oversee the CMMC certifications given to DIB and other companies, manage C3PAO audits, adjudicate complaints and appeals, and participate in witness audits of DIB companies alongside the C3PAOs. Where Board members are simultaneously selling products and services to the companies it will then oversee is a tremendous conflict of interest. The conflicts are so huge, and wo well-known, that multiple ISO standards – including ISO 17011 – have prohibited these acts outright.

Rather than enforce its Code of Ethics and manage conflicts of interest, the CMMC-AB has done the opposite. It has openly and unapologetically allowed its Board Members to engage in corrupt practices that allow them to personally profit from the work of the CMMC-AB, and sell products to the companies it will later oversee.

Worse, by ignoring the potential criminal violations in its CAGE code application, it appears the CMMC-AB has shown a willingness to “cover up” bad acts by its Board and leadership.



While both Mr. Schieber and Mr. Berman are no longer with the CMMC-AB, they are included in this complaint as evidence that this malpractice extends to the CMMC-AB's earliest days, and continues unmitigated under the current leadership.

***Oxebridge requests formal corrective action and root cause analysis, with a formal plan of action implemented to correct these conflicts, and to bring the CMMC-AB into compliance with its stated policies and Code of Ethics.*** Failure to do so may result in escalation to the appropriate Federal agencies, Dept. of Defense oversight bodies, and other bodies.

***We also require formal acknowledgment of this complaint within 5 working days, or the complaint will be automatically escalated.***

This filing in no way limits the available legal remedies of the complainants.

Respectfully,



Christopher Paris  
VP Operations  
Oxebridge Quality Resources International LLC