EXHIBIT 2

The New York Times Reprints

February 19, 2011

Hiding Details of Dubious Deal, U.S. Invokes National Security

By **ERIC LICHTBLAU** and **JAMES RISEN**

WASHINGTON — For eight years, government officials turned to Dennis Montgomery, a California computer programmer, for eye-popping technology that he said could catch terrorists. Now, federal officials want nothing to do with him and are going to extraordinary lengths to ensure that his dealings with Washington stay secret.

The Justice Department, which in the last few months has gotten protective orders from two federal judges keeping details of the technology out of court, says it is guarding state secrets that would threaten national security if disclosed. But others involved in the case say that what the government is trying to avoid is public embarrassment over evidence that Mr. Montgomery bamboozled federal officials.

A onetime biomedical technician with a penchant for gambling, Mr. Montgomery is at the center of a tale that features terrorism scares, secret White House briefings, backing from prominent Republicans, backdoor deal-making and fantastic-sounding computer technology.

Interviews with more than two dozen current and former officials and business associates and a review of documents show that Mr. Montgomery and his associates received more than $20 million in government contracts by claiming that software he had developed could help stop Al Qaeda's next attack on the United States. But the technology appears to have been a hoax, and a series of government agencies, including the Central Intelligence Agency and the Air Force, repeatedly missed the warning signs, the records and interviews show.

Mr. Montgomery's former lawyer, Michael Flynn — who now describes Mr. Montgomery as a "con man" — says he believes that the administration has

been shutting off scrutiny of Mr. Montgomery's business for fear of revealing that the government has been duped.

"The Justice Department is trying to cover this up," Mr. Flynn said. "If this unravels, all of the evidence, all of the phony terror alerts and all the embarrassment comes up publicly, too. The government knew this technology was bogus, but these guys got paid millions for it."

Justice Department officials declined to discuss the government's dealings with Mr. Montgomery, 57, who is in bankruptcy and living outside Palm Springs, Calif. Mr. Montgomery is about to go on trial in Las Vegas on unrelated charges of trying to pass $1.8 million in bad checks at casinos, but he has not been charged with wrongdoing in the federal contracts, nor has the government tried to get back any of the money it paid. He and his current lawyer declined to comment.

The software he patented — which he claimed, among other things, could find terrorist plots hidden in broadcasts of the Arab network Al Jazeera; identify terrorists from Predator drone videos; and detect noise from hostile submarines — prompted an international false alarm that led President George W. Bush to order airliners to turn around over the Atlantic Ocean in 2003.

The software led to dead ends in connection with a 2006 terrorism plot in Britain. And they were used by counterterrorism officials to respond to a bogus Somali terrorism plot on the day of President Obama's inauguration, according to previously undisclosed documents.

'It Wasn't Real'

"Dennis would always say, 'My technology is real, and it's worth a fortune,' " recounted Steve Crisman, a filmmaker who oversaw business operations for Mr. Montgomery and a partner until a few years ago. "In the end, I'm convinced it wasn't real."

Government officials, with billions of dollars in new counterterrorism financing after Sept. 11, eagerly embraced the promise of new tools against militants.

C.I.A. officials, though, came to believe that Mr. Montgomery's technology was fake in 2003, but their conclusions apparently were not relayed to the military's

Special Operations Command, which had contracted with his firm. In 2006, F.B.I. investigators were told by co-workers of Mr. Montgomery that he had repeatedly doctored test results at presentations for government officials. But Mr. Montgomery still landed more business.

In 2009, the Air Force approved a $3 million deal for his technology, even though a contracting officer acknowledged that other agencies were skeptical about the software, according to e-mails obtained by The New York Times.

Hints of fraud by Mr. Montgomery, previously raised by Bloomberg Markets and Playboy, provide a cautionary tale about the pitfalls of government contracting. A Pentagon study in January found that it had paid $285 billion in three years to more than 120 contractors accused of fraud or wrongdoing.

"We've seen so many folks with a really great idea, who truly believe their technology is a breakthrough, but it turns out not to be," said Gen. Victor E. Renuart Jr. of the Air Force, who retired last year as the commander of the military's Northern Command. Mr. Montgomery described himself a few years ago in a sworn court statement as a patriotic scientist who gave the government his software "to stop terrorist attacks and save American lives." His alliance with the government, at least, would prove a boon to a small company, eTreppidTechnologies, that he helped found in 1998.

He and his partner — a Nevada investor, Warren Trepp, who had been a top trader for the junk-bond king Michael Milken — hoped to colorize movies by using a technology Mr. Montgomery claimed he had invented that identified patterns and isolated images. Hollywood had little interest, but in 2002, the company found other customers.

With the help of Representative Jim Gibbons, a Republican who would become Nevada's governor and was a longtime friend of Mr. Trepp's, the company won the attention of intelligence officials in Washington. It did so with a remarkable claim: Mr. Montgomery had found coded messages hidden in broadcasts by Al Jazeera, and his technology could decipher them to identify specific threats.

The software so excited C.I.A. officials that, for a few months at least, it was considered "the most important, most sensitive" intelligence tool the agency had, according to a former agency official, who like several others would speak only on the condition of anonymity because the technology was classified.

ETreppid was soon awarded almost $10 million in contracts with the military's Special Operations Command and the Air Force, which were interested in software that Mr. Montgomery promised could identify human and other targets from videos on Predator drones.

In December 2003, Mr. Montgomery reported alarming news: hidden in the crawl bars broadcast by Al Jazeera, someone had planted information about specific American-bound flights from Britain, France and Mexico that were hijacking targets.

C.I.A. officials rushed the information to Mr. Bush, who ordered those flights to be turned around or grounded before they could enter American airspace.

"The intelligence people were telling us this was real and credible, and we had to do something to act on it," recalled Asa Hutchinson, who oversaw federal aviation safety at the time. Senior administration officials even talked about shooting down planes identified as targets because they feared that supposed hijackers would use the planes to attack the United States, according to a former senior intelligence official who was at a meeting where the idea was discussed. The official later called the idea of firing on the planes "crazy."

French officials, upset that their planes were being grounded, commissioned a secret study concluding that the technology was a fabrication. Presented with the findings soon after the 2003 episode, Bush administration officials began to suspect that "we got played," a former counterterrorism official said.

The C.I.A. never did an assessment to determine how a ruse had turned into a full-blown international incident, officials said, nor was anyone held accountable. In fact, agency officials who oversaw the technology directorate — including Donald Kerr, who helped persuade George J. Tenet, then the director of central intelligence, that the software was credible — were promoted, former officials said. "Nobody was blamed," a former C.I.A. official said. "They acted like it never happened."

After a bitter falling out between Mr. Montgomery and Mr. Trepp in 2006 led to a series of lawsuits, the F.B.I. and the Air Force sent investigators to eTreppid to look into accusations that Mr. Montgomery had stolen digital data from the company's systems. In interviews, several employees claimed that Mr. Montgomery had manipulated tests in demonstrations with military officials to

make it appear that his video recognition software had worked, according to government memorandums. The investigation collapsed, though, when a judge ruled that the F.B.I. had conducted an improper search of his home.

Software and Secrets

The litigation worried intelligence officials. The Bush administration declared that some classified details about the use of Mr. Montgomery's software were a "state secret" that could cause grave harm if disclosed in court. In 2008, the government spent three days "scrubbing" the home computers of Mr. Montgomery's lawyer of all references to the technology. And this past fall, federal judges in Montana and Nevada who are overseeing several of the lawsuits issued protective orders shielding certain classified material.

The secrecy was so great that at a deposition Mr. Montgomery gave in November, two government officials showed up to monitor the questioning but refused to give their full names or the agencies they worked for.

Years of legal wrangling did not deter Mr. Montgomery from passing supposed intelligence to the government, according to intelligence officials, including an assertion in 2006 that his software was able to identify some of the men suspected of trying to plant liquid bombs on planes in Britain — a claim immediately disputed by United States intelligence officials. And he soon found a new backer: Edra Blixseth, a onetime billionaire who with her former husband had run the Yellowstone Club in Montana.

Hoping to win more government money, Ms. Blixseth turned to some influential friends, like Jack Kemp, the former New York congressman and Republican vice-presidential nominee, and Conrad Burns, then a Republican senator from Montana. They became minority stakeholders in the venture, called Blxware.

New Pitches

In an interview, Mr. Burns recalled how impressed he was by a video presentation that Mr. Montgomery gave to a cable company. "He talked a hell of a game," the former senator said.

Mr. Kemp, meanwhile, used his friendship with Vice President Dick Cheney to set up a meeting in 2006 at which Mr. Kemp, Mr. Montgomery and Ms. Blixseth met with a top Cheney adviser, Samantha Ravich, to talk about expanding the government's use of the Blxware software, officials said. She was noncommittal.

Mr. Flynn, who was still Mr. Montgomery's lawyer, sent an angry letter to Mr. Cheney in May 2007. He accused the White House of abandoning a tool shown to "save lives." (After a falling out with Mr. Montgomery, Mr. Flynn represents another party in one of the lawsuits.)

But Mr. Montgomery's company still had an ally at the Air Force, which in late 2008 began negotiating a $3 million contract with Blxware.

In e-mails to Mr. Montgomery and other company officials, an Air Force contracting officer, Joseph Liberatore, described himself as one of the "believers," despite skepticism from the C.I.A. and problems with the no-bid contract.

If other agencies examined the deal, he said in a December 2008 e-mail, "we are all toast."

"Honestly I do not care about being fired," Mr. Liberatore wrote, but he said he did care about "moving the effort forward — we are too close." (The Air Force declined to make Mr. Liberatore available for comment.)

The day after Mr. Obama's inauguration, Mr. Liberatore wrote that government officials were thanking Mr. Montgomery's company for its support. The Air Force appears to have used his technology to try to identify the Somalis it believed were plotting to disrupt the inauguration, but within days, intelligence officials publicly stated that the threat had never existed. In May 2009, the Air Force canceled the company's contract because it had failed to meet its expectations.

Mr. Montgomery is not saying much these days. At his deposition in November, when he was asked if his software was a "complete fraud," he answered, "I'm going to assert my right under the Fifth Amendment."

Barclay Walsh contributed research.