

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CITIZENS FOR RESPONSIBILITY AND
ETHICS IN WASHINGTON,
1101 K Street, NW, Suite 201
Washington, DC 20005,

Plaintiff,

v.

U.S. POSTAL SERVICE,
475 L'Enfant Plaza SW
Washington, DC 20260,

Defendant.

Civil Action No. _____

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. Plaintiff Citizens for Responsibility and Ethics in Washington (“CREW”) challenges the failure of Defendant U.S. Postal Service (“USPS”) to release records relating to Postmaster General Louis DeJoy’s potential conflicts of interest.

2. CREW seeks declaratory relief that the USPS is in violation of FOIA, and injunctive relief requiring the USPS to immediately process and release the requested records.

Jurisdiction and Venue

3. This Court has subject-matter jurisdiction and personal jurisdiction under 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(C)(i). The Court also has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 2201(a), and 2202.

4. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

Parties

5. Plaintiff CREW is a non-profit, non-partisan organization organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the rights of citizens to be informed about the activities of government officials and agencies, and to ensuring the integrity of government officials and agencies. CREW seeks to empower citizens to have an influential voice in government decisions and in the government decision-making process through the dissemination of information about public officials and their actions. To advance its mission, CREW uses a combination of research, litigation, and advocacy. As part of its research, CREW uses government records made available to it under the FOIA.

6. Defendant USPS is an agency within the meaning of 5 U.S.C. § 552(f). The USPS has possession, custody, and control of records responsive to CREW's FOIA request.

Factual Background

7. In June 2020, Louis DeJoy was appointed Postmaster General.

8. Postmaster General DeJoy has drawn scrutiny over his possible financial conflicts of interest relating to major USPS contractors, including XPO Logistics.

9. DeJoy reportedly holds interests in XPO Logistics valued between \$30 million and \$75 million. *See* Luke Broadwater and Catie Edmondson, Postal Service Has Paid DeJoy's Former Company \$286 Million Since 2013, *New York Times*, Sept. 2, 2020, <https://www.nytimes.com/2020/09/02/us/politics/louis-dejoy-usps-paid.html>.

10. Over the past seven years, the USPS has reportedly paid approximately \$286 million to XPO Logistics, and has "ramped up its business" with the company since DeJoy's appointment as Postmaster General. *See* Luke Broadwater and Catie Edmondson, Postal Service

Has Paid DeJoy's Former Company \$286 Million Since 2013, *New York Times*, Sept. 2, 2020, <https://www.nytimes.com/2020/09/02/us/politics/louis-dejoy-usps-paid.html>.

11. To help answer questions about these issues, CREW submitted a FOIA request to the USPS on August 11, 2020, seeking five categories of records:

1. All ethics agreements, records of recusals and screening arrangements pertaining to Postmaster General Louis DeJoy.
2. All other records identifying matters from which Mr. DeJoy must recuse.
3. All records of guidance provided to Mr. DeJoy regarding his recusal obligations by USPS ethics officials.
4. All other records identifying financial interests from which Mr. DeJoy or his spouse must divest.
5. All records of communications between Mr. DeJoy and USPS officials regarding his reported purchase of a "call option" for Amazon stock on June 24, 2020.

12. CREW's request sought a fee waiver, explaining that "the public remains in the dark as to whether the USPS is ensuring that Mr. DeJoy is appropriately recusing from matters related to those interests or divesting them entirely," and that the "requested records will show how, if at all, Mr. DeJoy is managing his conflicts of interest, an issue that is of significant interest to the public."

13. By letter dated August 11, 2020, the USPS acknowledged receipt of CREW's FOIA request, and assigned it FOIA Tracking Number 2020-FPRO-01619.

14. By letter dated September 9, 2020, the USPS issued a final determination denying CREW's FOIA request.

15. The USPS explained that it searched the Ethics Office and the Postmaster General's Office and located thirteen pages of responsive records consisting of "[t]hree pages of

recusal agreements, one page of recusal guidance, and nine pages of certificate of divestiture documents.”

16. The USPS further explained it was withholding all pages in full under FOIA Exemption 6, and was additionally withholding the one-page recusal guidance under FOIA Exemption 5 and the attorney-client privilege.

17. The USPS added that it found no records responsive to part five of CREW’s request, seeking “[a]ll records of communications between Mr. DeJoy and USPS officials regarding his reported purchase of a ‘call option’ for Amazon stock on June 24, 2020.”

18. On September 10, 2020, CREW administratively appealed the USPS’s September 9, 2020 final determination, challenging both the propriety of the USPS’s exemption claims and the adequacy of its search.

19. To date, the USPS has issued no decision on CREW’s administrative appeal.

CREW’s Claim for Relief

20. CREW repeats and re-alleges the foregoing paragraphs.

21. In its August 11, 2020 FOIA request, CREW properly asked for records within the possession, custody, and control of the USPS.

22. The USPS failed to conduct an adequate search in response to CREW’s FOIA request.

23. The USPS is wrongfully withholding records responsive to CREW’s FOIA request.

24. By failing to timely release all requested records in full to CREW, the USPS is in violation of FOIA.

25. CREW is therefore entitled to injunctive and declaratory relief requiring immediate processing and disclosure of the requested records.

Requested Relief

WHEREFORE, CREW respectfully requests that this Court:

1. Order the USPS to immediately and fully process CREW's August 11, 2020 FOIA request and disclose all non-exempt records to CREW;
2. Issue a declaration that CREW is entitled to immediate processing and disclosure of the requested records;
3. Provide for expeditious proceedings in this action;
4. Retain jurisdiction of this action to ensure no agency records are wrongfully withheld;
5. Award CREW its costs and reasonable attorneys' fees in this action; and
6. Grant such other relief as the Court may deem just and proper.

Date: October 13, 2020

Respectfully Submitted,

/s/ Nikhel Sus

Nikhel S. Sus

(D.C. Bar No. 1017937)

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