



United States Department of State

Washington, D.C. 20520

June 27, 2022

Case No. FL-2021-00512

[REDACTED]
Citizens for Responsibility & Ethics in Washington
[REDACTED]
[REDACTED]
[REDACTED]

As we noted in our letter dated May 23, 2022, we are processing your request for material under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. The Department of State has identified three additional responsive records subject to the FOIA. Upon review, we have determined that one record may be released in part and two records must be withheld in their entirety.

An enclosure explains the FOIA exemptions and other grounds for withholding material. Where we have made redactions, the applicable FOIA exemptions are marked on the record. The records withheld in full are exempt from release pursuant to FOIA Exemptions 1 and 5, 5 U.S.C. §§ 552 (b)(1) and (b)(5). All non-exempt material that is reasonably segregable from the exempt material has been released and is enclosed.

We will keep you informed as your case progresses. If you have any questions, your attorney may contact Diana Valdivia, Assistant U.S. Attorney, at diana.valdivia@usdoj.gov. Please refer to the case number, FL-2021-00512, and the civil action number, 21-cv-01246, in all correspondence about this request.

Sincerely,

Diamonece Hickson
Acting Chief, Litigation and Appeals Branch
Office of Information Programs and Services

Attachments: As stated.

The Freedom of Information Act (5 USC 552)

FOIA Exemptions

- (b)(1) Information specifically authorized by an executive order to be kept secret in the interest of national defense or foreign policy. Executive Order 13526 includes the following classification categories:
- 1.4(a) Military plans, systems, or operations
 - 1.4(b) Foreign government information
 - 1.4(c) Intelligence activities, sources or methods, or cryptology
 - 1.4(d) Foreign relations or foreign activities of the US, including confidential sources
 - 1.4(e) Scientific, technological, or economic matters relating to national security, including defense against transnational terrorism
 - 1.4(f) U.S. Government programs for safeguarding nuclear materials or facilities
 - 1.4(g) Vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to US national security, including defense against transnational terrorism
 - 1.4(h) Weapons of mass destruction
- (b)(2) Related solely to the internal personnel rules and practices of an agency
- (b)(3) Specifically exempted from disclosure by statute (other than 5 USC 552), for example:
- | | |
|----------------|---|
| ARMSEXP | Arms Export Control Act, 50a USC 2411(c) |
| CIA PERS/ORG | Central Intelligence Agency Act of 1949, 50 USC 403(g) |
| EXPORT CONTROL | Export Administration Act of 1979, 50 USC App. Sec. 2411(c) |
| FS ACT | Foreign Service Act of 1980, 22 USC 4004 |
| INA | Immigration and Nationality Act, 8 USC 1202(f), Sec. 222(f) |
| IRAN | Iran Claims Settlement Act, Public Law 99-99, Sec. 505 |
- (b)(4) Trade secrets and confidential commercial or financial information
- (b)(5) Interagency or intra-agency communications forming part of the deliberative process, attorney-client privilege, or attorney work product
- (b)(6) Personal privacy information
- (b)(7) Law enforcement information whose disclosure would:
- (A) interfere with enforcement proceedings
 - (B) deprive a person of a fair trial
 - (C) constitute an unwarranted invasion of personal privacy
 - (D) disclose confidential sources
 - (E) disclose investigation techniques
 - (F) endanger life or physical safety of an individual
- (b)(8) Prepared by or for a government agency regulating or supervising financial institutions
- (b)(9) Geological and geophysical information and data, including maps, concerning wells

Other Grounds for Withholding

- NR Material not responsive to a FOIA request excised with the agreement of the requester

From: Shaffer, Emily C
Sent: Wed, 13 Nov 2019 18:40:55 -0500
To: Viglietta, Robert; Kraut, Benjamin; Rusin, Courtney M
Subject: FW: Freeh, Dershowitz's Case for Delisting Dan Gertler

Attachments: (b)(5)

(b)(5)

Importance: High

Official - Sensitive

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Classified By: Emily Shaffer - Sr DRC Deskoff, Office:AF/C, Agency:U.S. Department of State

Declassify On: 11/13/2044

Reasons: (Derived) Classification derived from previous message(s)

From: Shaffer, Emily C
Sent: Wednesday, November 13, 2019 6:38 PM
To: Fitzsimmons, Elizabeth N; Hammer, Michael A
Cc: Higgins, Melanie H; Ekpuk, Marion J; Bestic, Edward B; Croft, Ameliah L; Hilleary, Thomas C; Dunne, Kristina M2; Fagan, Scott R
Subject: Freeh, Dershowitz's Case for Delisting Dan Gertler
Importance: High

Greetings-

EB/TFS reached out today to invite me to attend a meeting just now with former FBI Director Louis Freeh, famed Harvard Law criminal defender Alan Dershowitz, and their colleagues Gary Apfel and Gregory Paw concerning their client Dan Gertler.

They are seeking support and guidance for their forthcoming petition to Treasury to delist Gertler from the Global Magnitsky Act sanction, as imposed in December 2017 for corruption and bribery, e.g., undervaluing mining concessions and then reselling for a huge profit, which supported Kabila's continued oppressive reign. (b)(5)

(b)(5)

Freeh, Dershowitz, and team's main arguments for delisting Gertler centered around the following:

--a former senior State/NSC official (I believe to be former AF A/S Jendayi Frazer based on the description) affirmed that ***Gertler was very helpful in efforts to quell violence in Rwanda and the DRC during the "African World War" during the early 2000s***, which resulted in lives saved. Apparently she credibly volunteered that he was the personal authorized representative of the GDRC responsible for a peace accord between Kabila and Kagame. Dershowitz said Gertler never got anything in return for "helping America."

--He shares our democratic values and was a major factor in ***persuading Kabila to hold elections***.

--He is a ***very charitable person*** but needy people are now suffering because he can't continue to direct his money toward helping them. Freeh emphasized that Gertler is not like Furtash or others on the Glomag list, and Dershowitz attested that he was personally involved with the original Magnitsky case and supports the legislation, but is convinced people like Gertler were not the envisioned target.

--He is ***ready to wield his influence in support of US interests in the DRC*** and against Russia and China, namely promoting US trade and investment.

(b)(5)

(b)(5)



Official - Sensitive

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Classified By: Emily Shaffer - Sr DRC Deskoff, Office:AF/C, Agency:U.S. Department of State

Declassify On: 11/13/2044

Reasons: Derived Per DSCG.

Withheld pursuant to exemption

(b)(1); (b)(5)

Withheld pursuant to exemption

(b)(1); (b)(5)