

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

 CITIZENS FOR RESPONSIBILITY AND)
 ETHICS IN WASHINGTON,)
)
 Plaintiff,)
)
 v.)
)
 U.S. DEPARTMENT OF THE)
 TREASURY,)
)
 Defendant.)

Civil No. 17-1855 (RCL)

PLAINTIFF’S STATEMENT OF MATERIAL FACTS NOT IN DISPUTE

Pursuant to Local Civil Rule 7(h), plaintiff Citizens for Responsibility and Ethics in Washington (“CREW”) hereby submits the following statement of material facts in connection with is motion for summary judgment as to which CREW contends there is no genuine issue.

1. On August 23, 2017, CREW sent an expedited Freedom of Information (“FOIA”) request to the Treasury Department for two categories of records: (1) copies of all records concerning authorization for and the costs of Treasury Secretary Steven Mnuchin’s use of a government plane for an August 21, 2017 trip he took with his wife, Louise Linton, to Lexington, Kentucky; and (2) copies of all records concerning authorization for and the costs of the Secretary’s use of a government plane for any purpose since his appointment as Treasury secretary. Exhibit A to Plaintiff’s Memorandum of Points and Authorities in Support of Plaintiff’s Motion for Summary Judgment (“P’s SJM”).

2. After receiving no response to its August 23, 2017 FOIA request, CREW filed the complaint in this action on September 22, 2017. *See* Dkt. 1.

3. Pursuant to the Court's order, on November 30, 2017, the Treasury Department produced to CREW three pages of responsive documents. Joint Status Report ¶ 1, Dec. 15, 2017 (Dkt. 14).

4. Pursuant to the Court's order, the Treasury Department made an additional production to CREW of 32 pages on December 21, 2017, and a final production of 125 pages on February 15, 2018, Exhibits C and D to P's SJM.

5. In its production of February 15, 2018, the Treasury Department withheld portions of eight pages and a document attached to one of the produced emails that it described as a 2009 White House memorandum. Exhibit D to P's SJM. The Treasury Department's cover letter described these withheld documents as "non-agency records," and the markings on the redacted portions indicate the Treasury Department considers them to be "WH records." Exhibits D and E to P's SJM.

6. The documents the Treasury Department withheld as non-agency records are parts of email exchanges between the Treasury Department, in some instances the Defense Department, and White House officials as part of the process of securing approval for Secretary Mnuchin to use military aircraft for specified trips. Exhibit E to P's SJM.

7. The Treasury Department located the material withheld as non-agency records while conducting a search of its records for documents responsive to CREW's August 23, 2017 FOIA request. Joint Status Report, Dec. 15, 2017; Order, Dec. 18, 2017 (Dkt. 15); Exhibit D to P's SJM.

8. The material the Treasury Department withheld as non-agency records includes a White House memorandum that contains, at least in part, guidance on the use of government aircraft for travel. Exhibit E to P's SJM, UST 000106-07.

9. Nothing on the face of any of the documents from which portions were redacted as non-agency records restricts in any way the Treasury Department's use or dissemination of the withheld information. Exhibit E to D's SJM.

Respectfully submitted,

/s/ Anne L. Weismann
Anne L. Weismann
(D.C. Bar No. 298190)
Adam J. Rappaport
(D.C. Bar No. 479866)
Citizens for Responsibility and Ethics
in Washington
455 Massachusetts Ave., N.W.
Washington, D.C. 20001
Phone: (202) 408-5565
aweismann@citizensforethics.org

Dated: July 2, 2018

Attorneys for Plaintiff