

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY AND)	
ETHICS IN WASHINGTON,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 17-1855 RCL
)	
)	
U.S. DEPARTMENT OF THE TREASURY)	
Defendant.)	
_____)	

ANSWER

Defendant, the United States Department of the Treasury ("Treasury"), by and through undersigned counsel, hereby responds to the complaint of Plaintiff, Citizens for Responsibility & Ethics in Washington ("CREW"), as follows:

The Complaint

Defendant answers the numbered paragraphs of Plaintiff's complaint by denying the allegations contained therein, except as expressly admitted below.

1. This paragraph contains Plaintiff's description of its suit, to which no response is required. Insofar as an answer may be deemed necessary, Defendant admits that it has not provided Plaintiff with a final determination, produced any responsive records, or asserted any exemptions in response to the Freedom of Information Act ("FOIA") request described in this paragraph.

2. This paragraph contains Plaintiff's description of its suit, to which no response is required. Insofar as an answer may be deemed necessary, Defendant denies that is in violation of the FOIA.

JURISDICTION AND VENUE

3. This paragraph consists of legal conclusions to which no response is required.

PARTIES

4. This paragraph contains Plaintiff's description of its organization and mission/purpose, to which no response is required. Insofar as an answer may be deemed necessary, Defendant is without sufficient knowledge to admit or deny this paragraph.

5. Defendant admits the allegations contained in the first sentence of this paragraph. The second sentence consists of legal conclusions to which no response is required.

STATUTORY AND REGULATORY BACKGROUND

6.-11. These paragraphs consists of legal conclusions to which no response is required.

FACTUAL BACKGROUND

12.-14. These paragraphs consists of Plaintiff's characterization of Secretary Mnuchin's August 21, 2017 trip and the ensuing public response - rather than allegations of fact - to which no response is required.

15. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in the first sentence of this paragraph. Defendant has no record of receiving a faxed transmission of Plaintiff's FOIA request dated August 23, 2017; nor does Defendant have any record of receiving the FOIA request in any form until after the complaint was filed. The second sentence of this paragraph constitutes a characterization of the fax cover sheet attached to the request, to which no response is required. Defendant respectfully refers the Court to the request for a full and accurate statement of its content.¹

16.-17. These paragraphs consist of Plaintiff's characterization of the FOIA request that it purportedly submitted by fax to Treasury, to which no response is required. Defendant respectfully refers the Court to the request for a full and accurate statement of its content.

18. Defendant admits that it has not responded directly to CREW or issued any determination in response to CREW's FOIA

¹ Although Treasury has no record of receiving a faxed transmission of CREW's August 23, 2017 request, in the interest of expediting this matter, Treasury is willing to respond to and process the version of the August 23 request as it was provided informally by counsel for Plaintiff to counsel for Defendant. Thus, Treasury will not require Plaintiff to re-submit the request.

request. The remaining allegations in this paragraph are denied.

19. This paragraph consists of legal conclusions to which no response is required.

PLAINTIFF'S CLAIMS FOR RELIEF

CLAIM ONE

20. Defendant repeats and incorporates its answers to paragraphs 1-19.

21. This paragraph consists of Plaintiff's characterization of the FOIA request that it purportedly faxed to Treasury on August 23, 2017, and legal conclusions to which no response is required. Defendant respectfully refers the Court to the request for a full and accurate statement of its content.

22.-24. Denied.

Requested Relief

This paragraph, consisting of subparagraphs (1) through (6), contains Plaintiff's request for relief, to which no answer is required. Insofar as an answer may be deemed necessary, Defendant denies that Plaintiff is entitled to any relief from the Court.

AFFIRMATIVE DEFENSES

1. Defendant has not improperly withheld records under the FOIA, and avers that some or all of the requested materials are likely subject to withholdings as allow by 5 U.S.C. § 552(b).

2. The Court lacks subject-matter jurisdiction over any portions of Plaintiff's request for relief that exceed the relief authorized by statute under FOIA, 5 U.S.C. § 552 *et. seq.*

3. Plaintiff is not entitled to declaratory relief. See 5 U.S.C. § 552(a)(4)(B).

All allegations not specifically admitted in the Answer are denied.

WHEREFORE, having fully answered, Defendant respectfully requests that, upon processing and production of any responsive, non-exempt material, the Court enter judgment for Defendant dismissing the Complaint with prejudice, and award Defendant all other relief to which it is entitled.

Respectfully submitted,

JESSIE K. LIU, DC Bar #472845
United States Attorney

DANIEL F. VAN HORN, DC Bar #924092
Chief, Civil Division

By: _____ /s/
W. MARK NEBEKER, DC Bar #396739
Assistant United States Attorney
555 4th Street, N.W.
Washington, DC 20530
(202) 252-2536
mark.nebeker@usdoj.gov

Counsel for the Defendant

Of counsel:

ANDREW STEIN
Attorney-Advisor
Office of the General Counsel
U.S. Department of the Treasury

CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing Answer has been made through the Court's electronic transmission facilities on the 19th day of October, 2017.

_____/s/
W. MARK NEBEKER, DC Bar #396739
Assistant United States Attorney
Civil Division
555 4th Street, N.W.
Washington, DC 20530
(202) 252-2536