

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

**CITIZENS FOR RESPONSIBILITY)
AND ETHICS IN WASHINGTON,)**

Plaintiff,)

v.)

Civil Action No. 18-cv-00522 (RW)

**CONSUMER FINANCIAL)
PROTECTION BUREAU,)**

Defendant.)

_____)

ANSWER AND AFFIRMATIVE DEFENSES

Defendant Consumer Financial Protection Bureau (“Bureau” or “Defendant”), by undersigned counsel, respectfully submits the following *Answer and Affirmative Defenses* to the Complaint filed by Plaintiff Citizens for Responsibility and Ethics in Washington (“CREW” or “Plaintiff”).

AFFIRMATIVE DEFENSES

FIRST DEFENSE

Defendant has not improperly withheld any records under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

SECOND DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

THIRD DEFENSE

Defendant denies each and every allegation contained in the Complaint except as hereinafter expressly admitted or qualified in this Answer.

FOURTH DEFENSE

This Court lacks subject matter jurisdiction over any of Plaintiff's requests for relief that exceeds the relief authorized by the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552.

FIFTH DEFENSE

The Declaratory Judgment Act does not provide the Court with subject matter jurisdiction over Plaintiff's claim related to its FOIA request.

SIXTH DEFENSE

To the extent that the Complaint refers to or quotes from external documents, statutes, or other sources, Defendant may refer to such materials for their accurate and complete contents; however, Defendant's references are not intended to be, and should not be construed to be, an admission that the cited materials: (a) are correctly cited or quoted by Plaintiff; (b) are relevant to this, or any other, action; and (c) are admissible in this, or any other, action.

SEVENTH DEFENSE

Defendant respectfully requests and reserves the right to amend, alter, and supplement the defenses contained in this Answer as the facts and circumstances giving rise to the Complaint become known to it through the course of the litigation.

RESPONSES TO THE NUMBERED PARAGRAPHS

Defendant answers the Complaint as follows:

1. Paragraph 1 contains Plaintiff's characterization of this action, to which no response is required. To the extent that Paragraph 1 alleges that Defendant has unlawfully withheld documents, Defendant denies the allegations of this paragraph.

2. Paragraph 2 consists of Plaintiff's characterization of this action and the relief requested in this action, to which no response is required. To the extent that Paragraph 2 alleges

that Defendant has unlawfully withheld any documents, Defendant denies the allegations of this paragraph. Defendant avers that, after conducting a reasonable search, Defendant did not locate any responsive records and that, on April 6, 2018, it issued a final determination in response to the FOIA request.

Jurisdiction and Venue¹

3. Paragraph 3 consists of Plaintiff's legal conclusions about jurisdiction and venue, to which no response is required.

Parties

4. Paragraph 4 contains Plaintiff's characterization of its organization and its activities, to which no response is required. To the extent a response is deemed required, Defendant lacks knowledge and information sufficient to form a belief as to the nature of Plaintiff and Plaintiff's activities and therefore denies the allegations of this paragraph.

5. Paragraph 5 consists in part of Plaintiff's characterization of Defendant and the FOIA, to which no answer is required. Defendant admits only that it is a federal agency. Defendant denies the remaining allegations in this paragraph.

Factual Background

6. Defendant admits the allegation in Paragraph 6 that on November 24, 2017, President Donald Trump announced he had designated Mick Mulvaney as the acting director of the Bureau.

7. Paragraph 7 consists of Plaintiff's characterizations of (i) then-Representative Mulvaney and his actions before he became the Acting Director of the Bureau; and (ii) unspecified

¹ Merely for ease of reference, Defendant replicates the headings contained in the Complaint. Although Defendant believes that no response is required to such headings, to the extent a response is deemed required and to the extent those headings and titles could be construed to contain factual allegations, those allegations are denied.

“bills” allegedly sponsored by Representative Mulvaney; these allegations do not assert facts relevant to Plaintiff’s claims in this FOIA civil action and, thus, no response is required.

8. Paragraph 8 consists of Plaintiff’s characterizations of actions taken by the Defendant and allegations about a rule regarding “payday lenders,” these allegations do not assert facts relevant to Plaintiff’s claims in this FOIA civil action; thus, no response is required.

9. Paragraph 9 consists of Plaintiff’s characterization of a press release issued by, World Acceptance Corporation on January 22, 2018. Defendant admits that World Acceptance Corporation issued a press release on January 22, 2018, and avers that the January 22, 2018 press release speaks for itself and respectfully refers the Court to the January 22, 2018 press release for its complete and accurate contents.

10. Defendant admits only that Plaintiff submitted a FOIA request to the Bureau on January 25, 2018. Defendant avers that the FOIA request is the best evidence of its contents and respectfully refers the Court to the FOIA request for its complete and accurate contents.

11. Defendant admits the allegation in Paragraph 11 that CREW sought a waiver of fees associated with the processing of its request by its letter dated January 25, 2018. With respect to the remainder of the allegations in Paragraph 11, Defendant avers that the correspondence itself is the best evidence of its content and respectfully refers the Court to the correspondence for a complete and accurate statement of its content.

12. Defendant admits only that, on January 25, 2018, it confirmed receipt of Plaintiff’s FOIA request and provided an initial response to Plaintiff’s fee request. Defendant avers that the January 25, 2018 email is the best evidence of its contents and respectfully refers the Court to the email for its complete and accurate contents.

13. Defendant denies the first sentence of Paragraph 13 and avers that Defendant responded to Plaintiff's FOIA request on April 6, 2018. The second sentence of Paragraph 13 consists of Plaintiff's conclusions of law, to which no response is required.

PLAINTIFF'S CLAIM FOR RELIEF

14. Defendant repeats and incorporates by reference its responses to Paragraphs 1 through 13.

15. Defendant admits only that Plaintiff made a request for records on January 25, 2018. Defendant denies that requested records were in its custody or control.

16. Defendant denies the allegations in Paragraph 16.

17. Paragraph 17 consists of Plaintiff's conclusions of law, to which no response is required. Defendant denies that it has unlawfully withheld responsive records from Plaintiff.

18. Defendant denies the allegations in Paragraph 18.

Requested Relief

The remainder of Plaintiff's Complaint contains Plaintiff's Requested Relief, to which no response is required. To the extent this paragraph is deemed to contain factual allegations, Defendant denies those allegations and denies that Plaintiff is entitled to any relief.

WHEREFORE, having fully answered, Defendant requests judgment and relief against Plaintiff as follows:

- a) That the claims against Defendant are dismissed with prejudice and that the Plaintiff takes nothing and is granted no relief, including, but not limited to, the relief requested in Plaintiff's Prayer for Relief at paragraphs (1) – (6).
- b) That Defendant be awarded its costs and disbursements incurred in defending this matter; and

- c) Such other and further relief, including declaratory, equitable relief, and damages to which it is entitled.

Dated: April 11, 2018

Respectfully submitted,

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