

September 5, 2018

BY EMAIL: CFPB_FOIA@consumerfinance.gov

Chief FOIA Officer
Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and Consumer Financial Protection Bureau (“CFPB”) regulations.

Specifically, CREW requests all documents from January 1, 2017 to the present referencing, concerning, or relating to a report by CFPB staff finding that the nation’s largest banks are charging student loan borrowers improper or legally dubious account fees (the “Report”). This request includes, without limitation, (1) the Report itself; (2) all communications reflecting directives, instructions, or other efforts by CFPB leadership to prevent, prohibit, or otherwise restrict issuance of the Report; and (3) all communications between CFPB and Congress or any other outside entity regarding the Report.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. See *Mead Data Central v. U.S. Dep’t of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and CFPB regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. *See* 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

By letter dated August 27, 2018, Seth Frotman resigned from his position as CFPB’s Student Loan Ombudsman. This was widely reported in the news media.¹ Among other things, Mr. Frotman’s resignation letter charged CFPB leadership with “[s]hielding bad actors from scrutiny” and “turn[ing] its back on young people and their financial futures.”² “For example,” the letter noted, “late last year, when new evidence came to light showing that the nation’s largest banks were ripping off students on campuses across the country by saddling them with legally dubious account fees, Bureau leadership suppressed the publication of a report prepared by Bureau staff. When pressed by Congress about this, you chose to leave students vulnerable to predatory practices and deny any responsibility to bring this information to light.” This FOIA request seeks that report and documents relating to the report that Mr. Frotman claims was “suppressed” by CFPB leadership—a claim that is, as noted, the subject of extensive media coverage and of great public interest.

The requested records are likely to contribute to greater public understanding of whether CFPB is acting to advance its statutory mission of protecting consumers, or instead acting directly contrary to that mission. Indeed, Acting CFPB Director Mick Mulvaney is himself a formerly avowed opponent of the CFPB, and has gone as far as calling for the agency’s abolishment. The public interest is at an apex when questions are raised about whether agency leadership are acting to undermine the very mission they are statutorily charged with fulfilling.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public’s right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website,

¹ *See, e.g.,* Cory Turner, *Student Loan Watchdog Quits, Says Trump Administration ‘Turned Its Back’ On Borrowers*, NPR (Aug. 27, 2018), available at <https://www.npr.org/2018/08/27/642199524/student-loan-watchdog-quits-blames-trump-administration>; Ken Sweet, *APNewsBreak: Nation’s top student loan official resigns*, WASH. POST (Aug. 27, 2018), available at <https://www.washingtonpost.com/business/apnewsbreak-nations-top-student-loan-official-resigns>

² August 27, 2018 Letter from S. Frotman to M. Mulvaney at 2, available at <https://apps.npr.org/documents/document.html?id=4784891-Frotman-Letter>

www.citizensforethics.org. The release of information obtained through this request is not in CREW's financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes a blog that reports on and analyzes newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts the documents it receives under the FOIA on its website, and that site has been visited hundreds of thousands of times.


Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or nsus@citizensforethics.org. Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me at either nsus@citizensforethics.org or Nikhel Sus, Citizens for Responsibility and Ethics in Washington, 455 Massachusetts Ave., N.W., Washington, D.C. 20001. Thank you for your assistance in this matter.

Sincerely,



Nikhel Sus
Staff Counsel