

January 22, 2019

BY FACSIMILE: 202-622-3895

U.S. Department of the Treasury
FOIA Requester Center
Washington, DC 20220

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 U.S. Department of the Treasury regulations.

First, CREW requests copies of all communications within the Treasury Department concerning a flight Treasury Secretary Steven Mnuchin took from Washington to Los Angeles in January 2019 on a private aircraft owned by Michael R. Milken. This request includes, but is not limited to, communications concerning whether or not Secretary Mnuchin needed an ethics waiver to take this trip.

Second, CREW requests all records demonstrating that Secretary Mnuchin reimbursed Mr. Milken for the cost of the flight.

Third, CREW requests all communications between Secretary Mnuchin and Mr. Milken between December 1, 2018 and the present.

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, as well as those who were cc’ed or bcc’ed on any emails.

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). In the event 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 Treasury Department 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).

On January 18, 2019, the *New York Times* reported that Secretary Mnuchin had flown from Washington to Los Angeles in January, reportedly for personal reasons, on a private aircraft owned by Mr. Milken.¹ According to a Treasury Department spokesperson, the secretary's travel plans were reviewed internally and "it was decided he did not need an ethics waiver."² According to the spokesperson, Secretary Mnuchin has reimbursed Mr. Milken for the cost of the flight.³

Mr. Milken served two years of an original 10-year prison sentence imposed for six criminal charges for securities fraud. Secretary Mnuchin has encouraged President Trump to pardon Mr. Milken, and ethics experts have pointed out that even if accepting a ride on Mr. Milken's airplane did not violate any applicable law, it raised an appearance problem that may cause a reasonable person to question Secretary Mnuchin's integrity or impartiality.⁴ The requested records would shed further light on this issue, the rationale behind the decision that the secretary did not need an ethics waiver, and whether he has in fact reimbursed Mr. Milken for the trip and the amount of that reimbursement.

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, 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)

¹ Alan Rappeport, *Mnuchin Flew to L.A. on Private Jet of Billionaire Michael Milken*, *New York Times*, Jan. 18, 2019, available at <https://www.nytimes.com/2019/01/18/us/politics/mnuchin-private-flight-michael-milken.html>.

² *Id.*

³ *Id.*

⁴ *Id.*

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(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 blogposts that report on and analyze 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 documents it receives under the FOIA on its website, which 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 aweismann@citizensforethics.org. Where possible, please produce records in electronic format. Please send the requested records to me either at aweismann@citizensforethics.org or Anne L. Weismann, Citizens for Responsibility and Ethics in Washington, 1101 K Street, N.W, Suite 201, Washington, D.C. 20005. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Anne L. Weismann', with a long horizontal flourish extending to the right.

Anne L. Weismann
Chief FOIA Counsel