

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY)	
AND ETHICS IN WASHINGTON,)	Case No. 1:19-cv-03541
)	
Plaintiff,)	
)	
v.)	
)	
U.S. DEPARTMENT OF THE)	
TREASURY,)	
)	
Defendant.)	
_____)	

DEFENDANT’S ANSWER

COMES NOW the Internal Revenue Service, the agency to which the Plaintiff’s FOIA request was addressed and against which Plaintiff seeks relief, an agency whose parent agency is the named Defendant, and answers the numbered paragraphs of Plaintiff’s complaint as follows:

1. This paragraph consists of Plaintiff’s characterization of its complaint, not an allegation of fact to which a response is required.
2. This paragraph consists of Plaintiff’s characterization of its complaint, not an allegation of fact to which a response is required.
3. This paragraph consists of legal conclusions concerning venue and jurisdiction, not allegations of fact to which a response is required. To the extent a response is deemed required, Defendant admits that venue and jurisdiction are proper in this Court, and otherwise denies.
4. Defendant admits that Plaintiff CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. Defendant lacks information and knowledge to admit or deny the remaining allegations of Paragraph 4.

5. Defendant lacks information or knowledge sufficient to form a belief about the truth of the allegations of Paragraph 5.

6. Defendant lacks information or knowledge sufficient to form a belief about the truth of the allegations of Paragraph 6.

7. Denied.

8. With respect to the first sentence, Defendant admits that the Internal Revenue Service (“IRS”) is a sub-agency of the Treasury Department. The remainder of paragraph 8 is a legal conclusion, not averments of fact as to which a response is required. To the extent a response is deemed required, Defendant admits that the IRS is responsible for responding to Plaintiff’s FOIA request and denies the remaining allegations.

9. Paragraph 9 contains conclusions of law, not averments of fact to which a response is required. To the extent a response is deemed required, Defendant denies the allegations of Paragraph 9, and avers that the cited statute, 5 U.S.C. § 552, speaks for itself.

10. Paragraph 10 contains conclusions of law, not averments of fact to which a response is required. To the extent a response is deemed required, Defendant denies the allegations of Paragraph 10, and avers that the cited statute, 5 U.S.C. § 552(a)(6)(A)(i), speaks for itself.

11. Paragraph 11 contains conclusions of law, not averments of fact to which a response is required. To the extent a response is deemed required, Defendant denies the allegations of Paragraph 11, and avers that the cited statute, 5 U.S.C. § 552(a)(4)(A)(iii), speaks for itself.

12. Paragraph 12 contains conclusions of law, not averments of fact to which a response is required. To the extent a response is deemed required, Defendant denies the

allegations of Paragraph 12, and avers that the cited statute, 5 U.S.C. § 552(a)(4)(B), speaks for itself.

13. Admitted.

14. Admit only that on May 17, 2019, Treasury Secretary Mnuchin sent a letter to Chairman Neal explaining that he was not authorized to produce the requested return information to the Committee consistent with 26 U.S.C. § 6103 but offering “to work with the Committee to accommodate its stated interest in understanding how the IRS audits and enforces the Federal tax laws against a President[.]” Otherwise, denied.

15. This paragraph contains only characterizations of unidentified reports of the news media, which—to the extent they exist—speak for themselves and as to which Defendant lacks information and knowledge sufficient to admit or deny.

16. Admit that the President has not asserted executive privilege with respect to the information sought in the May 10 subpoena; the remainder of this sentence contains only a legal conclusion, not an averment of fact to which a response is required.

17. Defendant admits that CREW sent a request for records to the Internal Revenue Service by first class mail and by fax that was dated May 28, 2019, that sought the records listed in sub-paragraphs 17(1)-(4). Defendant lacks information and knowledge to admit or deny CREW’s motivations for doing so.

18. Admitted.

19. Admitted.

20. Admitted.

21. Admitted.

22. Defendant asserts and incorporates its responses to Paragraphs 1 through 21 of the Complaint.

23. This paragraph contains only a legal conclusion, not an averment of fact to which a response is required. To the extent a response is deemed required, Defendant admits that Plaintiff asked for records through a request made to the IRS, and denies the remaining allegations.

24. This paragraph contains only a legal conclusion, not an averment of fact to which a response is required. To the extent a response is deemed required, denied.

25. Admitted.

26. This paragraph contains only a legal conclusion, not an averment of fact to which a response is required. To the extent a response is deemed required, denied.

27. This paragraph contains only a legal conclusion, not an averment of fact to which a response is required. To the extent a response is deemed required, denied.

The remainder of the Complaint consists of a demand for relief, not allegations of fact to which a response is required. To the extent that a response is deemed required, Defendant denies that Plaintiff is entitled to the relief requested, or any relief whatsoever. Defendant hereby denies all allegations in Plaintiff's Complaint not expressly admitted or denied.

FIRST DEFENSE

Some of the records Plaintiff seeks may not be agency records subject to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b).

SECOND DEFENSE

The IRS may withhold any agency record or portion(s) of a record that are responsive and exempt from disclosure pursuant to the exemptions contained in subsection (b) of the FOIA.

THIRD DEFENSE

Plaintiff is not entitled to any relief beyond that provided under the FOIA, including declaratory relief.

FOURTH DEFENSE

Plaintiff is neither eligible for, nor entitled to, an award of attorney's fees or costs.

Dated: February 15, 2020

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

/s/ Kieran O. Carter
KIERAN O. CARTER
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 227
Washington, D.C. 20044
Telephone: (202) 616-1920
Facsimile: (202) 514-6866
Kieran.O.Carter@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of February 2020, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Laura C. Beckerman
LBeckerman@citizensforethics.org
Counsel for Plaintiff

/s/ Kieran O. Carter
KIERAN O. CARTER
Trial Attorney, Tax Division
U.S. Department of Justice