

February 13, 2020

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 Treasury Department regulations.

CREW requests copies of any communications from February 5, 2019 to the date this request is processed between Treasury Secretary Steven Mnuchin, the Office of the Secretary of the Treasury and/or the White House mentioning Jessie Liu or referencing President Trump’s decision to withdraw Liu’s nomination to the Treasury Department.

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 February 11, 2020, President Trump withdrew his nomination for Jessie Liu to serve as the Treasury Department's undersecretary for terrorism and financial crimes.¹ Previously, Liu had served as the U.S. attorney for D.C. and in that position oversaw the prosecution of Roger Stone.² On February 12, Secretary Mnuchin testified before the Senate Finance Committee.³ During the hearing, he testified that he was informed about Liu's decision two days ago.⁴ Senator Sherrod Brown then asked why she was withdrawn and Secretary Mnuchin responded only by saying "nominations are at the President's direction."⁵ The same day, *CNN* reported that the decision to pull Liu's nomination was directly linked to her oversight of Stone's case as well as the referral for prosecution of former FBI Deputy Director Andrew McCabe.⁶

The requested documents would shed light on whether Secretary Mnuchin and the Treasury Department were aware of the motivations behind Liu's withdrawal, and whether they officially adopted the same rationale. Since his acquittal in the Senate impeachment trial, President Trump's actions have raised concerns that he is retaliating against political opponents. Given this, and Secretary Mnuchin's failure to clarify his role and the role of his department in Liu's withdrawal, there is significant public interest in these records.

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 Swan, Jonathan and Zachary Basu, "Scoop: Trump pulls nomination for former U.S. attorney for D.C. to Treasury post." *Axios*, Feb. 11, 2020, available at <https://www.axios.com/trump-jessie-liu-treasury-us-attorney-838d1a3b-1d4d-414c-ac7d-77a7ba6d4edb.html>.

² *Id.*

³ United States Senate Committee on Finance, "The President's Fiscal Year 2021 Budget," available at <https://www.finance.senate.gov/hearings/the-presidents-fiscal-year-2021-budget>

⁴ Collins, Kaitlan, "Decision to pull Liu's nomination directly linked to her oversight of Stone and McCabe cases." *CNN*, February 12, 2020. available at <https://www.cnn.com/2020/02/12/politics/jessie-liu-treasury-nomination-roger-stone/index.html>

⁵ *Id.*

⁶ *Id.*

(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 reports on and analysis of newsworthy developments regarding government ethics, corruption, and money in politics that 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 those documents have 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 lwhite@citizensforethics.org. Also, if CREW’s request for expedition and/or 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 either at lwhite@citizensforethics.org or at Walker Davis, Citizens for Responsibility and Ethics in Washington, 1101 K St., Ste. 201, N.W., Washington, D.C. 20005. Thank you for your assistance in this matter.

Sincerely,

Lauren White

Press Associate