

Judicial WatchTM

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To: Martin Michalosky
From: Lisette Garcia
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Date: January 25, 2012
Phone: (202) 435-7198
Pages: (including cover page) 4
Re: Records re: Cordray Appt.

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*** TX REPORT ***

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Judicial Watch

*Because no one
is above the law!*

January 25, 2012

VIA CERTIFIED MAIL & FACSIMILE (855) 329-3642

FOIA Manager Martin Michalosky
Consumer Financial Protection Bureau
1700 G St., N.W.
Washington, D.C. 20220
(202) 435-7198

Re: FOIA seeking all records relating to Cordray's appointment as director

Dear Mr. Michalosky: *Marty*

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, Judicial Watch, Inc., (Judicial Watch) hereby requests that the Consumer Financial Protection Bureau (CFPB) produce the following records within twenty (20) business days:

- All communications concerning, referring, or relating to Richard Cordray's appointment as director of CFPB;
- All reimbursements, reservations, vouchers and any other documentation reflecting travel and lodging for Mr. Cordray, his family, any additional guests, and the Ohio judge who in January 2012 accepted Mr. Cordray's Oath of Office in Washington, D.C.

The time frame for this request is December 1, 2011 through the present.

In placing this request, Judicial Watch directs CFPB's attention to President Obama's January 21, 2009 Memorandum concerning FOIA which states:

All agencies should adopt a presumption in favor of disclosure in order to renew their commitment to the principles embodied in FOIA...The presumption of disclosure should be applied to all decisions involving FOIA.¹

¹ Freedom of Information Act. Pres. Mem. of January 21, 2009, 74 Fed. Reg. 4683.

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The memorandum goes on to state that FOIA “should be administered with a clear presumption: In the case of doubt, openness prevails.” Nevertheless, if any responsive record or portion thereof is claimed to be exempt from production under FOIA, please provide sufficient identifying information with respect to each allegedly exempt record or portion thereof to allow us to assess the propriety of the claimed exemption. *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. den’d*, 415 U.S. 977 (1974). In addition, any reasonably segregable portion of a responsive record must be provided, after redaction of any allegedly exempt material. 5 U.S.C. § 552(b).

Judicial Watch also hereby requests a waiver of both search and duplication fees pursuant to 5 U.S.C. §§ 552(a)(4)(A)(ii)(II) and 552(a)(4)(A)(iii). Judicial Watch is entitled to a waiver of search fees under 5 U.S.C. § 552(a)(4)(A)(ii)(II) because it is a member of the news media. *See National Security Archive v. Department of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). Judicial Watch has also been recognized as a member of the news media in other FOIA litigation. *See Judicial Watch, Inc. v. U.S. Department of Justice*, 133 F. Supp.2d 52 (D.D.C. 2000); and, *Judicial Watch, Inc. v. Department of Defense*, 2006 U.S. Dist. LEXIS 44003, *1 (D.D.C. June 28, 2006). Judicial Watch regularly obtains information about the operations and activities of government through FOIA and other means, uses its editorial skills to turn this information into distinct works, and publishes and disseminates these works to the public. It intends to do likewise with the records it receives in response to this request.

Judicial Watch also is entitled to a complete waiver of both search fees and duplication fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Under this provision, records:

shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester.

U.S.C. § 552(a)(4)(A)(iii).

In addition, if records are not produced within twenty (20) business days, Judicial Watch is entitled to a complete waiver of search and duplication fees under Section 6(b) of the OPEN Government Act of 2007, which amended FOIA at 5 U.S.C. § 552(a)(4)(A)(viii).

Judicial Watch is a 501(c)(3), not-for-profit, educational organization, and, by definition, it has no commercial purpose. Judicial Watch exists to educate the public about the operations and activities of government, as well as to increase public understanding about the importance of ethics and the rule of law in government. The particular records requested herein are sought as part of Judicial Watch’s ongoing efforts

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to document the operations and activities of the federal government and to educate the public about these operations and activities. Once Judicial Watch obtains the requested records, it intends to analyze them and disseminate the results of its analysis, as well as the records themselves, as a special written report. Judicial Watch will also educate the public via radio programs, Judicial Watch's website, and/or newsletter, among other outlets. It also will make the records available to other members of the media or researchers upon request. **Judicial Watch has a proven ability to disseminate information obtained through FOIA to the public, as demonstrated by its long-standing and continuing public outreach efforts.**

Given these circumstances, Judicial Watch is entitled to a public interest fee waiver of both search costs and duplication costs. Nonetheless, in the event our request for a waiver of search and/or duplication costs is denied, Judicial Watch is willing to pay up to \$350.00 in search and/or duplication costs. Judicial Watch requests that it be contacted before any such costs are incurred, in order to prioritize search and duplication efforts. **In an effort to facilitate record production within the statutory time limit, Judicial Watch is willing to accept documents in electronic format (e.g. e-mail, .pdfs).** When necessary, Judicial Watch will also accept the "rolling production" of documents.

If you do not understand this request or any portion thereof, or if you feel you require clarification, please immediately contact Judicial Watch FOIA Manager John Althen at jalthen@judicialwatch.org or (202) 646-5172. Judicial Watch looks forward to receiving the requested documents and a waiver of both search and duplication costs within twenty (20) business days. Thank you for your cooperation.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Lisette Garcia', written over a faint grid background.

Lisette Garcia, J.D.